

2020 HOME COMPLIANCE MANUAL

JUNE 26, 2020



Introduction

The HOME Investment Partnerships Program is an affordable housing development program created under Title II of the Cranston-Gonzalez National Affordable Housing Act, funded by the U.S. Department of Housing and Urban Development- Division of Community Planning and Development (HUD-CPD), referred to as Title 24 of the Code of Federal Regulations Part 92 (24 CFR 92). The HOME Program was designed to partner with private and public funding to create affordable rental housing for low, very low, and extremely-low income households.

IHFA is the state participating jurisdiction (PJ) for Idaho's HOME Program. There is one other PJ in Idaho, the City of Boise. It IHFA's responsibility to ensure continuing compliance with HOME regulations as described on the owner's HOME written agreement. IHFA's HOME program funds provide gap financing for multifamily rental housing activities throughout Idaho.

Properties financed with HOME funds are required to follow very specific rules regarding income targeting, rent limits, ongoing property standards, affirmative marketing, fair housing and non-discrimination, handicap accessibility, Section 504, and tenant protections during the HOME period of affordability (also referred herein as the effective period or compliance period). This section of the manual is designed to assist owners and their agents plan for and maintain compliance with these requirements.

During the HOME period of affordability, the HOME units must target low and very low-income households. The following procedures apply to all rental properties which have received funds under the HOME program. Any violation of the requirements of the HOME program could result in acceleration of the repayment or foreclosure of funds received under the HOME program.

IHFA's obligation to monitor for compliance with the requirements of the HOME Program does not make IHFA liable for an owner's noncompliance.

This compliance manual has not been reviewed or approved by the HUD and is provided as general guidance for owners and agents. It should not be cited or relied upon for interpretation of federal regulations. This manual can be accessed at IHFA's website at:

<https://www.idahohousing.com/housing-compliance/home-program-compliance/>

IHFA or HUD determines any provision of this manual is in conflict with 24 CFR Part 92, Federal interpretation and regulations will govern. HOME regulations, cross-cutting regulations, state and local laws, code, ordinances apply. If any HOME publications, notices, and guidance contradict the guidance provided herein, IHFA will provide updates as soon as possible. However, it is ultimately the owner's responsibility to comply with the HOME regulations at 24 CFR 92.

For more information, visit HUD's HOME website at:

<http://www.hud.gov/offices/cpd/affordablehousing/programs/home/index.cfm>

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Chapter 1 – Compliance Overview

The following is a brief summary of the requirements of the HOME program. It is not intended to be detailed or comprehensive.

1.01 Period of Affordability

HOME assisted units are rent and income controlled for varying lengths of time depending upon the average amount of HOME funds invested per HOME-assisted unit. Rent limits and income targeting requirements must be maintained during the period of affordability. Owners are required to keep the property in compliance with HOME guidelines during the period of affordability.

Owners should refer to the Memorandum of Restrictive Covenants Agreement (MORC) to determine the specific terms and conditions that govern their property.

1.02 Income Targeting and Rent Requirements

HOME program requirements with respect to the income and affordability apply both initially and over an extended period of time. Owners should refer to the loan and regulatory agreement and memorandum of restrictive covenants (MORC) to determine specific income targeting requirements at their project.

HOME Program Income Limits based on family size are published annually by HUD. When HUD publishes the new income limits, IHFA issues a memo and posts the new amounts and their effective date on the IHFA website. Owner/Agents are strongly encouraged to follow updates from HUD.

1.03 Student Eligibility Requirements

With the publication of the HOME Final Rule, the HOME Program has adopted the Section 8 Program's student rule. No HOME unit shall be occupied by any individual who is enrolled either full or part-time at an institution of higher education for the purpose of obtaining a degree, certificate or other program leading to a recognized educational credential; and

1. Is under age 24;
2. Is not a veteran of the US Military;
3. Is not married;
4. Does not have dependent children;
5. Is not a person with a disability;
6. Is not living with parents who receive Section 8 assistance; or
7. Is not individually eligible to receive Section 8 assistance and has parents who are not eligible to receive Section 8 assistance.

*Effective 8/1/2013, same-sex marriages are recognized as marriages for student eligibility purposes.

Because HOME is frequently layered into Tax Credit properties, it is important to recognize that Tax Credit has a different student exemption criteria. So there are two sets of student rules that have to be considered in some multifamily properties. The Tax Credit Student Exceptions are:

1. Single parent household
2. Receiving Title VI Benefits
3. Participating in a job training program that receives state or federal funds
4. Married and filing a joint tax return
5. In foster care

If the unit is HOME and Tax Credit, the tenant must qualify under both student rules.

1.04 HOME Program Rent Limits

Every HOME-assisted unit is subject to a maximum rent limit, based on bedroom count for the county in which the property is located. These rent limits are referred to as HOME Rents and are set by HUD-CPD annually. There are two HOME Rent limits: High and Low Home Rents. These rent limits represent the maximum that owners can charge for rent, including an allowance for tenant-paid utilities. Please see 1.08 for how Utility Allowances are calculated.

HOME Program Rent Limits are published by HUD-CPD at on an annual basis and are available on the IHFA website at **HOME Program Compliance - Idaho Housing and Finance Association**. In the event rent limits decrease for an area, or utility allowances increases, an owner may be required to reduce the rent charged. However an Owner is never required to reduce HOME rents to a level below the rents in effect at the time of project commitment. Previous rent limits are available at:

<https://www.hudexchange.info/programs/home/home-rent-limits/>

1.05 Allowable Fees and Charges

Owners may not charge fees that are not customarily charged in rental housing (e.g., laundry room access fees). However, fees considered reasonable and customary may be charged, such as application fees, Fees for services such as bus transportation or meals are acceptable as long as the services are voluntary and fees are charged only for services provided. An eligible tenant cannot be charged a fee for the work involved in completing the additional forms or documentation required for HOME eligibility, such as the Tenant Income Certification.

1.06 Fixed or Floating HOME Units

The project's HOME loan and regulatory agreement and memorandum of restrictive covenants define the HOME units as either "fixed" or "floating"

Fixed Units. HOME designated units are identified as a specific unit and does not change during the HOME period of affordability.

Floating Units. HOME designated units may change over time as long as the total number of comparable and unit mix remains constant during the HOME period of affordability. If a property's MORC does not specify comparable floating units, then the units that were initially HOME qualified upon project completion will be used to determine comparable floating units.

See Chapter 2, Maintaining the Unit Mix, for more information.

1.07 Rent Increase

Rent increases must be approved by IHFA prior to implementation. HOME Rent increases requests are submitted with the annual reports, due no later than the last business day of February. The request should include the name of property, current and proposed rents, and the date the increase will go into effect. If rents are increased without the written approval from IHFA, the owner may be required to reduce the rents and make restitution to affected tenants.

1.08 HOME Utility Allowances & Calculation Method

Any utility (other than telephone, cable television or internet) paid by the tenant, and not by the owner of the property, must be reflected in a utility allowance.

The 2013 HOME Final Rule established a revised utility allowance (UA) calculation requirement. The new rule no longer allows the PHA UA (applies to HOME units only). While the HOME Rule allows five different methods for calculating the utilities, IHFA has approved the following methods may be utilized by the owner/agents:

1. The HUD Utility Schedule Model (HUSM)
2. Utility Company Model (based on actual usage at the property)
3. Energy Consumption Model (engineer model)

The HUSM calculates UA by housing type after entering the utility rate information. The HUSM uses data based on climate and survey information from the U.S. Energy Information Administration of the Department of Energy and it incorporates energy efficiency and Energy Star data. The HUSM and user instructions are available at:

<http://www.huduser.gov/portal/resources/utilallowance.html>

The report is available as either an excel spreadsheet or a web-based model on HUD User at:

www.HUDUser.gov/portal/datasets/husm/uam.html

The Utility Company Model is a collection of actual utility data for the usage at the property. The owner/agent will gather the information and calculate an average usage amount to determine the utility allowance. This method will generally give you the

most accurate utility amount. Owner / Agents will be required to get a release from the household granting the agent permission to collect the information from the utility company. Every person 18 years or older should sign the release. Agents will take this information and enter it into the spreadsheet provided by IHFA (attached and on the IHFA website) and submit for approval. The required spreadsheet is available on our website under Housing Compliance and HOME required documents. Submissions that do not include a completed IHFA spreadsheet will be rejected and you will have to re-submit the information on the correct form. The spreadsheet will need to come with copies of the bills you used to complete the spreadsheet. This method needs to be applied to each bedroom size. If the property consists of multiple buildings that are not identical, then the sampling must be performed for each bedroom size for each building.

The sample size is dependent on the number of units at the property. Please use the following guide when determining how many units to sample:

Units	Minimum Sample
1 – 20	ALL
21-61	20
62-71	21
72-83	22
84-99	23
100-120	24
121-149	25
150-191	26
192-259	27
260-388	28
389 and up	29

Each unit needs at least 10 months of utility information, however this does not need to be consecutive months. Owner/agent will need to identify the 12-month period for the analysis (for example, February 2018 – January 2019). No utility bills should be submitted outside of the 12 month period identified.

The Energy Consumption Model (Engineer Model) is an energy model prepared by a properly licensed engineer or qualified professional. The person conducting the analysis must be independent from the owner/agent. The report and all the supporting documentation will need to be submitted to IHFA for review and approval. This method will need to be used for the first year of a new property with HOME units.

Requests to utilize a different model will require a waiver from IHFA. A request for waiver need to be submitted to Katie Kilgrew at katiek@ihfa.org. Waiver requests should include all supporting documentation for approval.

TAX CREDIT and HOME UNIT MIX

Many HOME units are mixed with a Tax Credit property. Although the IRS allows the use of the PHA UA for tax credit units, properties with a mix of tax credit and HOME cannot use two different utility schedules. If you have HOME units, please apply the HOME utility schedule to your Tax Credit units as well.

1.09 Record Retention

Owners must retain project records for a minimum of five (5) years beyond the property's required period of affordability. Tenant records, including income verifications, development rents, and unit inspections must be included.

Owners must maintain applicant and tenant information in a way to ensure confidentiality. Any applicant or tenant affected by negligent disclosure or improper use of information may bring a civil action for damages against the owner and/or manager and seek other relief, as appropriate. Owners must dispose of records in a manner that will prevent any unauthorized access to personal information.

1.10 Leases

Every tenant must have a written lease. Each lease must include the legal name(s) of the parties to the agreement and all other occupants, a description of the unit to be rented, a minimum 12 month term unless all parties agree to a shorter term, the rental amount and terms for rent increases, the use of the premises, the rights and obligations of the parties, and the IHFA HOME Lease Addendum, which can be found on the website. The lease shall also inform the tenant that fraudulent statements are grounds for eviction and that the tenant could become subject to penalties available under federal law. Leases must not contain any of the prohibited lease terms as stated in Section 92.253 of the Final HOME rule, and any non-renewal or termination of leases must be within the accepted reasons for non-renewal or termination.

Leases should also define income eligibility and the owner's right to recertify income.

1.11 Income Certification

The owner/agent must verify tenant income eligibility at move-in and have the tenant self-certify after move in. Tenants must certify to their anticipated income, family size, and composition. Owner/agents may use the self-certification form used in 100% Tax Credit properties.

Every sixth year (during the HOME affordability period), the household income and income from assets must be re-verified with source documents. Third party income verifications or other forms of supporting documentation must be obtained by the owner and kept on file for 5 years.

1.12 Increases in Income

The owner must ensure that any household whose income increases above the HOME income eligibility guidelines pays not less than 30 percent (30%) of its **adjusted** monthly income for rent, or market rent ([see Chapter 2, Maintaining the Unit Mix, for more information on how to respond to increases in income for both fixed and floating units](#)). If the unit is also a Tax credit unit, the owner is not required to adjust the rent if doing so would put the property out of compliance with the LIHTC program, i.e. the tenant household can be charged a rent equal to or less than the maximum allowable LIHTC rent. An over-income tenant is protected by the terms of their current lease, their rent cannot be increased until lease renewal. A HOME tenant cannot be evicted or moved to another unit solely because of income.

1.13 Property Standards

The owner must keep all units in compliance with HUD's Uniform Physical Conditions Standards (UPCS) and other pertinent local and state codes, standards, and ordinances to assure the units are decent, safe, and sanitary at all times.

Lead-based Paint

Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, owners must disclose the presence of known lead-based paint and/or lead-based paint hazards in the dwelling. Tenants must receive a federally approved pamphlet on lead poisoning prevention entitled Protect Your Family from Lead in Your Home. This disclosure must be documented on the Lead-Based Paint Disclosure Form.

The management company of a pre-78 property is required to be an EPA-Certified Renovation firm. The certification is required when conducting any maintenance activities.

1.14 Affirmative Marketing Plan

Owners of rental properties that contain five or more HOME-assisted units must complete and follow an Affirmative Marketing Plan (AMP). The Plan must be submitted to IHFA for review. The Plan must identify how owner/agent will conduct outreach activities to those least likely to apply without special efforts. The affirmative marketing requirements also apply to properties who target or have a preference for special needs populations. IHFA will review marketing efforts for compliance with the AMP

HOME files and records must be maintained and available for review for the most recent 5 years, until 5 years after the HOME period of affordability ends. This includes the marketing outreach efforts including newspaper ads, social service contacts, photos of signs posted, etc. Each AMP is good for 5 years. Owner/agents must certify annually that nothing has changed with the property or the AMP. After the 5th year, a new plan will need to be submitted to IHFA for approval. If there are changes to the property or management, the owner/agent is required to submit the new/updated AMP for review. Evidence of affirmative marketing efforts must be submitted with the annual reports due at the end of the year.

The AMP form is located on the IHFA website at:

<https://www.idahohousing.com/housing-compliance/home-program-compliance/>

1.15 Community Housing Development Organizations (CHDOs)

HOME program requirements are the same for projects funded with CHDO set-aside. In addition, CHDO set-aside projects must continue to meet all pertinent guidelines specific to CHDOs. CHDO Set-aside projects must have a tenant participation plan that identifies how tenants can provide input into the management of the property. CHDO Set-aside projects must also have a grievance procedure.

Tenant participation can be achieved in a number of ways. Two common options are:

- Involvement of a tenant association to act as a formal body to provide input for project management
- Tenant election of a representative to act as a liaison with management.

Grievance procedures should be objective. They should clearly state:

- To whom a tenant should direct a complaint;
- Who will investigate and/or respond to the complaint; and
- When the tenant should expect to receive a response.

1.16 Risk Assessment

All projects with HOME-assisted units are subject to an annual risk assessment. The compliance portion of the assessment is detailed in the Compliance Monitoring and Risk Assessment Section. Financial Assessment protocol is determined by the IHFA HOME Programs Department.

Chapter 2 – Maintaining the Unit Mix

Throughout this manual the terms “High HOME Rent” and “High HOME Unit”, and “Low HOME Rent” and “Low HOME Unit” are used interchangeably. This is because HOME defines Low-income as a household with an annual income at or below 80% of area median income (AMI). These limits apply to High HOME/Rent Units; HOME defines Very low-income as a household with an annual income at or below 50% of AMI. This income limit applies to Low HOME/Rent Units.

2.01 Fixed HOME Units

Properties with **fixed HOME-assisted units** have designated specific units as HOME-assisted for the entire period of affordability. However, the designation of High HOME Rent unit and Low HOME Rent unit can be changed.

Maintaining the required number of HOME-assisted units as well as the required number of High HOME Rent units and Low HOME Rent units is referred to as the HOME **unit mix requirement**. Properties with more than 5 HOME-assisted units are required maintain a unit mix of 20% Low HOME Rent units.

When an owner recertifies a household’s income and finds the tenant’s income has increased over the HOME income limit, the household is considered “**over-income**”.

An over-income tenant is never required to move-out or move to another unit. Instead, the unit is deemed **temporarily out of compliance**.

- **Scenario 1-(Same process for fixed and floating HOME units.)** Household occupies a Low HOME rent unit and household income increases over 50% AMI but below 80% AMI
 1. Tenant remains in the unit, rent can be (not required) adjusted to the High HOME rent limit at lease renewal.
 2. Owner has the option to keep the unit designated Low HOME rent unit (remains temporarily out of compliance) until it becomes it becomes available to rent to a new very low-income household (50% AMI) or a current High HOME rent unit can be re-designated a Low HOME rent unit and the out of compliance unit is re-designated a High HOME rent unit.
- **Scenario 2-** The household occupies a HOME rent unit and their income increases **over 80% AMI**
 1. Tenant remains in unit and is temporarily out of compliance. Rent (at lease renewal) must increase to 30% of adjusted monthly income. The next available HOME unit must be designated to address the required HOME unit proportion mix (High or Low HOME as required).
 2. If the HOME unit is also a LIHTC unit, the rent must be at or below the rent allowed by the LIHTC

3. Owner cannot refuse to renew a lease or terminate residency based on over-income; If there are more than one HOME units temporarily out of compliance and both Low HOME and High HOME units are needed to restore unit mix compliance, owner should restore compliance with the Low HOME unit(s) first.

2.02 Floating HOME Units

As defined in the loan and regulatory agreement and MORC, a project with **floating HOME units** is not required to designate specific units as Low or High HOME. Instead, the project must maintain the total number and correct unit mix of HOME units during the period of affordability. The units that carry the HOME-assisted designation may change, or “float”, among comparable units as needed.

Maintaining the required number of comparable HOME-assisted units, as well as High HOME Rent units and Low HOME Rent units, for properties with five or more HOME-assisted units, is called complying with the **unit mix requirements**.

When recertifying a tenant’s income, an owner/manager may find that the tenant’s income has increased. A tenant is considered “**over-income**” when:

- The tenant occupies a HOME-assisted unit and the household income increases over the current HOME low-income limit for that family size, or
- The tenant occupies a Low HOME Rent unit, and the household’s income increases above the current very low-income limit (50% AMI or lower), but is still below the low-income limit (80% AMI).

In HOME-assisted units that are also LIHTC units, a tenant household is considered “over-income” when its income increases to 140 percent or more of the qualifying tax credit income for that unit.

When a tenant is over-income, the unit that the tenant occupies is considered **temporarily out of compliance** with HOME’s occupancy and unit mix requirements. Temporary noncompliance due to an increase in an existing tenant’s income is permissible as long as the owner takes specific steps to restore the required unit mix in the property. The rents of the over-income tenants can be adjusted.

When re-designating units in a property with floating HOME-assisted units, owners/managers can choose to substitute a unit that is equal or great size and amenities than the original HOME-assisted unit, but generally they cannot substitute one that is lesser in size and amenities. A lesser unit can be substituted only when doing so preserves the original unit mix. A greater unit is one that might be considered more preferable because of larger size, additional bedrooms, or amenities. The goal is to maintain the same number and type of HOME-assisted units as were originally designated. Therefore, if an owner makes a substitution that is “greater,” it can later substitute an available unit

that is “lesser,” in order to restore the original unit mix.

If an over-income household occupies a floating High HOME unit. The owner/manager must adjust the rent of the over-income household so that it pays 30 percent of its monthly adjusted income as rent. The rent adjustment must be made as soon as the lease permits, and in accordance with the terms of the lease. Note, unlike the rule for properties with fixed HOME-assisted units, in a property with floating HOME units a household is not required to pay more than the market rent for a comparable, unassisted unit in the neighborhood. This is HOME rule, not a tax credit rule.

The next vacant, comparable, non-assisted unit must be designated as a High HOME unit. A comparable unit is one that is equal or greater in terms of size, number of bedrooms, and amenities. The owner may not replace the unit with one that is lesser, unless doing so preserves the original unit mix. The newly designated High HOME unit must be rented to a household whose income does not exceed the low-income limit, at a rent that does not exceed the High HOME Rent.

Once a comparable non-assisted unit is designated the new High HOME Rent unit, the unit with the over-income household is re-designated as a non-assisted unit. At this point, the owner/manager may adjust the household’s rent without regard to the HOME rent requirements (although requirements from other funding sources may still apply). Rent increases are subject to the terms of the lease.

If a tenant is low-income, but is not very low-income, and occupies a floating Low HOME unit. The unit occupied by the over-income household keeps its designation as a Low HOME unit until a comparable unit can be substituted. The rent of the over-income household must not exceed the Low HOME rent limit while the unit is a Low HOME unit.

When the next High HOME unit in the property is vacated, it must be re-designated as a Low HOME unit and rented to a household whose income does not exceed the very low-income limit, at a rent that does not exceed the Low HOME rent limit.

Once the new Low HOME unit is designated, the unit with the over-income household is re-designated as a High HOME unit. The household’s rent may be adjusted to no more than the High HOME rent limit, subject to the terms of the lease.

If household’s income is above the low-income limit and it occupies a Low HOME unit. The next vacant, comparable, non-assisted unit must be designated as a Low HOME unit, and rented to a household whose income does not exceed the very low-income limit, at a rent that does not exceed the Low HOME rent limit.

Until a comparable Low HOME unit is designated, the unit that is occupied by the over-income household is considered a Low HOME unit that is temporarily out of compliance.

The rent of the over-income household in the original Low HOME unit must be adjusted as soon as the lease permits, and in accor-

dance with the terms of the lease.

- Until a comparable Low HOME unit is substituted, the over-income tenant must pay 30 % of the household's monthly adjusted income as rent.
- After a comparable Low HOME unit is substituted, the unit with the over-income household is re-designated a non-assisted unit. The owner/manager may adjust the household's rent without regard to the HOME restrictions. Rent increases are subject to the terms of the lease.

Note, a household in a floating HOME unit whose income exceeds the low-income limit is not required to pay more than the market rent for a comparable, unassisted unit in the neighborhood.

If there is more than one over-income tenant in the property and both a Low HOME unit and High HOME unit are needed to restore unit mix compliance, the owner should restore compliance with the Low HOME unit first.

2.03 Rental Assistance

If a HOME-assisted unit receives Federal Project-Based Rental Assistance and the unit is occupied by a household with 50% AMI area median income, the household pays as a contribution towards rent not more than 30% of its adjusted gross income. This can be a High or Low HOME unit. If the household income increases over the very low income limit, the owner/agent must re-designate the unit to High HOME Rent. The portion of the rent charged to the tenant is still 30% of the tenant's adjusted income.

Units with Tenant-Based Section 8 Housing Choice Voucher.

Rents for units with Section 8 vouchers, including project-based vouchers, or similar state or federal tenant-based rental assistance subsidies cannot exceed the applicable High or Low HOME rent limit for the unit. Rents charged must be comparable to units not receiving rent assistance; e.g., if the owner charges less than the maximum HOME rent for non-voucher holders, it cannot charge a higher rent to voucher holders.

Families receiving rental assistance cannot be denied tenancy based solely on the fact that they receive rental assistance.

Chapter 3 – General Occupancy Guidelines

3.01 Qualification of Applicants

Applicants for HOME-assisted units shall be advised early in their initial visit to the property that there are maximum income limits that apply to these units. They shall also be made aware that the anticipated income of all persons expecting to occupy the unit must be verified and included on a Tenant Income Certification form prior to occupancy, and that household income will be reviewed annually. It shall also be explained that if the household income goes above the income limits, they may continue to reside in the unit; but once their lease expires, the rent will be equal to the lesser of 30% of the household's **adjusted** income, up to the maximum LIHTC rent if the unit is also a LIHTC unit, or the rent amount payable under state or local law. If the unit is floating, the new rent cannot exceed market rent for a comparable unassisted unit. Households whose income exceeds the 80% Area Median Income (AMI) limit must not be permitted to move to any other HOME-assisted unit.

3.02 Income Eligibility Determination

A fully completed Household Questionnaire is critical to an accurate determination of eligibility. The information furnished on the application should be used as a tool to determine all sources of anticipated income and assets. See:

<https://www.hudexchange.info/incomecalculator/>

Income eligibility must be verified prior to move-in.

Owner must retain records of all income and assets (e.g., w-2's, check stubs, bank statements, etc.) or by a third party verification (e.g., by the employer, bank, etc.). The application, income and asset verification, and lease are to be executed prior to move-in.

All household members age 18 and over must sign the lease.

3.03 Changes in Household Composition

If the household in a HOME assisted unit changes and an additional person moves into the unit, the following steps must be taken:

1. The prospective tenant must complete a Household Questionnaire and allow for verification of income and assets as required; and
2. Prospective tenant's income must be added to the current tenant's most income (at certification or re-certification) to determine if the household is still within the HOME income limits for the unit. If the anticipated household income, then once the current lease expires and 30-day notice is given, the household rent will increase to the lesser of 30% of the household monthly, up to current market rate. If the unit is also a LIHTC unit, the rent increases to the maximum LIHTC rent.

3.04 Minimum Lease Term Requirements

Required lease term is one year unless owner and the tenant mutually agree to a lesser term as approved by IHFA. Leases must not contain any of the HOME prohibited lease terms at **24 CFR 92.253- Tenant Protections and Selection** of the Final HOME rule. Any non-renewal or termination of leases must be in accordance with the lease and/or lease addendum. The owner/agent must comply with HOME requirements on evictions as well as state law regarding eviction procedures. There must be a written notice that gives a household 30 days to vacate its unit. Under the HOME Program, tenancy may be terminated only for:

- Serious or repeated violation of the terms and conditions of the lease;
- Violation of applicable federal, state, or local law;
- Completion of the tenancy period for transitional housing;
- Failure to participate in required supportive services plan if in transitional housing; or
- Other good cause.

Owner/agents must have clear documentation in the tenant file to demonstrate good cause for termination of tenancy. Owner/agents must all keep track of all evictions from HOME units and be able to present this information to IHFA at monitoring. (See **1.09- Record Retention** Requirements)

The Violence Against Women Reauthorization Act of 2013 (VAWA 2013) was extended to include properties financed with HOME funds. Owners must comply with the lease requirements found in Section 601 of VAWA 2013. IHFA requires owners to use the VAWA Lease Addendum, form HUD-91067 or its successor VAWA Lease Addendum form. In general, owners may not construe an incident of actual or threatened domestic violence, dating violence, sexual assault, or stalking as a serious or repeated violation of a lease term by the victim or threatened victim or as good cause for terminating tenancy. However, in accordance with VAWA 2013, owners may bifurcate a lease to terminate the tenancy of an individual who is a tenant or lawful occupant and engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against another lawful occupant living in the unit or other affiliated individual as defined in the VAWA 2013.

Owner/agent should include a copy of HUD form 91066 or its successor form with each tenancy termination or eviction notice to allow an individual to certify that he or she is a victim of domestic violence, dating violence or stalking. The form is to be completed and submitted to owner/agent within 14 business days or an agreed-upon extension date, in order for the individual to receive protection under the VAWA.

3.05 House Rules

Developing a set of house rules is a good practice. The decision about whether to develop house rules for a property rests solely with the owner, and IHFA's or HUD's review or approval is not

required. If house rules are listed in the lease as an attachment, then they must be attached to the lease. By identifying allowable and prohibited activities in housing units and common areas, owners provide a structure for treating tenants equitably and for making sure that tenants treat each other with consideration. House rules are also beneficial in keeping properties safe and clean and making them more appealing and livable for the tenants. They are also extremely beneficial if it becomes necessary to evict a tenant for inappropriate behavior. For more information on House Rules, refer the HUD Handbook 4350.3.

3.06 Number of Persons Allowed Per Unit

There is no federal regulation governing the number of persons allowed to occupy a unit based on size. There may be local ordinances regarding unit occupancy. It is important to be consistent when accepting or rejecting applications based on number of persons. It is recommended that the owner determine the minimum and maximum number of people that will be allowed to occupy each size unit and put that formula in writing as part of the Tenant Selection Plan. The owner may refer to the HUD Handbook 4350.3, regarding occupancy standards. By following the standards described, owners can ensure that applicants and tenants are housed in appropriately sized units in a fair and consistent manner as prescribed by law.

3.07 Tenant Selection Plan

Owners must develop a formal written policy that clearly states the procedures and criteria used to consistently draw applicants from the waiting list, screening, and income targeting requirements, and any preference or target populations, (only identified in the Loan and Regulatory agreement and current Five-year Consolidated Plan), and include the supporting documentation to ensure nondiscrimination in the selection of tenants.

HUD issued the Final Rule on February 3, 2012 regarding Equal Access to Housing in HUD programs regardless of Sexual Orientation or Gender Identity. Owners may not inquire about the sexual orientation or gender identity of an applicant or occupant of HUD assisted housing for the purpose of determining eligibility or continued occupancy. This prohibition on inquiries regarding sexual orientation or gender identity does not prohibit any individual from voluntarily self-identifying sexual orientation or gender identity. This prohibition on inquiries does not prohibit lawful inquiries of an applicant or occupant's sex where the housing provided or to be provided to the individual is temporary, emergency shelter that involves the sharing of sleeping areas or bathrooms (temporary or emergency shelter living is not allowed in HOME units).

In accordance with the Violence Against Women Reauthorization Act of 2013, the selection criteria cannot deny admission on the basis that the applicant has been a victim of domestic violence, dating violence, sexual assault or stalking. Owners should provide to each applicant/tenant HUD form 91066 or its successor form to allow the applicant/tenant to provide information regarding his or her status as a victim of domestic violence, dating violence or stalking.

Owners may refer to the IHFA Annual Administrative Plan when

developing a tenant selection plan. See 24 CFR 92.253 more HOME requirements. IHFA will review and approve the Tenant Selection Plan as part of its inspection procedure.

Owner/agents must maintain a written waiting list and select tenants in chronological order to the best of their ability. The tenant selection plan needs to outline the procedures for maintenance of the waitlist. All applications should be date and time stamped when accepted. Tenant selection records must be maintained and include rejected applications.

3.08 Income Verification

At initial occupancy, owner/agent must determine whether prospective tenants of HOME-assisted units qualify as low-income households. Income eligibility is based on anticipated income as defined at 24 CFR 5.609. Owner/agents must use HUD Handbook 4350.3 Chapter 5 Determining Annual Income to determine how to calculate income and assets. When collecting income verification documentation, owner/agents must consider any likely changes in income. Owners/agents must follow appropriate steps in determining whether households are eligible prior to admittance.

IHFA provides sample verifications and other forms on the website to assist owners in qualifying eligible households. The release of information (at top of form) must be completed and signed by the person who is the subject of the verification prior to sending the form to an employer or other income source. Completed and returned verifications must be attached to the Tenant Income Certification.

An Income and Asset Calculation Worksheet form can be used to assist in showing the individual calculations of income and asset income. This is highly recommended and will greatly assist an auditor during a file review.

3.09 Gross Annual Household Income

Family income for households living in HOME-assisted units shall be determined in a manner consistent with Section 8 of the U.S. Housing Act of 1937.

Note that the information below only provides a summary. IHFA uses the definition of income found in 24 CFR 5.609 and HUD Handbook 4350.3 Chapter 5.

The determination of annual income must include all types of income in the amount **anticipated** to be received by the household in the 12 months following certification. Owners/agents should use current circumstances to project income, unless verification forms or other verifiable documentation indicate that an imminent change will occur. However, if the owner is unable to determine annual income using current information because the family reports little to no income or because income fluctuates, the owner may average past actual income received or earned within the last 12 months before the certification date to calculate annual income.

3.10 Factors that Affect Household Size

When determining family size for income limits, the owner must include the following individuals who are not living in the unit:

- Children temporarily absent due to placement in a foster home;
- Children in joint custody arrangements who are present in the household 50% or more of the time;
- Children who are away at school but who live with the family during school recesses;
- Unborn children of pregnant women; when a pregnant woman is an applicant, the unborn child is included in the size of the household, and may be included for purposes of determining the maximum allowable income. The rental application should ask the following question: "Will there be any changes in household composition within the next 12 month period?" If an applicant answers that a child is expected, the manager should explain to the tenant that in order to count the child as an additional household member and use the corresponding income limit, a self-certification of pregnancy must be provided.
- Children who are in the process of being adopted;
- Temporarily absent family members who are still considered family members. For example, the owner may consider a family member who is working in another state on assignment to be temporarily absent. Persons on active military duty are considered temporarily absent (except if the person is not the head, co-head or spouse or has no dependents living in the unit). If the person on active military duty is the head, co-head, or spouse, or if the spouse or dependents of the person on active military duty resides in the unit, that person's income must be counted in full;
- Family members in the hospital or rehabilitation facility for periods of limited or fixed duration. These persons are temporarily absent as defined above; and
- Persons permanently confined to a hospital or nursing home. The family decides if such persons are included when determining family size for income limits. If such persons are included, they must be listed on the Tenant Income Certification as "other adult family member". If the family chooses to include the permanently confined person as a member of the household, the owner must include income received by these persons in calculating family income.

When determining family size for establishing income eligibility, the owner must include all persons living in the unit except the following:

- A live-in aide/attendant is a person who resides with one or more elderly persons, near-elderly persons, or persons with disabilities, and who:
- Is determined to be essential to the care and well-being of

the person(s);

- Is not obligated for the support of the person(s); and
- Would not be living in the unit except to provide the necessary supportive services.

While a relative may be considered to be a live-in aide/attendant, they must meet the above requirements, especially the last. The live-in aide qualifies for occupancy only as long as the individual needing supportive services requires the aide's services and remains a tenant, and may not qualify for continued occupancy as a remaining family member. Owners must obtain verification from the person's qualified medical practitioner or health care provider that the live-in aide is needed to provide the necessary supportive services essential to the care and well-being of the person and should not add the attendant to the lease. The Owner may not require applicants or tenants to provide access to confidential medical records or to submit to a physical examination.

3.11 Whose Income is Counted

1. **Adults.** Count the annual income of the head, spouse or co-head, and other adult members of the family. In addition, persons under the age of 18 who have entered into a lease under state law are treated as adults, and their annual income must also be counted. These persons will be either the head, spouse, or co-head of household.

NOTE: If a minor is residing with a family as a member other than the head, spouse, or co-head, the individual would be considered a dependent and his or her income handled in accordance with subparagraph 2 below.

2. **Dependents.** A dependent is a family member who is under 18 years of age, is disabled, or is a full-time student. The head of the family, spouse, co-head, foster child, or live-in aide are never dependents. Some income received on behalf of family dependents or foster children is counted and some is not.
 - a. Earned income of minors (family members under 18) is not counted.
 - b. Benefits or other unearned income of minors is counted.
 - c. Earned income of a foster child who is not yet 18 years old is not counted.
 - d. Earned income of a foster adult who is at least 18 years old is counted.
 - e. Except as noted above the unearned income of a foster child or foster adult including SSI disability payments and income from assets owned by or on behalf of a foster child or foster adult is counted.
 - f. When more than one family shares custody of a child and both families live in assisted housing, only one

family at a time can claim the dependent. The family that counts the dependent also counts the unearned income of the child. The other family claims neither the dependent nor the unearned income of the child.

- g. When full-time students who are 18 years of age or older are dependents, a small amount of their earned income will be counted. Count only earned income up to a maximum of \$480 per year for full-time students, age 18 or older, who are not the head of the family or spouse or co-head. If the income is less than 480 annually, count all the income. If the annual income exceeds \$480, count \$480 and exclude the amount that exceeds \$480.
- h. The income of full-time students 18 years of age or older who are members of the household but away at school is counted the same as the income for other full-time students. The income of minors who are members of the household but away at school is counted as the income for other minors.
 - i. All income of a full-time student, 18 years of age or older, is counted if that person is the head of the family, spouse, or co-head.
 - j. Payments received by the family for the care of foster children or of foster adults are not counted. This rule applies only to payments made through the official foster care relationships with local welfare agencies.
 - k. Adoption assistance payments in excess of \$480 are not counted.

3.12 Income of Temporarily Absent Family Members

1. All income of family members approved to reside in the unit, including members who are temporarily absent.
2. If the owner determines that an absent person is no longer a family member, the individual must be removed from the lease and Tenant Income Certification.
3. A temporarily absent individual on active military duty must be removed from the family, and his or her income must not be counted unless that person is the head of the family, spouse, or co-head.
 - A. However, if the spouse or a dependent of the person on active military duty resides in the unit, that person's income must be counted in full, even if the military member is not the head, or spouse of the head of the family.
 - B. The income of the head, spouse, or co-head will be counted even if that person is temporarily absent for active military duty.

3.13 Annual Income

Includes:

- A. The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
- B. The net income from operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations.
- C. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;
- D. Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph 2 above. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;
- E. The full amount of periodic amounts received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (e.g., Black Lung Sick benefits, Veterans
- F. Disability, Dependent Indemnity Compensation, payments to the widow of a serviceman killed in action). See Income Exclusions for an exception to this paragraph;
- G. Payments in lieu of earnings, such as unemployment, disability compensation, worker's compensation, and severance pay, except as provided in paragraph 3 under Income Exclusions;
- H. Welfare Assistance.
 1. Welfare assistance received by the family.
 2. If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:
 3. The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

4. The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.

- I. Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling; and
- J. All regular pay, special pay, and allowances of a member of the Armed Forces, except as provided under Income Exclusions.

3.14 Income Exclusions

1. Income from employment of children (including foster children) under the age of 18 years;
2. Payments received for the care of foster children or foster adults (usually persons with disabilities unrelated to the tenant family, who are unable to live alone);
3. Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains, and settlement for personal or property losses, except as provided in paragraph (5) under Income Inclusions;
4. Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
5. Income of a live-in aide, as defined in 24 CFR 5.403;
6. The full amount of student financial assistance paid directly to the student or to the educational institution;
7. The special pay to a family member serving in the Armed Forces who is exposed to hostile fire (e.g., in the past, special pay included Operation Desert Storm);
 - a. Amounts received under training programs funded by HUD (e.g., training received under Section 3);
 - b. Amounts received by a person with a disability that are disregarded for a limited time for purposes of supplemental security income eligibility and benefits because they are set-aside for use under a Plan to Attain Self-Sufficiency (PASS);
 - c. Amounts received by a participant in other publicly assisted programs that are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care,

- etc.) and which are made solely to allow participation in a specific program;
- d. Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the owner, on a part-time basis, that enhances the quality of life in the property. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, and resident initiative coordination. No resident may receive more than one such stipend during the same period of time; or
 - e. Incremental earnings and benefits resulting to any family member from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as a resident management staff person. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program.
8. Temporary, nonrecurring, or sporadic income (including gifts);
 9. Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era. (Examples include payments by the German and Japanese governments for atrocities committed during the Nazi era);
 10. Earnings in excess of \$480 for each full-time student 18 years or older (excluding the head of household and spouse);
 11. Adoption assistance payments in excess of \$480 per adopted child;
 12. Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump-sum amount or in prospective monthly amounts;
 13. For Section 8 tenants only, any deferred Department of Veterans Affairs (VA) disability benefits that are received in a lump sum or in prospective monthly amounts are excluded from annual income:
 14. Amounts received by the family in the form of refunds or rebates under state or local law for property taxes paid on the dwelling unit;
 15. Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home;
 16. Amounts specifically excluded by any other federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the Federal Register and distributed to housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary. The following is a list of income sources that qualify for that exclusion:
 - a. The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 [b]);
 - b. Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058) (employment through AmeriCorps, Volunteers in Service to America[VISTA], Retired Senior Volunteer Program, Foster Grandparents Program, youthful offender incarceration alternatives, senior companions);
 - c. Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626[c]);
 - d. Income derived from certain sub-marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459 e);
 - e. Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624[f]);
 - f. Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552[b]); (effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 [29 U.S.C. 2931], e.g., employment and training programs for Native Americans and migrant and seasonal farm workers, Job Corps, veterans employment programs, state job training programs, career intern programs, AmeriCorps);
 - g. Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L- 94-540, 90 Stat. 2503-04);
 - h. The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court and the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408);

- i. Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087 u);
- j. Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056[f]), e.g., Green Thumb, Senior Aides, Older American Community Service Employment Program;
- k. Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in In Re Agent-product liability litigation, M.D.L. No. 381 (E.D.N.Y.);
- l. Payments received under the Maine Indian Claims Settlement Act of 1980 (25U.S.C. 721);
- m. The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 q)
- n. Earned income tax credit (EITC) refund payments received on or after January 1, 1991, including advanced earned income credit payments (26 U.S.C. 32[j]);
- o. Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433);
- p. Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637[d]);
- q. Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from Spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805);
- r. Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602);
- s. Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931).

3.15 Income from Assets

The HOME program does not set an asset limitation for HOME-assisted units. However, the HOME program requires the income from assets to be included as part of the annual income calculation. However, it is not the value of the asset, but the income earned from the asset that is counted in annual income calculation.

In general, an asset is a cash or non-cash item that can be converted to cash. Income from assets, are considered, along with verified income, when determining the income eligibility of a household. IHFA recommends third party verifications, regardless of the amount, to verify all assets claimed by applicants/tenants at initial certification and every sixth year of the affordability period.

The asset information (total value and income to be derived) should be obtained at the time of application or recertification. The applicant will affirm that this information is correct by executing the Tenant Income Certification.

The following information is based upon the HUD Section 8 Program. The owner must use the definition of "Net Family Assets" in

https://www.govregs.com/regulations/title24_parts5_subpartF_sections5.603

3.16 Net Family Assets include

1. Cash held in savings and checking accounts, safe deposit boxes, homes, etc. For savings accounts, use the current balance. For checking accounts, use the average balance for the last six months. Assets held in foreign countries are considered assets.
2. Revocable trusts. Include the cash value of any revocable trust available to the family. (Do not include irrevocable trusts, e.g., no household or family member can control);
3. Equity in rental property or other capital investments. Include the current fair market value less (a) any unpaid balance on any loans secured by the property and (b) reasonable costs that would be incurred in selling the asset (e.g., penalties, broker fees, etc.).

NOTE: If the person's main business is real estate, then count any income as business income. Do not count it both as an asset and business income.

4. Stocks, bonds, Treasury bills, certificates of deposit, mutual funds, and money market accounts. Interest or dividends earned are counted as income from assets even when the earnings are reinvested. The value of stocks and other assets vary from one day to another. The value of the asset may go up or down the day before or after rent is calculated and multiple times during the year thereafter. The owner may assess the value of these assets at any time after the authorization for the release of information has been received.

5. Individual retirement, 401K, and Keogh accounts. These are included when the holder has access to the funds, even though a penalty may be assessed. If the individual is making occasional withdrawals from the account, determine the amount of the asset by using the average balance for the previous six months. (Do not count occasional withdrawals as income.)
 6. Retirement and pension funds.
 - a. While the person is employed. Include only amounts the family can withdraw without retiring or terminating employment. Count the whole amount less any penalties or transaction costs. Follow the HUD Handbook 4350.3 Chapter 5 on determining the value of assets.
 - b. At retirement, termination of employment, or withdrawal. Periodic receipts from pension and retirement funds are counted as income. Lump-sum receipts from pension and retirement funds are counted as assets. Count the amount as an asset or as income, as provided below.
 - i. If benefits will be received in a lump sum, include the lump sum receipt in net family assets.
 - ii. If benefits will be received through periodic payments, include the benefits in annual income. Do not count any remaining amounts in the account as an asset.
 - iii. If the individual initially receives a lump-sum benefit, followed by periodic payments count the lump-sum benefit as an asset and treat the periodic payment as income. In subsequent years, count only the periodic payment as income. Do not count the remaining amount as an asset.

NOTE: This paragraph assumes that the lump-sum receipt is a one-time receipt and that it does not represent delayed periodic payments. However, in situations in which a lump-sum payment does represent delayed periodic payments, then the amount would be considered as income and not an asset.
 7. Cash value of life insurance policies available to the individual before death (e.g., the surrender value of a whole life policy or a universal life policy). It would not include a value for term insurance, which has no cash value to the individual before death.
 8. Personal property held as an investment. Include gems, jewelry, coin collections, or antique cars held as an investment. Personal jewelry is NOT considered an asset.
 9. Lump-sum receipts or one-time receipts. These include inheritances, capital gains, one time lottery winnings, victim's restitution, settlements on insurance claims (including health and accident insurance, worker's compensation, and personal or property losses), and any other amounts that are not intended as periodic payments.
 10. A mortgage or deed of trust held by an applicant:
 - a. Payments on this type of asset are often received as one combined payment of principal and interest with the interest portion counted as income from the asset.
 - b. This combined figure needs to be separated into the principal and interest portions of the payment. (This can be done by referring to an amortization schedule that relates to the specific term and interest rate of the mortgage.)
 - c. To count the actual income for this asset, use the interest portion due, based on the amortization schedule, for the 12-month period following the certification.
 - d. To count the imputed income for this asset, determine the asset value as of the effective date of the certification. Since this amount will continually be reduced by the principal portion paid during the previous year, the owner will have to determine this amount at each annual recertification.
 11. Assets disposed of within two years before effective date of certification/recertification:
 - a. If the cash value of the disposed assets exceeds the actual amount the family received by more than \$1,000, include the whole difference between the cash value and the amounts received. Do not include if the difference is less than \$1,000.

Example: A couple gave \$2,000 to each of their three grandchildren and deeded a home to their son. The home had a cash value of \$40,000 and the son paid his parents \$12,000 for the home. \$34,000 (\$40,000 less \$12,000 plus \$2,000 x 3) is counted as an asset until such time as the household can certify on an Income Certification form that they did not dispose of any assets during the two years preceding the certification date. (The \$12,000 paid by the son may also be counted as an asset, depending on what was done with the payment.)
 - b. Do not consider assets disposed of for less than fair market value as a result of a foreclosure, bankruptcy, or a divorce or separation agreement.
 - c. Do consider:
 - i. Assets put into trusts,
 - ii. Business assets disposed of for less than fair market value. (Business assets are excluded from net family assets only while they are part of an active business.
- Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and the equity accounts in HUD homeownership programs. The value of necessary items of personal property such as

furniture and automobiles shall be excluded. In determining net family assets, owners shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or recertification, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

3.17 Net Family Assets Does Not Include:

1. Personal property (clothing, furniture, cars, wedding ring, other jewelry that is not held as an investment, vehicles specially equipped for persons with disabilities).
2. Interests in Indian trust land.
3. Term life insurance policies (i.e., where there is no cash value).
4. Equity in the cooperative unit in which the family lives.
5. Assets that are part of an active business. "Business" does NOT include rental of properties that are held as investments unless such properties are the applicant's or tenant's main occupation.
6. Assets that are NOT effectively owned by the applicant. Assets are not effectively owned when they are held in an individual's name, but (a) the assets and any income they earn accrue to the benefit of someone else who is not a member of the family, and (b) that other person is responsible for income taxes incurred on income generated by the assets.

NOTE: *Non-revocable trusts (i.e., irrevocable trusts) are not covered by this paragraph.*

7. Assets that are not accessible to the applicant and provide no income to the applicant.

NOTE: *Non-revocable trusts are not covered under this paragraph.*

3.18 Instructions for Valuing Assets

In computing assets, owners must use the cash value of the asset; that is, the amount the family or household would receive if the asset were converted to cash. Cash value is the market value of the asset minus reasonable costs that were or would be incurred in selling or converting the asset to cash. Expenses which may be deducted include:

- Penalties for withdrawing funds before maturity;
- Broker/legal fees assessed to sell or convert the asset to cash; and
- Settlement costs for real estate transactions.

For non-liquid assets, enough information should be collected to determine the current cash value, i.e. the net amount the family would receive if the asset were converted to cash.

Owners must count assets disposed of for less than fair market value during the two years preceding certification or recertification. The amount counted as an asset is the difference between the cash value and the amount actually received, if the difference is more than \$1,000. If a tenant has sold his/her home (either a private residence or rental) or disposed of other assets within the past two years for less than fair market value, then request:

- Copies of closing documents (HUD-1, settlement statement) showing the selling price, the distribution of the sales proceeds and the net amount to the tenant.
- Divestiture of Assets Verification identifying the disposed-of asset, the cash value and amount actually received. If net family/household assets exceed \$5,000.00, the annual income must include the greater of
 - The actual income from assets; or
 - An imputed income from assets.

Owners must determine estimated asset income by multiplying total net assets by the interest rate specified by HUD. Until further notice, use a rate of two percent (0.06%). This rate is effective as of February 1, 2015.

3.19 Assets Owned Jointly

Assets owned by more than one person should be prorated according to the percentage of ownership. If no percentage is specified or provided by state or local law, prorate the assets evenly among all owners.

3.20 Example of Calculating Income from Assets

If assets have a total value at or above \$5000, Asset Income will be the greater of 1) actual annualized income from the assets, or 2) The computed income using the HUD passbook interest rate of .06% to calculate a potential number multiplied by the total value of the assets.

Type of Asset	Cash Value of Asset (\$)	Actual Income (\$)/Per Year
Checking Account	300	0
Savings Account	2,000	115
Certificates of Deposit	10,000	986
Rental Property	15,000	0
TOTALS	27,300	1,101

- Total Assets x 0.06% = \$27,300 X .06% = \$14.58
- Annual income must include the \$1,101 actual income because it is greater than the estimated (imputed) income received on the assets.

3.21 Calculating Gross Annual Household Income

Income has two components: Earned & Unearned income and Asset income. Earned/Unearned income includes the following sources: gross wages and salaries including tips and overtime; gross income from social security or welfare; and payments in lieu of earnings (e.g., unemployment compensation, workers' compensation). There are certain mandated inclusions and exclusions which apply when determining earned/unearned income.

Asset income is the amount generated by savings accounts, real estate, and other investments. Assets are items of value, other than necessary personal items, and are considered along with verified income to determine the eligibility of a household. For a complete list and explanation of the HOME Program's Annual Gross Income calculation method see CFR Part 5. IHFA's HOME Program adheres to 24 CFR 5.609, Annual Gross Income.

<https://www.hudexchange.info/resources/documents/HOME-GuideForIncomeAndAllowances.pdf>

Owners must convert all verified incomes to annual amounts.

1. To annualize full-time employment, multiply:
 - a. Hourly wages by 2,080 hours
 - b. Weekly wages by 52
 - c. Bi-weekly wages by 26
 - d. Semi-monthly wages by 24
 - e. Monthly wages by 12
2. To annualize income from other than full-time employment, multiply:
 - a. Hourly wages by the number of hours the individual is expected to work per week by 52. If verification shows a range of hours, use the average number of hours (i.e., verification shows 30-35 hours per week, use 32.5 hours).
 - b. Average weekly amount by the number of weeks the individual is expected to work.
 - c. Other periodic amounts (monthly, bi-weekly, etc.) by the number of periods the individual expects to work.

Use an annual wage without additional calculations. For example, if a teacher is paid \$25,000 a year, use \$25,000, whether the payment is made in 12 monthly installments, 9 installments or some other payment schedule.

Seasonal or Sporadic Income

If an eligible tenant indicates that income might not be received for the full 12 months (e.g. unemployment insurance), the owner should still determine an annual income as described below.

If an eligible tenant is in a seasonal line of work, for example, a job dependent on weather conditions such as roofing, and normally collects unemployment during the "off" months, both incomes are used for the appropriate number of months. For example, if an individual makes

\$1,200 a month, typically works 9 months per year and collects unemployment in the amount of \$600 a month for the remaining 3 months, income is calculated as follows:

$$\begin{array}{rcl}
 \$1,200 \times 9 & = & \$10,800 \\
 \$600 \times 3 & = & \$1,800 \\
 \hline
 & & \$12,600 = \text{Total Annualized Income}
 \end{array}$$

Unemployed Applicants

The income of unemployed applicants with regular income from any source, such as Social Security, Pension, recurring gifts, etc., must be verified as covered previously.

If the applicant is currently unemployed with no regular verifiable income from any source and claiming zero (0) income, he/she must execute a Certification of Zero Income, a Certification of Daily Needs and provide a signed copy of the prior year's tax return. The exception to this would be an applicant whose rent is being paid by a government agency; these applicants may be counted as low income. Note that the HUD Handbook requires non-monetary contributions (excluding groceries) to be counted as income.

Please note that annual income is not the same as adjusted annual income. Annual income generally corresponds to gross income, with no adjustments (deductions) for child-care, medical expenses, dependents, etc.

3.22 General Income Verification Requirements

All income and asset sources must be disclosed on the eligibility application and verified. A good application must be used as the basis for determining what verifications will be necessary. The application, along with all supporting documentation and the Tenant Income Certification, will be reviewed by IHFA staff during a tenant file review.

The following describes the types of third-party verification in order of acceptability:

1. Third-party verification from source (written):
 - a. An original or authentic document generated by a third party source that is dated within 120 days from the date of receipt by the owner. Such documentation may be in possession of the tenant (or applicant), and commonly

referred to as tenant-provided documents. These documents are considered third-party verification because they originated from a third-party source. Examples of tenant-provided documentation that may be used include, but are not limited to: pay stubs, payroll summary report, employer notice/letter of hire/termination, SSA benefit letter, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices.

b. Owners must consider the following when using tenant-provided documentation:

- i. Is the document current? Documentation of public assistance may be inaccurate if it is not recent and does not show any changes in the family's benefits or work and training activities.
- ii. Is the documentation complete? Owners may not accept pay stubs to document employment income unless the applicant or tenant provides the most recent four to six, consecutive pay stubs to illustrate variations in hours worked. Actual paychecks or copies of paychecks should never be used to document income because deductions are not shown on the paycheck.
- iii. Is the document an unaltered original? The greatest shortcoming of tenant-provided documents as a verification source is their susceptibility to undetectable change through the use of high-quality copying equipment. Documents with original signatures are the most reliable. Photocopied documents generally cannot be assumed to be reliable.

2. Written documentation sent directly to the third-party source by mail or electronically by fax, email or internet.

Income verification requests must be sent directly to and from the source. They are never given to the tenant to obtain signatures. It is suggested that a self-addressed stamped envelope be included with a mailed request for verification. If the returned verifications do not contain complete information (typical examples include failure to indicate interest rates, dates of anticipated raises, amounts of anticipated raises, etc.), managers must follow up with the source to obtain complete information. All pertinent information must be documented in the file and must also include the name, phone number and title of the contact, the name of the person accepting the information, and the date.

3. Third-party verification from source (oral).

When clarifying information over the telephone, it is important to be certain that the person on the telephone is the party he or she claims to be. Generally, it is best to telephone the verification source rather than to accept verification from a source calling the property management office. Oral verification must be documented in the file.

When verifying information by phone, the owner must record and include in the tenant's file the following information:

- a. Third-party's name, position, and contact information;
- b. Information reported by the third party;
- c. Name of the person who conducted the telephone interview; and d. Date and time of the telephone call.

4. Family Certification.

An owner may accept a tenant's notarized statement or a signed affidavit regarding the truthfulness of the information only if the information cannot be verified by other acceptable verification method(s). Owner must document why other verification was not available. The owner may witness the tenant signature(s) in lieu of a notarized statement or affidavit.

The owner may obtain accurate third-party written verification by facsimile, email, or Internet, if adequate effort is made to ensure that the sender is a valid third-party source.

- a. Facsimile - Information sent by fax is most reliable if the owner and the verification source agree to use this method in advance during a telephone conversation. The fax should include the company name and fax number of the verification source.
- b. Email - Similar to faxed information, information verified by email is more reliable when preceded by a telephone conversation and/or when the email address includes the name of an appropriate individual and firm.
- c. Internet - Information verified on the Internet is considered third party verification if the owner is able to view web-based information from a reputable source on the computer screen. Use of a printout from the Internet may also be adequate verification in many instances.

Steps used to obtain written verification as described in 1, 2 and 3 above must be documented to show just cause for using other types of verification. The owner must include the following documents in the tenant file:

1. A written note explaining why third-party verification is not possible; or
2. A copy of the date-stamped original request that was sent to the third party;
3. Written notes or documentation indicating follow-up efforts to reach the third party to obtain verification; and
4. A written note indicating the request has been outstanding without a response from the third party.

Note: If a tenant is employed by a business owned by the tenant's family or is employed by the property owner or the management company, a copy of a recent pay stub, verifying year-to-date earnings, is also required.

Upon receipt of all verifications, owners or managers must determine if the resident is qualified for participation in the HOME Program. All verifications should be reviewed and calculations made as necessary.

3.23 Corrections to Documents

A document that has been altered, i.e. correction fluid or white-out, will not be accepted. When a correction is needed, draw a line through the incorrect information, write or type the correction, all parties initial the change.

3.24 Effective Term of Verification

Verifications of income are valid for six months prior household move-in date or re-certification date.

3.25 Income Determination for Over-Income Households

Income eligibility for an IHFA HOME-assisted unit is always based on the household Annual Gross Income (24 CFR 5.609). However, when a tenant goes over 80% AMI, owner is required to raise the over-income household's rent as soon as the lease permits in accordance with the terms of the lease (see Chapter 2 – Maintaining the Unit Mix). The rent will be 30% of the household's **monthly adjusted income (see 24 CFR 5.611)** (see additional information in chapter 2 Over-income rent). Adjusted annual income is NEVER used as annual income to determine eligibility.

To help determine adjusted monthly income follow 24 CFR 5.611.

<https://www.hudexchange.info/incomecalculator/>

Below are some examples of Adjusted Monthly Income allowances:

1. \$480 allowance for each dependent. HUD's definition of "dependent" is different than the IRS, HUD defines as dependent any household member who is not the head, co-head, or spouse, but is under the age of 18; or Disabled (any age); or a full-time student. A household may request a re-examination of income if its status changes (e.g. the family has a baby or adopts a child), it now qualifies for more deductions.
2. Allowance for child care expense for child(ren) under the age of 12 if the childcare enables a family member to attend school, work, seek employment. To document anticipated childcare expenses, the household must
 - a. Identify the child(ren) to be care for;
 - b. Identify the family member who is enabled to work, look for work, or go to school because of the childcare;
 - c. Identify the childcare provider and provide documentation of the costs;

- d. demonstrate there is no adult in the household is available to provide the care,
 - e. amount must be reasonable, not paid to a family member living in the household, and not reimbursed by any other person or agency.
3. Allowance for disability assistance expenses. The allowance is the lesser of:
 - a. the amount of these expenses which exceeds 3% of annual gross income, OR
 - b. the employment income adult members of the household earn because the handicap assistance is available.

Allowance for medical expenses. This allowance is permitted only for those households whose head or spouse is age 62 or older or disabled and have no disability assistance expenses may claim a deduction for medical expenses that exceed 3% of annual gross income. If the household also has disability assistance expenses, the amount is limited to the amount by which the total of the two expenses exceeds 3 percent of gross income.
 4. \$400 allowance per household if the head or spouse is age 62 or older, or disabled.

3.26 Re-certification

All households occupying a HOME-assisted unit must be recertified every sixth year of the Period of Affordability. Re-certifications must be effective on or before the occupancy anniversary date of the previous certification. Owners may align re-certification dates with other program certifications or so that all units in the property are recertified at one time during the year.

For years that a full re-certification is not required, the owner must have all adult household members occupying a HOME-assisted unit complete the IHFA self-certification package. This package includes the HOME Certification of Student Status.

3.27 Tenant Files

Owners must maintain a tenant file for each HOME-qualified unit. All permanent documents must be kept together so they are accessible at each compliance review (e.g., income certification and supporting documentation, HOME lease/Addendum, etc.). **Initial Move –in paperwork needs to stay in the file.** Annual re-certification information, including the tenant questionnaires, release forms, verifications, and annual inspection reports must be grouped together by year, with the most recent year on top for review.

All move-out files must also contain the following:

- Written 30-day (or greater) notice to vacate (if not available – document in file).
- Move-out inspection report (both parties signed and dated).

- Security deposit refund (check number and date) or letter of intent to withhold security deposit within 14 days of move-out.
- Itemized list of costs charged to tenant within 45 days.

Tenant records, including income verification, project rents, and unit inspections must be retained for the most recent five-year period, until five years after the HOME affordability period terminates.

3.28 Review of Ongoing Lead-Based Paint Maintenance (24 CFR 35.1355)

All owners with properties built before 1978 that have not been verified as lead free by a lead inspection must institute ongoing maintenance of painted surfaces and safe work practices as part of regular building operations. This includes: A visual inspection of lead-based paint annually and at unit turn-over; repair of all unstable paint; and repair of encapsulated or enclosed areas that are damaged.

- Ongoing Maintenance Records—Owners must keep ongoing maintenance records and records of relevant building operations for use during reevaluations.
- Owners and their maintenance personnel must be trained in ongoing lead based paint maintenance, or must contract with a qualified individual or company to perform ongoing maintenance. Ongoing maintenance of lead-based paint must be conducted only by individuals who have completed a HUD-approved course on lead safe work practices, are licensed lead workers or lead supervisors, or are working under the direction of a licensed lead supervisor.

Chapter 4 – Owner Reporting Requirements

The owner must maintain a report of all tenants residing in each unit at the time of application through the end of the affordability period and submit annual reports to IHFA in a form and manner requested by IHFA.

The following are due to IHFA by the last business day of February.

4.01 Certificate of Continuing Program Compliance

This form certifies compliance with the HOME program for the preceding calendar year. All the questions must be answered. The HOME Cert of Continuing Program Compliance is available on the website.

4.02 Annual Occupancy Report

Owners must report all move-ins, re-certifications, move-outs and other activity each calendar year. The HOME Annual Occupancy Report Form 6-d is available on the website.

The owner/agent will be placed in “Not in Good Standing” status if the reports are not submitted. Owner/agents in “Not in Good Standing” status are ineligible to apply for any further funding from IHFA until the non-compliance is corrected. The owner/agent will also receive a reduction of points at the next monitoring for late submission of annual reports.

Chapter 5 – Monitoring Process, Owner Correction and Non-Compliance

IHFA has set up processes to conduct monitoring of HOME and other properties in the portfolio. The monitoring process typically includes a random sample of the tenant files and a physical inspection. Files may be uploaded for IHFA to conduct a desk review or done at the owner/agents offices. This will depend on the property and how and where the files are set up and located.

For HOME properties, owner/agents need to have the following available for monitoring:

1. AMP and supporting documentation
2. VAWA Documentation
3. Tenant Selection Plan and Waiting List

There may also be occasions where only a physical inspection will occur annually which is usually due to a poor physical score on the last audit. IHFA will be inspecting the building exterior, building systems and resident units.

Once these tasks are completed, the owner/agent will receive a written report identifying any deficiencies that need correction. There may also be comments or observations that may become deficiencies if left unaddressed. The audit report will also have a score for the property based on general physical condition and appearance, leasing and occupancy (tenant files) and general management operations. The scores are:

Superior 100-90

Above Average 89-80

Satisfactory 79-70

Below Average 69-60

Unsatisfactory 59-0

Properties that score above average to superior will be monitored every three years. Properties that score satisfactory will be monitored every two years and below average and unsatisfactory will be monitored annually until a minimum satisfactory score is achieved. IHFA reserves the right to inspect properties at their discretion, regardless of the score. It is also possible for a property to score a satisfactory but fail one of the criteria. The owner/agent will be notified in the report if they failed any or part of an audit. Properties that fail the physical condition and appearance will have a physical inspection annually until the property achieves a minimum satisfactory score.

5.01 Notice to Owner

Owner/agents will receive notification of an upcoming audit via email. It is imperative that IHFA is notified of any staff or email changes to avoid missed notifications and a poor score on the audit. The notification will identify the date and time of the audit

as well as provide a date that tenant files and other documents need to be uploaded if applicable. Owner/agents need to read these notifications carefully and adhere to the dates identified in the notification. Failure to provide requested documents timely will result in a reduction of points when scoring the property. Owner/agents are provided a minimum 30 -days notice prior to the audit. The expectation is that the owner/agent will use that time to prepare for the audit, particularly the physical inspection of the property. Owner/agents have to provide a 24 hour notice to residents prior to the physical inspection to allow entry into units. The owner/agent must make staff available to accompany each auditor. IHFA employees will not enter resident units without owner/agent staff.

5.02 Correction Period

The owner/agent has 30 days from the receipt of the audit report to respond. Owner/agents should address all the deficiencies and provide whatever documentation is requested in the report to close out the findings. IHFA may extend the correction period, but only if IHFA determines there is good cause for granting the extension. Requests for an extension must be in writing from the owner/agent must be received by IHFA prior to end of the initial 30 day correction period.

5.03 Owner's Response

IHFA reviews the owner/agent's response and supporting documentation to determine if the noncompliance has been clarified, corrected, or remains out of compliance.

Clarified noncompliance- Income eligibility was not properly documented and IHFA cannot make a reasonable determination that the unit is in compliance, owner/agent can conduct a retroactive re-certification. If documentation is complete and it supports that the household was eligible as of the effective date, the file is considered clarified.

Corrected non-compliance - Violation was observed, and there is a period of time during which the unit is out of compliance, but the unit was brought back into compliance.

Uncorrected non-compliance- Violation not corrected or clarified by the end of the correction period.

Failure to correct all noncompliance may result in acceleration of repayment or foreclosure on the HOME loan or other legal remedies available to IHFA. Owner/agents may be responsible for legal fees resulting from their noncompliance.