

Applicant and Resident Eligibility 40% of Test

©Peggy Chavez Compliance Training. Not for duplication without permission.

Application and Interview Process

The application and interview process is the basis
for compliance with the LIHTC Program.

Pre-Application Considerations

- Marketing and Outreach
 - Avoid discriminatory language that might suggest:
 - Exclusivity
 - Restrictions beyond program rules
 - Preferences for certain groups
 - Discriminatory limitations
- Waiting List Management
 - LIHTC doesn't regulate waiting lists, but you must be consistent and there may be requirements if layered with other programs
 - Open to all eligible applicants
 - Update regularly
 - Date and time stamp all applications
 - Clear communication
 - Maintain accurate records

The
Application
Form

Required Information

- Household Composition
 - For all members – Name, date of birth, relationship to HoH, student status, SSN
- Income and Asset Information
- Contact Information

Optional Information

- Screening Data
 - Rental history
 - Criminal background
- Optional information is used for resident selection and not for eligibility
- Apply fairly
- Have written policy

Preliminary Eligibility Screening

- Do income calculation from application first
 - Saves you time and saves the resident frustration
- Online applications and electronic signatures? Check with your State Agency.
- Denials must be given in writing and clearly state:
 - Reason(s) for denial
 - Appeal and grievance rights and timeline
 - Contact information
 - Fair Housing Notice

Household Composition

- INCLUDED: All adults and children who will live in the unit full-time, other than those specifically excluded
- Also include the following persons who do not live in the unit full-time:
 - Children absent due to temporary placement in a foster home
 - Children in joint custody arrangements who are present in the household 50 percent or more of the time
 - Children who are away at school, but who live with family during school breaks
 - Unborn children of pregnant women
 - Children being adopted
 - Military member on active duty who is head, co-head, or spouse
 - Temporarily absent family members who are still considered household members
 - Permanently confined family members - only if decided by the family to include

Household Composition

- Excluded:
 - Foster Adults
 - Foster Children
 - Live-in Aides
 - Guests
 - Co-signers/guarantors of the household's lease (if your company allows)

Certification Requirements and Procedures



REMEMBER – the signed TIC is the only document that qualifies the unit for tax credits.

Initial Certification Requirements

Must be completed before move-in

Must be fully executed

Should never be retroactive

Must be properly dated

Initial Certification

- Cannot allow:
 - Move-in pending or trial certification
 - Delayed documentation
 - Post-dated forms

Initial Certification - Effective Date Rules

- Effective date = Move-in date
 - NOT the application or approval date
 - Drives all calculations
- Remember the 120-day rule for acquisition/rehab
 - If certified within 120 days, eff date = acq date
 - If certified after 120 days, eff date = date all adults sign cert
 - New move-ins = move-in date

Tenant Income Certification (TIC) Form

- Most State Agencies have their own or use the NCSHA form
- Required Information:

HOUSEHOLD INFORMATION	
All members listed	Student Status Noted
Relationships identified	Birthdates included
INCOME AND ASSET INFORMATION	
All sources listed	Annual amounts calculated
Asset income included	State Agency requirements
OTHER REQUIRED INFORMATION	
Income and rent limits	Set aside designation
resident rent and rental assistance	Utility allowance
Gross Rent	

Signature Requirements

- All adults 18+
- Emancipated or married minors
- Authorized representatives (should get a copy of Power of Attorney)
- Management signs after all HH members
- Must be authorized to sign
- Same day preferred – if not, clarify

SPECIAL SIGNATURE SITUATIONS	
Unable to Sign	
Document reason – note circumstances	Use Mark or X – have a witness
Refusal to Sign	
Document refusal	Explain consequences to resident
Cannot move forward with MI	Offer assistance

Annual Recertification Requirements

- Mixed-Use Properties must do full annual and track carefully for NAUR
- 100% LIHTC Properties may do self-certs – check with State Agency
 - Student status required
- Timing for all properties
 - Start 120 days in advance
 - Complete by deadline
 - Document process

When Are Full Recerts Required?

- Adding adult HH member(s) – only have to verify new person's info
- Resident transfers between buildings if multiple building and 8b answered no
- When your State Agency requires it
- Other special circumstances – ie: compliance corrections or set-aside changes
- Remember to follow the rule of most restrictive if you have multiple programs

Interim Recertifications

Rent adjustments

Change in UA

Special program added

Unit transfers

Policy requirements

Income

Included

- Gross employment income of adult household members
- Gross unearned income of ALL HH members (including children and students)
- Net income from real estate rentals or interest earned on mortgages held by resident
- Child support and alimony
- Net student financial assistance from certain sources
- Rent or rent-discounts provided to employees occupying affordable units
- All other income not otherwise excluded
- Net self-employment and business income of adult HH members
- Regular payments or distributions from annuities, insurance policies, retirement funds, pensions, disability, etc
- Recurring monetary assistance, bill payments, regular contributions from friends and family or other outside sources
- First \$4,800/year, as adjusted, of earned income for FT students who are 19+ and not head, co-head or spouse
- First \$4,800/year of adoption assistance payments

Excluded – too many to list

- Employment income of children under 18 years of age
- SNAP, Meals on Wheels, and other programs providing food
- Grants or reimbursement of medical expenses
- Non-recurring income
- Certain student financial assistance
- Lump-sum payments
- Income of a live-in aide, foster child or adult, guarantor, or co-signor
- Groceries provided by persons not living in the unit
- Recurring payments pd by someone not in the home direct to daycare provider
- Earned income in excess of \$480/year for FT students 18+
- Insurance payments and settlements

See Exhibit 5-2: Assets from the HUD 4350.3 or your State Agency's Compliance Manual

Assets

Included

- All bank accounts
- Equity in real estate, rental property or other capital investments
- Retirement, 401K, or Keogh Accts – unless resident is receiving regular and recurring payments
- Cash Value of life insurance policies – Whole or Universal
- Revocable trusts
- Stocks, bonds, Treasury bills, certificates of deposit, mutual funds, and money market accts
- Lump-sum payments
- Mortgage or deed of trust held by resident

Excluded

- Personal property
- Interest in Indian trust land
- Term life insurance
- Assets that are part of an active business (does not include rental of properties that are held as investments, unless this is the resident's main occupation)
- Assets that are not effectively owned by the resident
- Assets that are not accessible to the resident and provide no income to the resident

Verification Requirements

Verification Hierarchy

1. Upfront Income Verification (UIV)
2. Written 3rd Party
3. Oral 3rd Party
4. resident provided documents
5. Self-certification

KNOW WHAT YOUR STATE AGENCY REQUIRES

Upfront Income Verification (UIV)

- Electronic verification
- Direct from source
- Real-time data
- Highest reliability
- Not required if verifier charges – ie: The Work Number
- Must include all required information

resident-Provided Documents

ACCEPTABLE DOCUMENTS	
Pay stubs – must be consecutive and recent	Benefit award letters
Tax returns	Court documents
Bank statements	Other as accepted by your State Agency

REQUIREMENTS	
Must be original or certified	From official source
Current (within 120 days)	Clearly identified
Complete and unaltered	

Income

Pay Stubs

- Must show:
 - Employee name
 - Employer identification
 - Gross earnings
 - Pay period covered
 - Year-to-date totals
- States generally require:
 - 2-6 consecutive pay stubs
 - Most recent
 - Clarify discrepancies

Third-Party Verification

- Requires:
 - Signed release form
 - No resident handling – direct by mail/fax/email from source
 - Make sure they are complete – clarify missing info
- Challenges:
 - Slow responses *Follow-up right away*
 - Incomplete forms *Call to clarify*
 - Employer reluctance *Build relationships with local employers*
 - Always document your attempts

Oral Third-Party

- Phone verification – when written attempts fail
- Document the following:
 - Date and time of call
 - Person contacted
 - Title
 - Phone number
 - Information provided – gather same information you would get from the VOE

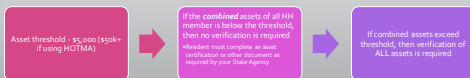
Self-Certification

ALWAYS THE LAST RESORT

- Does your State Agency and/or company allow?
- Only when all other attempts have failed
- All attempts are fully and clearly documented
- Provide a reasonable explanation
- Allowed if no third-party source exists ie: cash under the mattress

Assets

Asset Threshold



Assets Over Threshold

- Third-party required
- All accounts must be verified – must be within 120 days
- Cash value calculated
- All income from the asset counted

Special Assets

CRYPTOCURRENCY	
Verification Methods	
Screenshot from resident account	Must show current value
Document ownership	Update regularly
Valuation Methods	
Exchange statements	Wallet screenshots
USD conversion	Date/time specific
TIMESHARES	
Verify when assets approach threshold	Determine market value
Research resale prices	Usually minimal value
Include if valuable	Document everything

Assets Disposed of for Less Than Fair Market Value

- Include if:
 - Within past 2 years
 - \$1000 or less than FM value
 - Include assets given away (cash, real estate, irrevocable trusts)
 - Document clearly
 - Count amount less than FM value or given away
 - * For example, house is valued at \$200,000, but resident sold to daughter for \$80,000 – count \$120,000 for 2 years (\$200,000 less \$80,000 = \$120,000)
- Exceptions:
 - Foreclosure
 - Bankruptcy
 - Divorce/Separation
 - Given for medical expenses
 - Other hardships

Asset Calculations

- Checking accounts – 6 month average
- Savings accounts – current balance
 - Other accounts looked at like savings are: digital (Venmo, etc), money market, CDs, brokerage – deduct withdrawal penalties, if any, to determine cash value
 - Most bank accounts pay interest – so even if you don't verify the asset, ask the resident how much interest is earned and count that
- Net cash value of real estate – deduct any mortgage balances and reasonable costs to sell
- Count only percent of ownership if owned jointly

Income Calculations and Special Situations

Employment Income

- Use current and historic information to calculate income the HH anticipates receiving in the 12 months following move-in
- Unless your State Agency has adopted HOTMA, you must do a two-part calculation
 - First gross income average or hourly calculation
Average gross income from the pay stubs collected x number of pay periods OR
Hourly rate x Hours per week x 52 weeks
Salary employees – use salary stated times number of pay periods if not provided with annual salary
Include any over-time, tips, bonuses, raises, etc that you are aware of
 - Second YTD calculation – some State Agencies may have different calculation requirements
Basic calculation - determine the number of weeks included in the YTD on the most recent pay stub. Divided the YTD amount by the number of weeks x 52 weeks = annual income.

Variable Work Schedules

- Part-time workers, when hours vary – average gross income from pay stubs
- Seasonal or sporadic workers – determine actual number of weeks worked per year and calculate using those weeks only (Seasonal Worker Affidavit recommended)
 - Obtain from employer
 - School district calendars – but not if they work year-round or are paid over 12 months
 - Sports or other calendars – ie: if they work as an usher for the local theater, determine number of shows per year and calculate accordingly

Tips and Commissions

- Tip Affidavit recommended
 - If all tips reported to employer, and included in gross income on pay stubs, then use that to calculate
 - If not all reported – add in any additional tips received that aren't on pay stubs
- Commissions
 - Employer estimates
 - Prior year average
 - YTD Projection

Social Security and Other Benefits

- Calculate based on number of times received per year – most are monthly
Monthly benefit x 12
 - Add in any known COLA increase – usually published around October for all SS benefits
 - Federal benefits such as VA are usually the same COLA as SS
 - Check benefit provider's website
 - Calculate from MI date
 - Document the source of information for COLA increase
- COLA effective 01/01 – MI date is 11/01 calculate 2 months at current and 10 months at new

Self-Employment

Know what your State Agency Requires

- Use gross income/receipts less expenses
 - Obtain a profit and loss or other income statement for current year
 - Get as much back-up documentation as possible
 - Schedule C from tax return (1040) – look at wages line
- If business is a Partnership or LLC include:
 - Distributive share
 - Guaranteed amounts
 - Actual distributions
 - K-1 amounts
 - K-1 is a federal tax document used to report the income, losses, and dividends for a business or financial entity's partners or an S corporation's shareholders. The K-1 form is also used to report income distributions from trusts and estates to beneficiaries.
 - Cash withdrawn



Special Income Considerations

Zero Income

- Must complete a Zero Income Questionnaire and explain:
 - How rent and utilities are paid
 - Food sources
 - Transportation
 - Phone, internet, and cable TV
 - All necessities (best practice is to list examples such as toilet paper, cleaning supplies, personal hygiene, etc.)
- Note if resident states that another pays for any of these items – that is income

Student Financial Assistance

- If someone claims to be a student (full or part-time) in "an institute of higher education" (post-high school), always ask how they are paying for school
- Only counted if resident receives Section 8 assistance
- Complex rules
 - Count excess over tuition
- Separate from Student Rule
- Completely changes if using HOTMA

Military Income

- Include:
 - Basic Pay
 - Basic Allowance for Subsistence (BAS)
 - Basic Allowance for Housing (BAH) UNLESS in a Qualified Military Installation area
 - Hostile Fire Pay
 - Flight Pay
- Exclude:
 - One-time reenlistment bonuses
 - Combat Pay (in combat zone)
 - Family Subsistence Supplemental Allowance

Child Support

- Regular amounts – *Some states require you to use the higher of court ordered or actual*
 - Court order
 - Current payment history from Family Support Registry or similar (depends on State)
 - Average amount received
 - If verified that no payments received – don't count
 - Check with State Agency on number of months not received or sporadic payments

Alimony or Spousal Support

- Divorce Decree
- Separation Agreement
- Court Orders
- Payment History
- Check for:
 - Termination dates
 - Payment schedules
 - Remarriage clauses
 - Modification agreements

Contributions and Gifts

- Regular and recurring
- Must verify
- Expectation of continuing
- Examples:
 - Family support
 - Church assistance
 - Bill payments
 - Rental assistance, if not from a Federal or State source

Income from Assets

- Always include:
 - Interest earned
 - Dividends received
 - Rental income
 - Trust disbursements
 - Capital gains distributions
- If total exceeds asset threshold (over \$5k):
 - Imputed income – use current passbook rate
 - Apply to total of all assets
 - Compare to actual and use the highest
 - Document calculations (most TICs show this)

Things to Consider

- Always include your calculation worksheets or calculator tapes
 - One per income source
 - Clearly marked
- Common errors:
 - Using wrong multiplier – monthly x 12; semi-monthly x 24; bi-weekly x 26; weekly x 52
 - Rounding errors – some State Agencies do not want you to round until the last calc
 - Ignoring known income changes

STUDENT RULE

Basics of the LIHTC Student Rule

- Units occupied entirely by full-time students
 - Do not qualify for credits
 - Unless they meet an exception
 - Cannot count toward minimum set-aside
 - Building impact
 - Results in non-compliance
- Resident must disclose student status annually
 - Verify if they say they are no longer students – 5 month rule may apply

Definition of a Full-Time Student

- Attending or attended school **FULL-TIME** for any 5 months during the calendar year
 - Must be a qualified institution
 - Universities, colleges, technical colleges, trade schools, vocational schools
 - Must provide a degree or certificate – cannot be a correspondence only school
 - Kindergarten through graduate school (not pre-school)
 - K-12 is considered automatically as full-time
 - School defines full or part-time status
 - 5 months do not need to be consecutive
 - 1 day of attendance qualifies as a month
 - Recent graduates may not be eligible

Five Exceptions

- Currently receiving TANF (Title IV of the Social Security Act)
 - Different states have different names – example: Colorado WORKS
 - Verified by award letter
- Job Training Program
 - Funded by Workforce Innovation and Opportunity Act or under a similar training program funded by Federal, State, or Local government
 - Verification from school or proof of enrollment clearly stating what the program is
- Single Parent with at least one minor child in the home 50% or more of the time
 - Single parent cannot be a dependent of someone else and the child(ren) cannot be claimed as dependents by anyone other than a parent
- Married Filing Jointly
 - File joint tax return or entitled to file a joint tax return
 - Verify with marriage license or tax return
- Previously in Foster Care
 - At least one member was previously in foster care
 - Court records, letter from agency, case worker verification
 - Some states may allow a signed self-certification

Common Student Scenarios

- Mixed Households
 - Part-time & FT students – you only need to verify the part-time student to determine that it is not a FT student HH
 - Continue to verify annually
 - FT students & members who are not students – not a FT student HH, so nothing needed
 - FT student 18+ who is not the head, co-head, or spouse – considered a dependent

Non-Compliance

- It is important to clearly explain the Student Rule to applicants and residents, and to require them to notify you immediately if they become a FT student – especially for those living alone, or if the rest of the HH are FT students
 - Lease should have language regarding the student rule and how non-compliance will be handled
 - Owner decides if it is grounds for eviction – if in lease as an item of material non-compliance, then you can terminate tenancy
- Can result in loss of credits for the unit



LESSONS
LEARNED

Who must sign documents:

- All members 18+
- Emancipated minors
- Married minors
- All of the above

What is considered the highest verification level?

- A. Self-certification by resident
- B. Third-party documents provided by resident
- C. UIV
- D. Verbal verification from third-party

For the LIHTC program, one definition of a full-time student is:

- A. Attending pre-school
- B. Having attended school full-time for any 5 months in the current calendar year
- C. Taking art classes at the local community center
- D. On-line classes for real estate
