

Resident Certification Requirements/Instructions OHCS Elderly/Disabled Bond Program

This Exhibit offers an explanation of the basis for the federal and State income restrictions for OHCS projects. In addition, this Exhibit outlines the required and preferred methods for verifying the income and assets (the certification process) of households seeking to reside, or residing, in OHCS funded projects.

The primary regulatory authorities governing the compliance requirements for OHCS projects are:

- IRS Code Section 142(d);
- Oregon Revised Statutes (ORS)
- Oregon Administrative Rules (OAR)

Types of facilities funded under this program include:

- Congregate Care Facilities
- Assisted Living Facilities (ALF)
- Residential Care Facilities (RCF)
- Adult Foster Homes,
- Other Specialized Group Care facilities.
- Independent Apartments

For every facility financed under the Department's program, there is a household income restriction, at admission, for all rental units. The individual requirements for each project differ, depending upon the regulations in effect at the time of the bond issuance (**not at the time the loan was made**).

Why Resident/Applicant Income Must Be Verified:

- IRS federal tax rules, applicable to tax-exempt bond financing, require it.
- OHCS, authorized by statute to administer the program for the IRS, requires it.

How Resident/Applicant Income Must Be Verified:

- Treasury regulations require that the same verification procedures be used that are required for purposes of the HUD Section 8 program. The Section 8 Program has clearly-defined definitions and processes that owners and managers must adhere to in order to assure that applicants and residents have income that meets program requirements.

This Exhibit offers some direct excerpts from Section 8 procedures, and examples of income and asset calculations provided by OHCS. *Hopefully, use of this Exhibit will assist owners and agents to be in compliance.*

Individual Regulatory Income Certification Requirements Applicable to Projects:

"Post September 3, 1982" but "Pre August 15, 1986" projects

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|--------------------------|--------------------------|
| Alterra of Albany | Lancaster Village |
| Alterra Winwood FG | Pacific Pointe |
| Aspen Court | Park Place Living Center |
| Benton Plaza | Rogue Valley Retirement |
| Carmen Oaks | Royal Oak Retirement |
| Dorchester House | Shorewood |
| Eugene Hotel | Solvang |
| Garden Valley Retirement | The Village |
| Gresham Manor | Willson House |
| Junction City Retirement | |

- **Qualified Project Period:** Implemented the Qualified Project Period. IRS Tax Code stipulates that a Qualified Project Period begins at the time specific events have occurred as the project is renting up, and will last for 15 years (requiring the owner to meet the resident income/occupancy requirements for 15 years). However, bond indenture requirements are more stringent in this case, and any references made in the loan documents of things that must occur during the Qualified Project Period are for the term of the loan (usually 30 years).
- **Income Limits:** Income limit is at low (80%). Pre-86 projects are allowed the flexibility to use either 80% of the Area Median Income or 80% of the Statewide income. (11/1/02 policy change)
- **Income Waiver:** If an applicant is over age 58 and over the maximum income limit, OHCS has a waiver of income requirements available on a limited basis. To qualify for an income waiver, the applicant must meet the definition of a "Disabled Person" outlined in the ORS, which is included on the "Verification of Income Part B" form. An income waiver must be obtained by the project from the assigned CO prior to move-in. **If the applicant is over 58, over income, and does not meet the "Disabled Person" definition, they are not eligible.**
- **Waiver Limitations:** No more than 20% of the units are to be rented to households that are over the maximum income limit.
- **Age Waiver:** If an applicant is under age 58 and meets the definition of "Disabled Person," a waiver for **age** must be obtained prior to move-in. All other eligibility requirements apply. The resident and site management determine if it is appropriate to request the waiver based on the applicant's need of the services offered at the facility. Third party verification of disability is not required. **If the applicant is under 58, disabled, and *over income* they are not eligible.**
- **Resident Certifications:** Resident certification of income must be obtained at move-in only. Income must be verified.

- **Income Verifications:** The owner must verify at move-in that the gross household income of each resident does not exceed the 80% area median income limit by obtaining each resident's most recent federal income tax return or other satisfactory evidence of income.
- **Imputing*income from assets:** Assets are imputed at 10%. There is no asset limitation, for resident qualification. However, if households have substantial assets, this could affect eligibility, even if the assets are non-income producing. The Section 8 requirements for income and assets outline that, if net assets exceed a combined value of over \$5,000, then the value of the assets must be assigned an interest rate income figure. This is called "imputing". Section 8 requirements The regulations in effect at the time of funding of these projects used a 10% interest rate for imputing. If the income from assets, after taking the value times 10%, exceeds the actual income the assets generate annually, the 10% figure must be included in the total income figure for eligibility. So, the project must compare the actual income from assets against the imputed value to determine which is the higher figure to use.

"Post August 15, 1986" IRS Tax Code changes: (All Other Projects funded by bond series prior to January 1, 2002.)

- **Income Limits:** Allows owners the election to select 20% of units at 50% (very low) income range residents; or 40% of units at 60% income range residents.
- **Income Verifications:** The owner must verify annually that the gross household income of each low or moderate income resident does not exceed the area median income limit by obtaining each resident's most recent federal income tax return or other satisfactory evidence of income. Social Security 512 forms, tax returns, and/or bank statements which show direct deposits and assets, are acceptable verifications of income with no further documentation required. Applicant/Tenant supplied documentation is acceptable.
- **Imputing income from assets:** Assets are imputed at HUD passbook rate. (currently 2% - see explanation previous on imputed assets – **same requirements except these projects are subject to a 2% imputed figure**)
- **Target Population:** Target population re-defined as elderly households **or** disabled persons. If a tenant is disabled, meets the definition of "Disabled" as described in the Administrative Rules, and is under age 58, a waiver is not needed. The resident and site management determine if the applicant meets the definition and needs the services offered at the facility. Third party verification of disability is not required.

Projects funded from bond proceeds Post January 1, 2002 – State Modification to ORS 456, not retroactive

- **Income Limits:**
 - 1/3 of the residents can have income above 120% of median. No waiver required.
 - 2/3 of the residents must have income below 120% of median.
 - All applicants must complete an income questionnaire at the time of move-in that specifies their income level.
 - Only those residents included in the set-aside (20 @ 50% or 40 @ 60%) must have their income verified. Verification must be in accordance with Section 8 regulations. (Generally the Social Security 512 form).

- **Annual Recertifications:** Residents must be asked to complete an income questionnaire annually, but again, only those in the set aside must have the income verified.

- **Increases in income:** If a resident in a "set aside" unit has an increase in income to over 140% of area median, the project must make the next unit of same size or smaller to an income qualified applicant.