

# FACT SHEET

## For HUD ASSISTED RESIDENTS

### Section 202/162 – Project Assistance Contract (PAC)

### Section 202/811 – Project Rental Assistance Contract (PRAC)

## “HOW YOUR RENT IS DETERMINED”

Office of Housing

XX/XX/XXXX

*This Fact Sheet is a general guide to inform the Owner/Management Agents (OA) and HUD-assisted residents of the responsibilities and rights regarding income disclosure and verification.*

### Why Determining Income and Rent Correctly is Important

OAs and residents all have a responsibility in ensuring that the correct rent is paid, in accordance with the applicable laws and HUD's regulations.

#### OAs' Responsibilities:

1. Obtain accurate income information
2. Verify resident income
3. Ensure residents receive the income exclusions and deductions to which they are entitled
4. Accurately calculate Tenant Rent
5. Provide tenants a copy of lease agreement and income and rent determinations
6. Recalculate rent when adjusted income decreases by 10%, or a lower threshold established by the owner
7. Recalculate rent when adjusted income increases by 10% or more, unless an exception applies
8. Recalculate rent when changes in family composition are reported
9. Provide information on OA policies upon request

10. Notify residents of any changes in requirements or practices for reporting income or determining rent

#### Residents' Responsibilities:

1. Provide accurate family composition information
2. Report all income as required
3. Keep copies of papers, forms, and receipts which document income and expenses
4. Report changes in family composition
5. Report when adjusted income increases by more than 10% between annual reexaminations
6. Report decreases in income timely
7. Sign consent forms for income verification
8. Follow lease requirements and house rules

### Income Determinations

A family's annual income determines not only eligibility for assistance but also determines the rent a family will pay and the amount of subsidy that the owner will receive on the family's behalf. A family's gross income, subject to exclusions and deductions, is used to determine tenant rent.

#### What is Annual Income?

Gross Income – Income Exclusions = Annual Income

#### What is Adjusted Income?

Annual Income – Deductions = Adjusted Income

### Determining Tenant Rent

The rent a family will pay is the **highest** of the following amounts minus any applicable allowance for utility costs:

1. 30% of the family's monthly *adjusted* income
2. 10% of the family's monthly income

OR

3. Welfare rent or welfare payment from agency to assist family in paying housing costs

A **Utility Allowance** is approved by HUD when the cost of all or a portion of the utilities (except telephone) is not included in the unit rent and payment for the utilities is the responsibility of the family occupying the unit.

The utility allowance is not meant to pay all actual utility costs, but rather it is an allowance provided to the family to assist them in payment of their utility expenses.

## Income and Assets

HUD assisted residents are required to report **all** income from all sources to the OA.

Accounting for exclusions to income and deductions is part of the tenant rent determination process.

Annual income also includes all actual anticipated income from assets even if the asset is excluded from net family assets but the income from the asset is not otherwise excluded. Imputed returns on net family assets are included in annual income when net family assets exceed \$50,000 (adjusted annually) and actual asset income cannot be calculated. When the amount cannot be calculated, the asset's income must be imputed. Imputed asset income is calculated by multiplying the net cash value of the asset, after deducting reasonable costs that would be incurred in disposing of the asset, by the HUD-published passbook rate. The passbook rate will be adjusted annually.

### Annual Income Includes:

1. All amounts, not specifically excluded, received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse of the head of household, plus unearned income by or on behalf of each dependent who is under 18 years of age, and
2. When the value of net family assets exceeds \$50,000 (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and the actual returns from a given asset cannot be calculated, imputed returns on the asset based on the current passbook savings rate, as determined by HUD.

### Exclusions from Annual Income:

1. Any imputed return on an asset when net family assets total \$50,000 or less (adjusted annually) and no actual income from the net family assets can be determined.
2. For an irrevocable trust or a revocable trust outside the control of the family or household excluded from the definition of net family assets under 24 CFR 5.603(b), the following trust distributions:
  - i. Distributions of the principal or corpus of the trust; and
  - ii. Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor
3. For a revocable trust under the control of the family or household, any distributions from the trust; except that

any actual income earned by the trust, regardless of whether it is distributed, shall be considered income to the family at the time it is received by the trust

4. Earned income of children under 18 years of age
5. Payments received for the care of foster children or foster adults, or State or Tribal Kinship or Guardianship care payments
6. Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation
7. Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical expenses for any family member
8. Income of a live-in aide, foster child, or foster adult
9. Any assistance that section 479B of the Higher Education Act of 1965 requires to be excluded from a family's income
10. Student financial assistance for tuition, books, and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and other fees required and charged to a student by an institution of higher education (as defined under Section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit
11. Income and distributions from any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code
12. Income earned by government contributions to, and distributions from, "baby bond" accounts created, authorized, or funded by Federal, State, or local government
13. The special pay to a family member serving in the Armed Forces who is exposed to hostile fire
14. 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)
15. Amounts received by a participant in other publicly assisted programs which 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
16. Resident service stipend (not to exceed \$200 per month)
  17. Incremental earnings and benefits resulting to any family member from participation in training programs funded by HUD or in qualifying Federal, State, Tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff.
  18. 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
  19. Earned income of dependent full-time students in excess of the amount of the deduction for a dependent
  20. Adoption assistance payments for a child in excess of the amount of the deduction for a dependent
  21. Deferred periodic amounts from Supplemental Security Income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts
  22. Payments related to aid an attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance
  23. 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
  24. Payments made by or authorized by a State Medicaid agency (including through a managed care entity) or other State or Federal agency to a family to enable a family member who has a disability to reside in the family's assisted unit. Authorized payments may include payments to a member of the assisted family through the State Medicaid agency (including through a managed care entity) or other State or Federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family's assisted unit.
  25. Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (*e.g.*, proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car) Amounts from federal or state refundable tax credits and federal or state tax refunds
  26. Payments received by Tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other Federal law
  27. Replacement housing "gap" payments made in accordance with 49 CFR part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another Federally subsidized housing unit. Such replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments
  28. Nonrecurring income, which is income that will not be repeated in the coming year based on information provided by the family. Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under this paragraph, even if the source, date, or amount of the income varies. Nonrecurring income includes:
    - i. Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment
    - ii. Direct Federal or State payments intended for economic stimulus or recovery
    - iii. Amounts directly received by the family as a result of State refundable tax credits or State tax refunds at the time they are received
    - iv. Amounts directly received by the family as a result of Federal refundable tax credits and Federal tax refunds at the time they are received
    - v. Gifts for holidays, birthdays, or other significant life events or milestones (*e.g.*, wedding gifts, baby showers, anniversaries)
    - vi. Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization
    - vii. Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings
  29. Civil rights settlements or judgments, including settlements or judgments for back pay
  30. Income received from any account under a retirement plan recognized as such by the Internal Revenue

Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; except that any distribution of periodic payments from such accounts shall be income at the time they are received by the family

31. Income earned on amounts placed in a family's Family Self Sufficiency Account
32. Gross income from self-employment or the operation of a business, except the following:
  - i. Net income from the 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; and
  - ii. 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
33. The value of supplemental benefits received by individuals enrolled in a Medicare Advantage plan, except for those benefits used by tenants to pay for rent and utilities.

#### **Federally Mandated Exclusions:**

1. The value of the allotment provided to an eligible household under the Food Stamp Act of 1977\*\*
2. Payments, including for supportive services and reimbursement of out-of-pocket expenses, for volunteers under the Domestic Volunteer Services Act of 1973 except that the exclusion shall not apply in the case of such payments when the Chief Executive Officer of the Corporation for National and Community Service determines that the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage then in effect under the Fair Labor Standards Act of 1938 or the minimum wage, under the laws of the State where such volunteers are serving, whichever is the greater\*\*
3. Certain payments received under the Alaska Native Claims Settlement Act\*\*
4. Income derived from certain submarginal land of the United States that is held in trust for certain Indian Tribes\*\*
5. Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program\*\*
6. Income derived from the disposition of funds to the Grand River Band of Ottawa Indians\*\*
7. The first \$2000 of per capita shares received from judgment funds awarded by the National Indian Gaming Commission or the U.S. Claims Court, the interests of individual Indians in trust or restricted lands, and the first \$2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands. This exclusion does not include proceeds of gaming operations regulated by the Commission\*\*
8. Amounts of student financial assistance 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. For section 8 programs only, any financial assistance in excess of amounts received by an individual for tuition and any other required fees and charges under the Higher Education Act of 1965 from private sources, or an institution of higher education if the individual is over the age of 23 with dependent children
9. Payments received from programs funded under Title V of the Older Americans Act of 1965
10. 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.)\*\*
11. Payments received under the Maine Indian Claims Settlement Act of 1980\*\*
12. 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
13. Earned income tax credit (EITC) refund payments received on or after January 1, 199 (applies to Section 8 and Section 236 only)\*\*
14. The amount of any refund (or advance payment with respect to a refundable credit) issued under the Internal Revenue Code is excluded from income and assets for a period of 12 months from receipt
15. Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian

Nation or the Apache Tribe of the Mescalero Reservation\*\*

16. Allowance, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990
17. Any allowance paid to children of Vietnam veterans born with spina bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean and Thailand service veterans born with spina bifida\*\*
18. Any amount of crime victim compensation that provides medical or other assistance (or payment or reimbursement of the cost of such assistance) under the Victims of Crime Act of 1984 received through a crime victim assistance program, unless the total amount of assistance that the applicant receives from all such programs is sufficient to fully compensate the applicant for losses suffered as a result of the crime\*\*
19. Allowances, earnings and payments to individuals participating under the Workforce Investment Act of 1998 reauthorized as the Workforce Innovation and Opportunity Act of 2014
20. Any amount received under the Richard B. Russell School Lunch Act and the Child Nutrition Act of 1966, including reduced-price lunches and food under the Special Supplemental Food Program for Women, Infants, and Children (WIC)\*\*
21. Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990\*\*
22. Payments from any deferred U.S. Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts
23. Any amounts (i) not actually received by the family, (ii) that would be eligible for exclusion under 42 U.S.C. 1382b(a)(7), and (iii) received for service-connected disability under 38 U.S.C. chapter 11 or dependency and indemnity compensation under 38 U.S.C. chapter 13 as provided by an amendment by the Indian Veterans Housing Opportunity Act of 2010 to the definition of income applicable to programs under the Native American Housing Assistance and Self-Determination Act (NAHASDA)
24. A lump sum or a periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the case entitled *Elouise Cobell et al. v. Ken Salazar et al.*, 816 F.Supp.2d 10 (Oct. 5, 2011 D.D.C.), for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010 section 101(f)(2)\*\*
25. Any assistance, benefit, or amounts earned by or provided to an individual development account, as provided by the Assets for Independence Act, as amended
26. Per capita payments made from the proceeds of Indian Tribal Trust Settlements listed in IRS Notice 2013-1 and 2013-55, unless the per capita payments exceed the amount of the original Tribal Trust Settlement proceeds and are made from a Tribe's private bank account in which the Tribe has deposited the settlement proceeds. Such amounts received in excess of the Tribal Trust Settlement are included in the gross income of the members of the Tribe receiving the per capita payments as described in IRS Notice 2013-1
27. Federal assistance for a major disaster or emergency received by individuals and families under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by States, local governments, and disaster assistance organizations\*\*
28. Distributions from and certain contributions to an Achieving Better Life Experience (ABLE) account established under the ABLE Act of 2014
29. Assistance received by a household under the Emergency Rental Assistance Program pursuant to the Consolidated Appropriations Act, 2021, section 501(j)), and the American Rescue Plan Act of 2021\*\*

*\*\*These amounts should also be disregarded for the purpose of determining Net Family Assets.*

#### **Net Family Assets Is:**

1. The net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment.
2. In determining net family assets, OAs must 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 reexamination, as applicable, in excess of the consideration received therefor. 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 consideration not measurable in dollar terms. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments,

so negative equity alone would not justify excluding the property or other investments from family assets

#### **Net Family Assets Does Not Include:**

1. The value of necessary items of personal property (clothing, furniture, cars, wedding ring, vehicles specially equipped for persons with disabilities)
2. The combined value of all non-necessary items of personal property if the combined value does not exceed \$50,000 (adjusted annually)
3. The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals
4. The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located
5. Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty that resulted in a member of the family being a person with a disability
6. The value of any Coverdell education savings account covered under section 530 of the Internal Revenue Code of 1986, the value of any qualified tuition program under section 529 of such Code, the value of any ABL account
7. The value of any “baby bond” account created, authorized, or funded by Federal, State, or local government
8. Interests in Indian trust land
9. Equity in a manufactured home where the family receives assistance under 24 CFR Part 982
10. Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR Part 982
11. Family Self-Sufficiency accounts
12. Federal tax refunds or refundable tax credits for a period of 12 months after receipt
13. In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the trust fund is not a family asset and the value of the trust is not included in the calculation of net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household

14. Any amounts in an “individual development account” as provided by the Assets for Independence Act, as amended
15. The first \$2,000 of per capita payments made from the proceeds of Indian Tribal Trust Settlements listed in IRS Notice 2013-1 and 2013-5 unless the per capita payments exceed the amount of the original Tribal Trust Settlement proceeds and are made from a Tribe’s private bank account in which the Tribe has deposited the settlement proceeds

#### **Mandatory Deductions:**

1. \$480 (adjusted annually) for each dependent including full time students or persons with a disability
2. \$525 (adjusted annually) for any elderly family or disabled family
3. The sum of the following, to the extent the sum exceeds 10% of annual income:
  - i. Unreimbursed health and medical care expenses of any elderly family or disabled family; and
  - ii. Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with a disability, to the extent necessary to enable any member of the family (including the member who is a person with a disability) to be employed. This deduction may not exceed the combined earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus
4. Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

#### **Reference Materials**

##### **Legislation:**

1. Quality Housing and Work Responsibility Act of 1998, Public Law 105-276, 112 Stat. 2518 which amended the United States Housing Act of 1937, 42 USC 1437, et seq.
2. Housing Opportunity Through Modernization Act of 2016, Public Law 114-201, 130 Stat. 782

##### **Regulations:**

1. General HUD Program Requirements, 24 CFR Part 5

2. Supportive Housing for the Elderly and Persons with Disabilities, 24 CFR Part 891

**Handbook:**

4350.3, Occupancy Requirements of Subsidized Multifamily Housing Programs

**Notices:**

1. “Federally Mandated Exclusions From Income-Updated Listing” Notice 89 FR 6126, January 31, 2024
2. “Implementation Guidance: Sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA)” Notice 88 FR 9600, February 12, 2023

**For More Information:**

Find out more about HUD’s programs at <http://www.hud.gov>