



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-3000

OFFICE OF HEALTHY HOMES AND
LEAD HAZARD CONTROL

POLICY GUIDANCE NUMBER: PGI 2009-01	DATE: July 16, 2009
SUBJECT:	Income Verification Guidance
STATUS:	Current
APPLICABILITY:	Lead-Based Paint Hazard Control, Lead Hazard Reduction Demonstration, and Operation Lead Elimination Action Program grant programs; all OHHLHC grant programs using income to determine eligibility to receive assistance
RELATED GUIDANCE:	96-03 (Amendment to Section 1011 of Title X: Income Eligibility Requirements, May 14, 1996)
COMMENTS:	PGI 2005-01 is rescinded

Dear Grantees,

The Office of Healthy Homes and Lead Hazard Control's (OHHLHC) is revising its current income verification policy, PGI 2005-01. As a result, PGI 2005-01 is rescinded and hereby replaced with this policy guidance (PGI 2009-01). This policy guidance applies to all OHHLHC grant programs where income limits are prerequisite to receiving grant assistance. Although the focus of this policy guidance falls on lead hazard control grantees, the same methods and principles apply to all OHHLHC grant programs where income is a consideration of eligibility to receive assistance.

The overarching purpose of the Residential Lead-Based Paint Hazard Reduction Act of 1992 ("Title X")¹ is to protect children from the dangers of lead-based paint hazards. Title X requires that certain percentages of low-income families reside in homes enrolled in lead hazard control grant programs. (Title X is available at www.hud.gov/offices/lead). It is therefore necessary to verify the income of these families.

OHHLHC understands the difficulty in trying to comply with the income requirements of Title X. As a result, OHHLHC issues this policy guidance to assist you in making sound decisions when assessing the income eligibility of applicants for program funding.

Pursuant to Title X, Sec. 1011, grantees must ensure certain percentages are met for the total inventory of units receiving lead hazard control work during their period of performance. Sec. 1011 places the following requirements upon assistance:

- For rental units:
 - At least 50 percent of rental units are occupied by or made available to very low-income families (with incomes up to 50 percent of the Area Median Income level); and

¹ Title X can be found at 42 of the U.S. Code, sections 4852(a)(1) and (2); and is available for download at www.hud.gov/lead.

- The remaining units must be occupied by or made available to low income families (up to 80 percent of the Area Median Income level);
- Except, in buildings with five or more units, up to 20 percent of the units may be occupied by families who are not low or very low-income families.
- For owner-occupied housing:
 - All units assisted with grants under this section shall be the principal residence of families with income at or below 80 percent of the Area Median Income level; and
 - Not less than 90 percent of the units assisted with grants under this section shall be occupied by a child under the age of six years or shall be units where a child under the age of six years spends a significant amount of time visiting.

Owner- and tenant-occupied may be single or multifamily residences. Generally, these income percentage requirements above do not apply to each property individually, but to the cumulative number of units you will assist using grant funds. Some rental buildings may have fewer than 50% very low income families (i.e., 50% AMI) if enough others have more than 50% very low income families. The exception is for buildings with five or more units, where no more than 20% of families in each building may be middle or high income.

Verifying income compliance for owner-occupied housing is often not as difficult. However, verifying tenant-occupied income can be difficult for many reasons. This policy guidance will assist you in simplifying the income verification process.

Vacant Units

Title X (Sec. 1011) permits grant funds to be used to assist vacant units, provided that, when renting vacant units that have been assisted, property owners give priority to eligible families with a child under the age of six years for not less than 3 years following the completion of lead abatement activities. You must establish adequate policies to ensure that this requirement is complied with for three years following the time of assistance, and must document this policy in the approved work plan.

Defining Income

As set forth in the previous guidance (PGI 2005-01), you still have the flexibility to choose among the following three definitions of “annual income” when determining what income to consider. The term “annual income” is refers to annual (gross) income using one of the following definitions of “annual income”:

- Annual income as defined in 24 CFR 5.609, referred to as “Part 5 annual income”;
- Annual income as reported under the Census Long Form for the most recent decennial census; and
- “Adjusted gross income” as defined for reporting purposes under the IRS Form 1040 long form (not IRS Forms 1040A or 1040EZ).

OHHLHC follows the current HOME (HOME Investment Partnerships Program) and CDBG (Community Development Block Grant) definitions of annual income because many grantees use OHHLHC funds in combination with these other HUD program funds. If you are unable to follow one of these definitions, please contact our office.

Determining Whose Income to Count

Knowing whose income to count is as important as knowing which income to count. OHHLHC requires that the income of all family members be included in the determination of “annual income.” In practice, this means that you must first determine the number of persons comprising the family, then calculate

the income of all persons in the family. Do not count the following household members (or their associated income) when determining household size for the purpose of computing “annual income” in accordance with Area Median Income limits:

- live-in aides
- children of live-in aides
- children being pursued for legal custody or adoption who are not currently living with the household

This ineligible list does not follow the HOME program exemptions. The Area Median Income, which is the basis for determining income limits required by Title X, is established for your community by HUD, and is available at www.huduser.org/DATASETS/il/il09/index.html.

A child who is subject to a shared-custody agreement in which the child resides with the household at least 50 percent of the time can be counted as a household member. Foster children in the care of families applying for assistance may be counted when determining household size. However, only those children presently in the foster care of the applicant family at the time of application may be considered.

If you have more than one type of OHHLHC lead hazard control grant (e.g., an LHC and LHRD), you may use a different definition of annual income for each grant. However, you must also ensure that families in each grant program are treated equitably by using the same definition of income for all applicants within a particular grant program. You may find administering the income verification process simpler if you use one definition for all of your OHHLHC lead hazard control grant programs.

If you combine one or more other sources of funding (e.g., CDBG, HOME, Rehabilitation, etc.) with lead hazard control grant program funds, you must ensure that the housing units receiving the lead hazard control grant program funds meet the income eligibility requirements applicable to the lead hazard control grant as well as the other program(s). When combining funding from different programs, the most restrictive requirements govern.

Time in Residence

When determining whether a child is eligible for consideration as a “household member”, the child must be under 6 years of age and must visit the residence regularly, on at least two different days within any week (Sunday through Saturday period), provided that each day’s visit lasts at least 3 hours and the combined weekly visits last at least 6 hours. The combined annual visits must total at least 60 hours.

Timing Income Certifications

Only documentation that verifies the current rate of annual income at the time of assistance is required. The income certification process must be completed prior to receiving assistance under OHHLHC grant programs.

Only income verifications dated no earlier than 6 months before time of assistance (i.e., formal acceptance into the program) will be permitted. You are not required to re-examine a household's income, unless more than 6 months have elapsed since the household's income was certified. You may request additional documentation to support the eligibility determination at your discretion.

Verifying Applicant Income

You may develop your own procedures for verifying the income of program applicants, provided that you collect documentation sufficient for HUD to monitor program compliance. You may make a determination for each household situation and income source whether to pursue direct third-party

verification or to do document review, provided you follow one consistent definition of “annual income” for your program.

For any given unit, a mix of verification methods might be used, with third party verification used for wage income and document review used based on experience (such as using Social Security award letters instead of contacting the Social Security Administration). You may make a determination on a case-by-case basis to select the most efficient way of documenting income based on experience with specific income information sources and provide options to occupants to address their legitimate privacy concerns.

The following income verification document review methods should be followed:

- A. Third Party (online or hard copy)
- B. Verbal Third Party (documented by the grantee)
- C. Tenant/Landlord Declaration (signed statement by tenant and/or landlord)

A. Third Party (online or hard copy)

Third-party verification involves the grantee contacting an outside entity or reviewing third-party documents in the possession of the household member(s) to obtain information about the income of household member(s). If you currently use a third-party verification system to determine income eligibility for other assistance programs, such as HUD’s Enterprise Income Verification system, you may use that system provided the income and occupancy limits set forth in Section 1011 of Title X are complied with. The type of system you use should be documented in your approved work plan. OHHLHC does not see the need to create additional burdens on grantees, since many already use some type of income verification system/process for other federal and state funds. The form of third party verification used may be either paper-based or web-based.

B. Verbal Third Party (documented by the grantee)

Although written requests and responses are generally preferred, you may accept verbal third party verification provided you adequately document the case file in this circumstance. Such documentation should include the contact person, information conveyed, the date of the conversation, and the reason for not having a written request and response.

C. Tenant/Landlord Declaration (signed statement by tenant and/or landlord)

Lastly, you may document income by obtaining a signed tenant or landlord statement. The declaration worksheet must be included in the file along with an explanation by the grantee for the inability to obtain written or verbal third party documentation. The tenant/landlord declaration worksheet you use should contain information on:

- the applicant’s employer and income;
- income deductions;
- evidence of financial assistance received from other public sources;
- the number of children in the unit and their ages;
- and other information relevant to the applicant’s eligibility that provides a basis for providing assistance, such as neighborhood income statistics, location of the unit within a designated revitalization zone, etc.

In addition, the applicant must attest by signature that the information provided is accurate under penalty of law. The declaration must include the following certification by the tenant/landlord:

“I certify under penalty of law that the information contained in this declaration is true, accurate and complete to the best of my knowledge. I understand that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.”

Conclusion

This policy guidance is intended to allow flexibility for grantees when verifying income for individuals receiving assistance under OHHLHC grant programs. Should you have further comments or questions on this policy guidance, please contact your Healthy Homes Field Representative and/or Government Technical Representative.