



MHP's 40B Income Eligibility and Verification Requirements

Revised 12.18.24

As a 40B subsidizing agency, MHP requires that the borrower/managing agent provide the following documents at initial lease up and at subsequent annual income re-certifications. With a few exceptions, MHP adheres to the income certification methodology and regulation outlined in the HUD Handbook **4350.3, REV1, Change 4, Chapter 5**¹. However, there are some occasions where MHP's requirements differ from HUD 4350.3 to better suit compliance with its affordability requirements.²

MHP's income eligibility and verification requirements have incorporated HUD's HOTMA (Housing Opportunity through Modernization Act of 2016.)

REQUIRED DOCUMENTS FOR AN APPLICANT'S INITIAL ELIGIBILITY DETERMINATION AND ANNUAL INCOME RE-CERTIFICATIONS:

- **Proof of identity** for all household members (e.g., copy of driver's license, social security card or birth certificate). 40B does not have a citizenship or immigration status requirement, but at initial certification, identification for all family members must be provided.
- **Completed, signed, and dated application.** MHP requires that all applications be fully filled out. **It is the owner's/agent's responsibility to either include a signed disclaimer in the application that it is complete or to ensure that all questions that do not apply are marked N/A.**
- **Release of information form** that is signed and dated (i.e., HUD-9887 or other approved consent form).
- **Tenant Income Certification forms** - (TIC or a close substitute) must be used to document income and assets calculation at original certification (move-in) and for each subsequent recertification; tenant signature required.
- **Certification Worksheet/ Recertification Update Worksheet.**
- **Personal declaration** - as applicable.



- **Latest tax returns/W2** - at initial lease up and at annual recertification as applicable for seasonal, or self-employed.
- **Income verification documents** – MHP follows HUD 4350.3, Chapter 5 to determine income. Our requirements have been streamlined to align with HUD's new definition of third-party verification. As a result, the owner/agent can accept **income verification documents directly from providers, i.e., paystubs, letterhead payroll sheet or other forms from employer** (unless instructed otherwise by another agency or program), or in absence of the above, at the time of application, and as applicable, third-party verification may be submitted by the owner/agent. **Please see *MHP'S METHODOLOGY TO DETERMINE INCOME FROM WAGES below for additional guidance.**
- **Foster children and adults will not be counted as family members.** They will not count towards the income limit determination. Payments from the foster agency, Kinship care payments and other **state-based foster payments will be counted as income** (HOTMA)
- Payments from **state agencies for in-home support of disabled members are excluded** when the state agency's client is a member of the household. *For example, if a Head of Household is paid to provide in-home supportive services for their spouse who lives in their unit, that payment is not included as income, (HOTMA)*
- HUD's latest amendment to the 4350.3 Handbook allows documentation directly from a financial institution to have the same value as a third-party verification. The owner/agent is no longer required to obtain third party bank account verification forms (unless instructed otherwise by another agency or program). Applicant-provided statements are acceptable.
- **Asset verification documents** -Asset verification is required for all assets including bank accounts, retirement accounts, real estate, stocks, bonds, etc. **However, the value of any retirement plan recognized as such by the IRS, is excluded from assets.** Any distribution of periodic payments (dividends) from the account is considered income to the household. (HOTMA)
 - **The checking account value is based on the current balance** (one current checking statement). Owners are required to **obtain a minimum of one statement that reflects the current balance of banking/financial accounts** (saving accounts, other assets i.e., 401k, IRA, and other investments statement showing interest rates, dividends, withdrawals).



- **An asset affidavit can be used if the total household asset value is \$50,000.00 or less (threshold is subject to change by HUD).** After move-in, assets can be self-certified for two consecutive years and all assets must be verified every three years
- **Assets must be adjusted annually using an imputed income rate published by HUD** HUD will annually publish a passbook rate based on the Federal Deposit Insurance Corporation (FDIC) National Deposit Rate for savings accounts. (HOTMA). Owners/agents are responsible for monitoring such annual changes by accessing HUD's User webpage: Annual Inflationary Adjustments and Passbook Rate.
- **The imputed income from assets is only used when the total asset value is \$50,000.01 or more and only for assets for which annual income cannot be verified and determined** (i.e., undeveloped land). Accounts that earn 0% will not be imputed.
- Although not explicit in HUD 4350.3, Chapter 5 does suggest a detailed review of income and assets. Therefore, as part of MHP's requirements, for consistency with income sources/amounts disclosed by applicants, **owner/agents must review deposit activity on bank account statement(s) received.**
- **Disposed asset verification** (asset disposed for less than FMR value).
- **Assets under \$5,000 do not require asset verification forms** - MHP does not require an under \$5,000 verification since assets will be properly verified. Thus, the owner/agent is not required to produce this form.
- **Student-status disclosure forms are required as applicable** – Owners/agents must verify tuition assistance & enrollment as applicable. MHP follows the Low-Income Housing Tax Credit Program's student rule, as outlined by Internal Revenue Code Section 42(i) (3) (D) (please refer to page 8). Owner/agents must document minor children, grades K-12, as full-time students on the Tenant Income Certification (TIC). ***MHP accepts Spectrum's student status form, or the owner/agent can customize its own form based on the above stated guidelines. Please reference this Spectrum Forms link to find the Student Status Affidavit form: <https://spectrumlihtc.com/resources/>***



- **Treatment of Student Financial Assistance (Applicable to Non- Section 8 Programs)** - Any household receiving student financial assistance may need to include all or part of the financial assistance towards annual income. The student financial assistance rules apply to both full-time and part-time students. (HOTMA)

All assistance received under 479B of the HEA (Higher Education Act) by students participating in such programs is excluded from income. Other student financial assistance received by the student that, either by itself or in combination with HEA assistance, exceeds the actual covered educational costs is not excluded from income. Actual covered costs include tuition, books, supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and 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. 1087uu)). For a student who is not the head of household, cohead, or spouse, actual covered costs also include the reasonable and actual costs of housing while attending the institution of higher education and not residing in the unit.

The formula for calculating the amount of other student financial assistance that is excluded from income always begins with deducting the assistance received under 479B of the HEA from the total actual covered costs, because the 479B assistance is intended to pay the student's actual covered costs.

In some cases, the following documentation is needed:

- **Verification of disability**
- **Verification of live-in attendant**
- **Verification of unemployment benefits**
- **Verification of Section 8 assistance or Social Security payments**
- **Proof of change in family characteristics** (ex: divorce, death, birth)
- **Proof of gift income source**, if payments are received regularly. Temporary, nonrecurring, or sporadic income (including gifts) are excluded as "nonrecurring income" (HOTMA).
- **Proof of alimony/child support** - Owner/agents must include all amounts received, not the payments the family is legally entitled to receive but are not receiving. Use court documents to verify child support/alimony income; alternatively, if not available use the state agency responsible for enforcing history of payments/activity report. In situations where no legal document exists (informal support), MHP requires third party verification from the person making payments.



- **Termination of employment verification** - As proof of employment termination, the owner/agent shall request termination verification directly from the previous employer, verbally confirm the termination with the previous employer and document it in writing (using a clarification form) or submit the applicant's final paystub and previous year's W2. NOTE: For applicants with seasonal employment, temporary or other type of work susceptible to layoff, the owner/agent must request a termination letter.
- **Self-employment form** - A form such as Spectrum's self-employment form is acceptable and simple enough to understand. The form requires the applicant to provide a profit & loss report for each month if tax returns are not filed. However, the owner/agent can also accept supportive information such as spreadsheets detailing "Year to date Profit & Loss" and "Anticipated Profit and Loss for the next 12 months." Please reference this [Spectrum link](https://spectrumlihtc.com/resources/) to find the form at <https://spectrumlihtc.com/resources/>
- **Certification of zero income & unemployment status affidavit** - MHP does require a signed statement of zero income (affidavit). If the owner/agent form already addresses employment & unemployment questions, there is no need to have the household complete a second form. A household's receipt of unemployment is verification. ***MHP accepts the Spectrum's form, or the owner/agent can customize and use its own form.***

Disclaimer: If your project is subject to deeper subsidy and other programmatic restrictions, the most stringent program requirements will apply. Any questions related to other programs should be redirected to the respective program administrators, i.e., PHA, Contract Administrator, or other agency.



*MHP'S METHODOLOGY TO DETERMINE INCOME FROM EMPLOYMENT

Income shall be documented and calculated as follows:

1. Owners/agents are required to obtain a minimum of two current and consecutive pay stubs for determining income (HOTMA).
 - 1A. In absence of paystubs or need of additional clarification (seasonal fluctuations, scheduled raises, upcoming promotions, and year-end bonuses), the owner/agent must obtain a third-party verification or alternative method of verification. If only a third-party verification is provided, the owner/agent must ask the employer for further clarification.
2. The owner/agent must obtain W2 or 1040 and examine the gross income from prior year.

Two separate calculations must derive from the pay stubs:

- (A) Average gross pay for two paystubs; convert to annual figure and,
- (B) Convert YTD pay from the latest paystub to annual figure. If pay-stubs do not have a YTD amount, or if applicant is unable to provide two consecutive paystubs, then a standard third-party verification form from the employer must be requested, and the annual income calculation must derive from the third-party verification.
- (C) Examine gross income from the prior year W2 or 1040.

The calculated income from (A) and (B) should be compared to previous year's W-2 or 1040.

If the higher of (A) and (B) is less than the previous year's income from the W-2 and the household is still income eligible, then the higher of (A) and (B) should be the household's income put on the TIC, and no further employment income documentation is required for that source.

If any of the calculated income from (A) or (B), or the income from the previous year W-2, places the household over the income limit, the management/lottery agent should contact the employer to determine the circumstances. The management/lottery agent must document the employer's response, the resulting income calculation (which may not necessarily be the highest income) and use it as the base to determine income eligibility.



A third-party employment verification form may be used to clarify an income discrepancy (which may result from seasonal fluctuations, scheduled raises, upcoming promotions or bonuses, year-end bonuses, commissions, overtime, pay unrelated to hourly wages), but this is not required if:

- The employer provides a signed statement, on company letterhead, or
- The owner/agent reaches out to the employer and documents the conversation on the Clarification Form.

If the employer is unable to provide information to explain the discrepancy, the owner agent must use the higher of (A), (B) or the income from the previous year's W-2.

3. The Section 8 Income Verification form is acceptable at annual income re-certification. Going forward, MHP will also accept it at initial certification.

The owner/agent can accomplish this by obtaining a copy of the voucher certificate and confirming qualified income level by submitting the **Section 8 Income Verification form** to the respective Public Housing Authority (PHA). These documents, along with the other required 40B documentation (application, student status form, and proof of identification), would be collected and submitted to MHP/Spectrum for final review. At move-in, the applicant would provide a final copy of the HUD-50058 form.

In absence of the above referenced documents, the applicant must provide the owner/agent with the required income/assets information. The owner/agent must complete the income verification process and submit it to MHP/Spectrum for final income eligibility determination.



FAMILY DEFINITION & STUDENT RULE

Under MHP's 40B Regulatory Agreement, "family" is defined as:

"Family: One or more individuals occupying a unit in accordance with the definition adopted by HUD for the so-called Section 8 program under the United States Housing Act of 1937, as amended, and the regulations promulgated thereunder (the "Section 8 Program"). Notwithstanding the foregoing, a household comprised of a full-time student or students shall not qualify as a Family except as permitted under the Low-Income Housing Tax Credit Program, Internal Revenue Code Section 42(i) (3) (D)."

The Internal Revenue Code provision regarding students:

"(D) Certain students not to disqualify unit. A unit shall not fail to be treated as a low-income unit merely because it is occupied

- (i) by an individual who is -**
 - (I) a student and receiving assistance under title IV of the Social Security Act,*
 - (II) a student who was previously under the care and placement responsibility of the State agency responsible for administering a plan under part B or part E of title IV of the Social Security Act, or*
 - (III) enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar Federal, State, or local laws, or*
- (ii) Entirely by full-time students if such students are**
 - (I) single parents and their children and such parents are not dependents (as defined in section 152, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof) of another individual and such children are not dependents (as so defined) of another individual other than a parent of such children, or*
 - (II) Married and file a joint return."*



ANNUAL 40B AFFORDABILITY COMPLIANCE REVIEW GUIDANCE

As part of the 40B compliance review (annual for 40B projects, as required by loan documents), MHP staff or their designated agent will complete the following procedures:

- a. MHP staff will review new tenants' move-in certification files and a random sample of existing tenants' annual re-certification files (at least 10% of affordable units) to verify compliance with affordability restrictions of 40B comprehensive permit and MHP's Chapter 40B Regulatory and Affordable Housing Agreements.
- b. MHP will review any **marketing materials** used since the last review for compliance with the Affirmative Housing Fair Marketing Plan (AFHMP).
- c. MHP will ensure the AFHMP is not expired (less than 5 years old).
- d. MHP will review the **wait list for compliance** with the order of filling vacancies.
 - i. **Local preference is not allowed after the initial lease-up.**
- e. MHP will review **declined applicant files** to ensure non-discriminatory practices.
- f. MHP will review the **process and timing of purging** and reconstituting the wait list.
 - i. If the **wait list is closed, then re-opened**, the marketing and wait list order must comply with all Affirmative Fair Housing Marketing Guidelines.

1- **Guidelines G.L C40B Comprehensive Permit Projects** "For a detailed description of assets and the treatment of such in determining eligibility, please refer to HUD's "Occupancy Requirements of Subsidized Multifamily Housing Programs"; Handbook 4350.3, Chapter 5, and Appendix 6-C, "Guidance About Types of Information to Request When Verifying Eligibility and Income."

2- 40B Regulatory Agreements and Guidelines G.L C40B Comprehensive Permit Projects