

Back to Basics: Compliance Monitoring

Rhode Island Housing

Rental Housing: Multifamily Management

HFA Staff Contact

Mary Kate Harrington

communications@rihousing.com

Two words: “*Compliance Monitoring.*”

Most people outside of the housing industry don’t know the magnitude of this work. But for those of us working in the affordable housing field, we know all too well its importance.

No property manager or owner wants to be determined non-compliant. And Housing Finance Agencies, entrusted with the oversight of scarce federal resources, want to ensure the success of a property (*and their portfolio*) through compliance. Compliance plays an important role in a property’s long-term viability and property managers/owners and HFA staff require thoughtful guidance and support to navigate the complex world of tax credit compliance monitoring.

Changing Needs

In response to this need, RIHousing kicked off the new year with the release of our *new LIHTC Compliance Manual*. Ensuring property managers and owners of LIHTC-financed properties have the tools and resources they need to ensure the long-term success of these developments is at the heart of our Asset Management and Compliance departments.

The housing landscape had changed dramatically since the last time RIHousing updated our Compliance Manual. Gone are the days when LIHTC equity is enough to fund a project. More and more funding sources are needed, resulting in a complex layering of sources, all with different rules, regulations and requirements. With more funding sources came the need for comprehensive compliance monitoring guidance and staff who understand the requirements and implications of non-compliance. As an agency entrusted to safeguard public funds, ensuring that the federal dollars put toward affordable housing is of the utmost importance.

For years, RIHousing Compliance staff had struggled to keep LIHTC managers and owners informed about important changes in compliance monitoring. The complexities of administering these programs to meet requirements and conditions specified under the law and specific regulations for each funding source made updating our existing manual an almost impossible task. RIHousing’s existing LIHTC Compliance manual had initially been created in 1997, with minimal updates made over the last two decades. The content, format and layout of the manual had become obsolete and a burden for both users and our staff.

RIHousing staff previously had to rely heavily on the release of a series of Program Bulletins to communicate updates to managers/owners, which caused confusion among partners as well as internally. For many years, partners and monitoring staff were left wanting more.

It Was Time.....

The existing manual was very text heavy, with no visuals or graphics. It was a 105-page document without hyperlinks, bookmarks or indexing, requiring users to spend considerable time searching for the regulations and requirements needed. RIHousing had long recognized the need for a completely updated manual but did not have the in-house capacity to undertake the complete overhaul we felt was required.

In late 2017, we released a Request for Proposals (RFP) for consulting services to help prepare the new manual. Initially, we expected the effort to take several months and expected it to be composed of three main steps:

- Assessment of Current Policies and Procedures: Work with our Rental Compliance/Training Coordinator and staff to review the existing compliance manual and management documents, review existing protocol, forms and checklists.
- Review of Best Practices and HUD Requirements and Guidance: Compile and compare industry best practices to RIHousing policies and procedures against IRS and HUD regulations; make recommendations and provide sample documents.
- Development of New Compliance Manual: Produce comprehensive policies and procedures in the LIHTC Compliance Manual to be used both as guidance for owners/managing agents and by RIHousing staff as a reference. All materials produced must meet all applicable IRS and HUD regulations.

Our intent was for a comprehensive, user-friendly document that incorporates all requirements, methods and procedures related to LIHTC compliance monitoring, whether standalone, or when layered with other federal and state affordable housing programs. We selected Costello Compliance, a nationally recognized industry leader and expert in LIHTC compliance, and began the process.

Pulling off Bureaucratic Layers (or Back to Basics)

During the course of the initial phase of review, it became apparent that in order to create the document we wanted, we would have to completely re-assess our policies, forms and procedures or the update would be superficial at best. We initially intended to include several key Compliance and Asset Management staff on the project but ended up engaging our entire team.

The project took almost one year from beginning to rollout of the new manual. The additional time was a result of a deep dive into our policies and procedures, which yielded in a complete revamp of how we manage LIHTC compliance.

We are most proud of the fact that the ***effort drove policy changes and resulted in new ways for thinking about compliance***. We pulled back the “bureaucratic layers” that were no longer necessary and focused on what was really needed and how best to communicate our intentions to our target audience. While the endeavor took longer than anticipated, partners and staff feel it was worth it. While we didn’t envision what it would become, we are very excited to highlight key aspects of the new manual:

- Reflects significant changes in policy at RIHousing
- Scaled back non-regulatory RIHousing requirements
- Consistent with HUD methods, IRS guidance and industry best practices
- Discusses LIHTC compliance intricacies
- Includes the new “Average Income Set-Aside”
- Over 90 case studies and recommendations in the form of Examples
- User friendly: provides clearer, more practical guidance for partners and staff
- More efficient: easily searchable with bookmarks and hyperlinks to forms and documents
- Format makes the manual easier to update as needed and keep current
- Multiple Programs Guide: a 26-page addendum that presents requirements for each program
- Graphics throughout vs previous, which was almost entirely text
 - Graphs, flow charts, examples and tables for ease of use and understanding

Roll Out & Results

We rolled out the new Compliance Manual with a series of interactive webinars for our partners. We also shared the manual via email and posting to our website. As we completely revamped our forms and applications we were able to highlight the changes and features of the report via the webinars. To date, over 140 program managers, owners and development partners have participated in the webinars.

Our staff and partners have been thrilled! We have received plenty of great feedback since the rollout. Our consultant has shared they think the manual is the “Best ever done” and they plan to use our Compliance Manual for training purposes going forward.

We understand several HFAs have rolled out updated compliance manuals in recent years. We think ours is unique in that we may be the first compliance manual in the country that addresses “gig” income as new forms of earning potential relate to income qualifications. Studies show that gig economy jobs are taking on a greater role in household income, and managers and owners require guidance on how to calculate income derived from these jobs.

Unintended Positive Results

- Ended up reflecting on and changing policies
- Re-trained staff
- Collaborative: all Compliance staff involved; engagement created ‘buy-in’ from staff
- Team-building process; engaged entire team

Can’t Stop, Won’t Stop

The effort has completely engaged staff and our management/owner partners. We have big plans for next steps to ensure the manual remains current but also reflects new and emerging rules and regulations, remains user-friendly and utilizes any new and emerging technology improvements.

We are about to launch our “On the Road,” series, which allows our Training Coordinator to hit the road and head out to management offices for small, in-person engagement and introduction of the new manual and our policies and procedures. This also allows for feedback from partners that can help spur further improvements.

Exceeding Expectations

RIHousing has been promising transparency and improvements in our processes and with this manual, we are living up to this promise. By reflecting on and updating our internal processes, we were able to make several key streamlined process improvements which means we are more efficient with our time and effective in our oversight. RIHousing Compliance specialists have an electronic version of the manual on their iPads to use during inspections and managers/owners know exactly what is expected to remain in compliance with LIHTC, avoiding serious financial penalties and loss of tax credits, which could cost the property (and owner) greatly. Owners/agents may refer to the new manual to clear up any “gray” areas in LIHTC compliance.

Our goal was to provide clear and consistent policies and procedures while lessening the burden on compliance staff, owners/agents and tenants by offering the resources to support our partners in remaining in compliance and operating successful, safe and affordable homes for Rhode Island residents. We feel strongly that with this comprehensive effort, *we have met our goal and more!*

Click [here](#) to see the new manual.

LIHTC Compliance Manual 2019

Feedback

I just wanted to comment, that was one of the best webinars I have ever been on. Plus, the job your team and Costello did on the new LIHTC Guide is AMAZING! Great Job!

Thank you so much for the clear guidance.

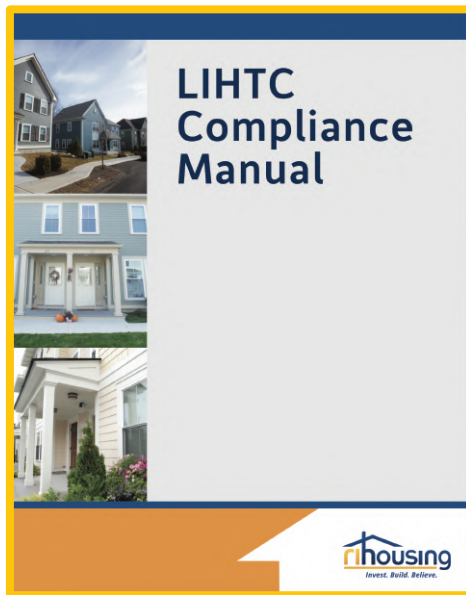
Melissa Koseski, Vice President, Wingate Companies

REALLY enjoying this manual! It's the best resource to effectively manage a Tax Credit site.

Julie Leddy, Executive Director, Coventry HFA

I wanted to compliment you and the others on the Compliance Manual webinar today. Excellent work! Excellent Manual! Thank you,

Rodgney Hoel, Director of Property Management, Housing Opportunities Corporation



The old manual had a glossary, but no way of determining the source of the information; the new manual has a clickable index, allowing the user to read not only a definition within the document itself, but the context surrounding it

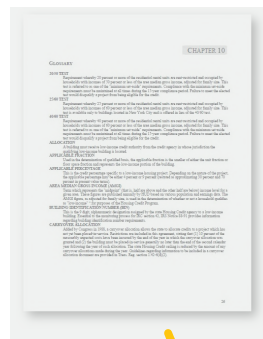


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Cover page of the new manual sends a clear message of new and improved.

NEW

Easily Access and Reference Information

Charts

STUDENT ELIGIBILITY				
TAX CREDIT	HUD	RD	HOME	BOND
In general, households made up of full-time students of any age do not qualify. There are five exceptions to this	HUD Section 8 Rule: Any individual who attends an institute of higher learning (full OR part-time) must be one of the following: 1) A dependent of the	Same as HUD Section 8 Rule	Same as HUD Section 8 Rule (regardless of commitment date)	Same as tax credit. In general, households made up of full-time students of any age do not qualify. Prior to

MULTI-PROGRAM INTERACTION SUMMARY

Result of Rule Comparison	Action to Take	EXAMPLES
A. One program has a requirement that the other does not.	Apply the requirement.	HUD – Citizenship, criminal background, and numerous specific forms. RD – Complex wait list requirements. HUD, RD or HOME – Conduct an affirmative marketing plan.
B. Both programs have similar requirements and:		
a. The rules have built-in reconciliation provisions.	Apply the reconciled rule.	LIHTC with HUD or RD – Use HUD or RD utility allowances. LIHTC with HOME – Do not use income-based rent for over-income households.
b. One requirement is more	Apply the more	LIHTC with HUD, RD or HOME – Use

- References multiple programs throughout the body of the guide for ease-of-use.
- Users can easily cross-reference as needed.

Charts define asset types and corresponding market & cash values and income.

The below chart demonstrates how to establish values and income for various types of assets.

Type of Asset	Market Value	Cash Value	Actual Income
Individual Stocks	# of shares owned X price per share	Market value less the cost to sell (commissions)	Annual dividend X # of shares
Mutual Funds	# of shares owned X price per share	Market value less the cost to sell (commissions)	Annual dividend X # of shares
CDs Certificates of Deposit	Current Balance	Market value less fees for withdrawal	Market value X interest rate
Money Market	Current Balance	Market value less fees for withdrawal	Market value X interest rate
Bond	Redeemable value*	Redeemable value*	Interest rate X market value

NEW

Examples, Examples, Examples

EXAMPLES Acceptable Physical Repairs		
Type of Deficiency	Acceptable Repair	INSUFFICIENT REPAIR
Cracks in Brick Wall	Tuck-pointed using mortar	Caulking
Drywall Repair	Sheetrock with mud and/or tape	Covering hole or damaged drywall with plywood or Laminate
Wooden Door Repair	Wood or wood veneer	Sheetrock mud or plywood
Downspouts	Same materials, shape and design	Plastic or PVC piping on metal

Focus of the manual isn't only on maintaining compliance through documentation, but also on the physical portion of compliance, providing insight into the UPCS standards used to inspect LIHTC properties.

- Includes over 90 relevant examples strategically placed throughout the manual to provide insight to owner/agents in an effort to reduce noncompliance at the site level.
- Examples provide answers with clear explanations.

EXAMPLE Unemployment Benefits

A printout from the unemployment agency indicates that unemployment benefits a person receives are to be paid for 22 more weeks at a rate of \$230 per week. No future job has been secured. What annual income will be counted for the benefits?

\$11,960: \$230 x 52 weeks.

EXAMPLE Unemployment Benefits with Job Secured

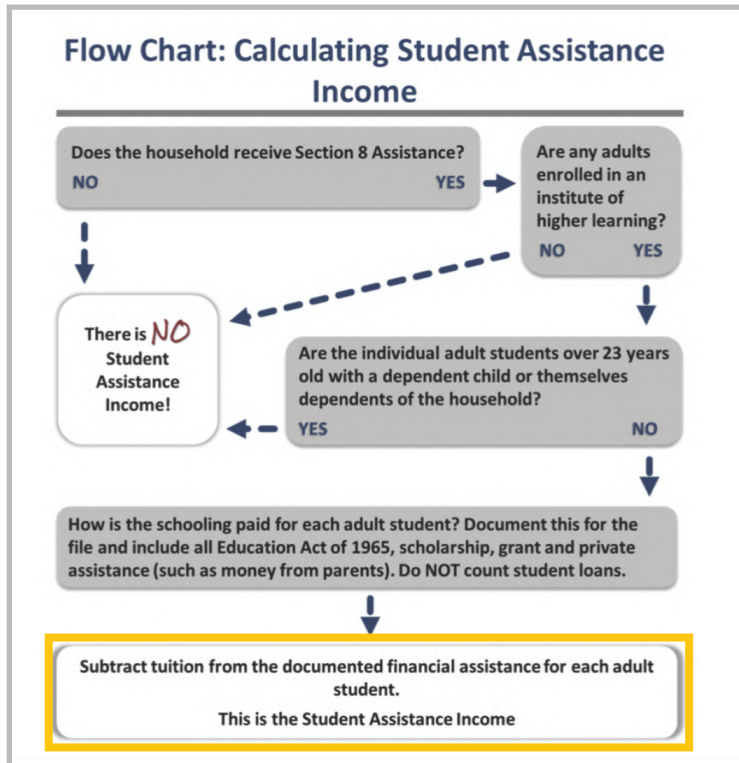
Scott is a teacher, who works nine months during the school year and is eligible for unemployment benefits during the three summer months. He moves in at the start of summer and is claiming unemployment benefits at that time. The owner/agent verifies that he is anticipated to start back to work when the school year begins. Should his weekly unemployment be annualized for 52 weeks in this case?

No: As a pattern of three months of claiming unemployment has been established along with the re-start of employment, the unemployment should only be anticipated for the three summer months and the employment for the other nine.

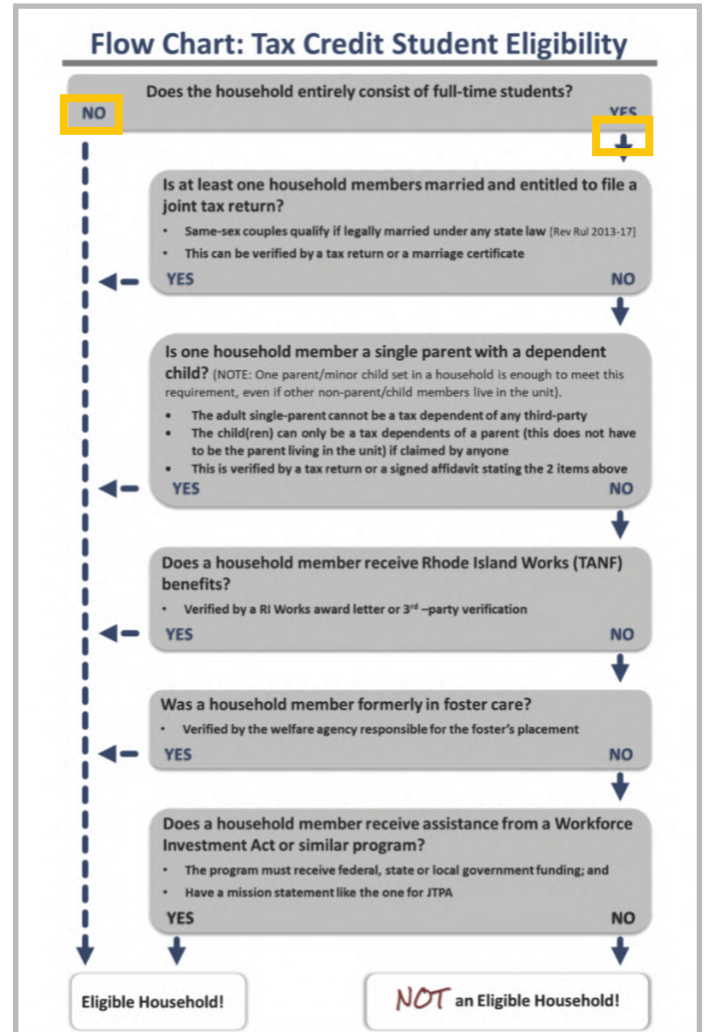
NEW

Real-Life Applications

Flow Charts



Student rules can be tricky, so we've taken away the guesswork by adding user-friendly flow charts for ease-of-use.



Check Lists

✓ Normal Wear & Tear	Vs.	✓ Tenant Damage
Normal costs of turning an apartment after a household vacates may not be charged to either the former or the next household. Costs an owner incurs for the basic cleaning and repairing of items necessary to make a unit ready for occupancy are part of the costs of doing business.		Tenant damages usually require more extensive repair, and at a greater cost than "normal wear and tear" and are often the result of a tenant's abuse or negligence and not the result of normal living activities.
Walls & Ceilings		
<input checked="" type="checkbox"/> Small chips in plaster		<input type="checkbox"/> Gaping holes in walls or plaster
<input checked="" type="checkbox"/> Nail holes, pinholes, or cracks in walls		<input type="checkbox"/> Holes in the ceiling from removed fixtures
<input type="checkbox"/> Fading, peeling, or cracked paint		<input type="checkbox"/> Drawing, crayon marking, or wallpaper that the owner did not approve
<input checked="" type="checkbox"/> Slightly torn or faded wallpaper		<input type="checkbox"/> Seriously damaged or ruined wallpaper
Doors & Windows		
<input type="checkbox"/> Door sticking from humidity		<input type="checkbox"/> Doors ripped off hinges
<input type="checkbox"/> Cracked windows from faulty foundation/building settling		<input type="checkbox"/> Broken windows
Floors		
<input type="checkbox"/> Floors needing a coat of varnish		<input checked="" type="checkbox"/> Chipped or gouged wood floors
<input type="checkbox"/> Carpet faded or worn thin from walking		<input type="checkbox"/> Holes, stains, or burns in the carpet
<input type="checkbox"/> Loose grouting and bathroom tiles		<input type="checkbox"/> Missing or cracked bathroom tiles
Fixtures		
<input type="checkbox"/> Worn or scratched enamel in old bathtubs, sinks, or toilets		<input type="checkbox"/> Chipped and broken enamel in bathtubs and sinks
<input type="checkbox"/> Partially clogged sinks caused by aging pipes		<input type="checkbox"/> Clogged or damaged toilet from improper use
<input type="checkbox"/> Rusty shower rod		<input type="checkbox"/> Missing or bent shower rods
<input type="checkbox"/> Dirty or faded lamp or window shades		<input type="checkbox"/> Missing fixtures

Helpful Reminders

Summary of important UA Rules

- ☐ RIHousing publishes the allocating agency estimate
- ☐ The Owner determines the unit types in each building
- ☐ The Owner decides which UA calculation method it consistently throughout the building each year
- ☐ The Owner may change methods from one year to the next
- ☐ RIHousing approval is not required unless the owner chooses
- ☐ The owner must give tenants a 90-day notice of all UAs other than the PHA estimate.

"Real-world" descriptions are incorporated into the language within the manual as well as helpful checklists and reminders.

NEW

A Picture is Worth a Thousand Words



*To calculate the current cash value of savings bonds, go to [savingsbonds.gov](https://www.savingsbonds.gov), Savings Bond Calculator then ENTER the following items as requested:

A. Denomination

You can describe where to find the information, but why do that when you can just SHOW the user where the relevant information is?

Important sections and frequent mistakes on a form are noted and defined for users.

The section on determining end of LIHTC periods features examples, helpful hints and visuals to help users more easily determine Credit, Compliance and Extended Use periods.

EXAMPLE Determining the End of LIHTC Periods

The first year of the credit period for a building is 2018. The project has an extended use period of the minimum-required 30 years. When is the end of the Credit, Compliance and Extended Use Period?

The last year of the Credit Period is 2027
 $2018 + 9 \text{ years} = 10 \text{ years}$
The last year of the Compliance Period is 2032
 $2018 + 14 \text{ years} = 15 \text{ years}$
The last year of the Extended Use Period is 2047
 $2018 + 29 \text{ years} = 30 \text{ years}$

CREDIT PERIOD
COMPLIANCE PERIOD
EXTENDED USE PERIOD

Year	2018	2023	2028	2033	2038	2043	2048
Credit Period							
Compliance Period							
Extended Use Period							

HELPFUL HINT

To determine when a building's credit, compliance and extended use periods began.

Compare the building's form 8609 Line 5: Placed in service date & Line 10(a): Deferral election

IF 10(a) IS:

- ☒ No - Credits started placed in-service year.
- ☒ Yes - Credits started year after placed in-service year.

Visual examples such as those for "placed-in-service" dates help managers/owners more easily identify important details.

HOW THE MINIMUM SET-ASIDE WORKS

10 Check the appropriate box for each election.

Caution: Once made, the following elections are irrevocable.

a. Elect to begin credit period the first year after the building is placed in service (section 42(f)(1)) ☐ Yes ☐ No

b. Elect not to test large apartment complexes (section 42(b)(5)) ☐ Yes ☐ No

c. Elect minimum set-aside requirement (section 42(n)) (see instructions):

☐ 20-50 ☐ 40-60 ☐ Average income ☐ 25-60 (N.Y.C. only)

40-60
40% of units, minimum, must be LIHTC
60% is the income and rent limit for ALL LIHTC units

20-50
20% of units, minimum, must be LIHTC
50% is the income and rent limit for ALL LIHTC units

Average Income
40% of units, minimum, must be LIHTC
60% is the average income and rent limit designation for ALL LIHTC units, which may be 20-80% (10% increments).

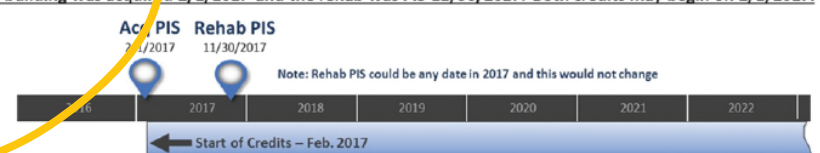
Income Averaging Details

EXAMPLES Starts of Acq/Rehab Credits

A building was acquired 3/10/2017 and the rehab was PIS 10/30/2018. Both credits may begin on 1/1/2018.



A building was acquired 2/1/2017 and the rehab was PIS 11/30/2017. Both credits may begin on 2/1/2017.



Note: The above demonstrates the earliest possible first year Credits may be deferred one year in each case.

NEW

Interactive, 26-Page Multiple Programs Guide

MULTIPLE PROGRAMS GUIDE

A SIDE-BY-SIDE SUMMARY OF SPECIFIC HOUSING PROVISIONS

– 2019

Tax Credits | HUD | Rural Development | HOME | Tax Exempt Bonds
NOW INCLUDES HOUSING TRUST FUND PROVISIONS

A 26-page
“Multiple
Programs
Guide” is a
supplement
to the manual.

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The table of contents, like the manual itself, is interactive; one click takes the user to the appropriate page(s) for reference.

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Multiple Program Guide

INCOME ELIGIBILITY DETERMINATIONS

TAX CREDIT	HUD	RD	HOME [HTF]	BOND
Income eligibility is determined using the Section 8 method for determining gross annual income found in the HUD Handbook 4350.3 Chapter 5. No deductions to annual income apply to the tax	Follow the HUD Handbook 4350.3. Allowances and Deductions apply.	Follow the RD HB-2-3560 chapter 6. These rules are based on the HUD regulations.	HUD allows PJs to choose from two methods for determining income, these will be stated in the HOME regulatory agreement and may include: 1) 1040 tax return definition 2) Section 8 method from the 4350.3 Chapter 5* 3) The 2013 regulation change eliminated the	Income eligibility is determined using the Section 8 method for determining annual income found in the HUD Handbook 4350.3 Chapter 5. The LURA will determine what method is used to

Citations

Citations from HUD Handbook 4350.3, providing easy access for users to reference appropriate HUD guidance for more information

Stocks, Bonds, T-Bills, CDs, etc.

HUD's Description | Exhibit 5-2 (A)(4)

“Stocks, bonds, Treasury bills, certificates of deposit, mutual funds, and money market accounts. Interest or dividends earned are counted as income from assets even when the earnings are reinvested. The value of stocks and other assets vary from one day to another. The value of the asset may go up or down the day before or after [income] is calculated and multiple times during the year thereafter. The owner may assess the value of these assets at any time after the authorization for the release of information has been received.”

Some of the above accounts accumulate income based on an interest rate.