

TITLE 10. COMMUNITY DEVELOPMENT
PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS CHAPTER 5. COMMUNITY AFFAIRS
SUBCHAPTER A. GENERAL PROVISIONS
Rule §5.19 Income Eligibility

- (a) These changes are effective for HHSP funds received by Subrecipients on or after September 1, 2016.
- (b) For HHS and DOE funded programs, eligibility for program assistance is determined under the Poverty Income Guidelines and calculated as described herein. Income means cash receipts earned and/or received by the applicant before taxes during applicable tax year(s) but not the Excluded Income listed in paragraph (2) of this subsection. Gross income is to be used, not net income.
- (1) If an income source is not excluded below, it must be included when determining income eligibility.
- (2) Excluded Income:
- (A) Capital gains;
 - (B) Any assets drawn down as withdrawals from a bank;
 - (C) Balance of funds in a checking or savings account;
 - (D) Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002 (Pub. L. 107-110, 42 U.S.C. 604(h)(4));
 - (E) The sale of property, a house, or a car;
 - (F) One-time payments from a welfare agency to a family or person who is in temporary financial difficulty;
 - (G) Tax refunds, Earned Income Tax Credit refunds;
 - (H) Jury duty compensation;
 - (I) Gifts, loans, and lump-sum inheritances;
 - (J) One-time insurance payments, or compensation for injury;
 - (K) Non-cash benefits, such as the employer-paid or union-paid portion of health insurance or other employee fringe benefits;
 - (L) Reimbursements (for mileage, gas, lodging, meals, etc.);
 - (M) Employee fringe benefits such as food or housing received in lieu of wages;
 - (N) The value of food and fuel produced and consumed on farms;
 - (O) The imputed value of rent from owner-occupied non-farm or farm housing;
 - (P) Federal non-cash benefit programs such as Medicare, Medicaid, SNAP, WIC, school lunches, and housing assistance (Medicare deduction from Social Security Administration benefits should not be counted as income);
 - (Q) Combat zone pay to the military;
 - (R) Veterans (VA) Disability Payments;
 - (S) College scholarships, Pell and other grant sources, assistantships, fellowships and work study, VA Education Benefits (GI Bill), Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu);
 - (T) Child support payments (amount paid by payor may not be deducted from income);
 - (U) Income of Household members under eighteen (18) years of age;
 - (V) Stipends from senior companion programs, such as Retired Senior Volunteer Program and Foster Grandparents Program;
 - (W) AmeriCorps Program payments, allowances, earnings, and in-kind aid;
 - (X) Depreciation for farm or business assets;
 - (Y) Reverse mortgages;
 - (Z) Payments for care of Foster Children;
 - (AA) Payments or allowances made under the Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));

- (BB) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602(c));
- (CC) Major disaster and emergency assistance received by individuals and families under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (93, as amended) and comparable disaster assistance provided by States, local governments, and disaster assistance organizations (42 U.S.C. 5155(d));
- (DD) Allowances, earnings, and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931(a)(2));
- (EE) Payments received from programs funded under Title V of the Older Americans Act of 1965 (42 U.S.C. 3056(g));
- (FF) 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 (42 U.S.C. 9858(q));
- (GG) Certain payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));
- (HH) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459(e));
- (II) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (94, §6);
- (JJ) The first \$2,000 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 (25 U.S.C. 1407-1408). This exclusion does not include proceeds of gaming operations regulated by the Commission;
- (KK) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund (101) or any other fund established pursuant to the settlement in *In Re Agent Orange Liability Litigation*, M.D.L. No. 381 (E.D.N.Y.);
- (LL) Payments received under the Maine Indian Claims Settlement Act of 1980 (96, 25 U.S.C. 1728);
- (MM) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (95);
- (NN) Any allowance paid under the provisions of 38 U.S.C. 1833(c) to children of Vietnam veterans born with spina bifida (38 U.S.C. 1802-05), children of women Vietnam veterans born with certain birth defects (38 U.S.C. 1811-16), and children of certain Korean service veterans born with spina bifida (38 U.S.C. 1821);
- (OO) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b));
- (PP) 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 (42 U.S.C. §1437a(b)(4));
- (QQ) 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 (Pub. L. 111-291);
- (RR) Per capita payments made from the proceeds of Indian Tribal Trust Cases as described in PIH Notice 2013-30 "Exclusion from Income of Payments under Recent Tribal Trust Settlements" (25 U.S.C. 117b(a)); and
- (SS) Any other income required to be excluded by the federal or state funding program.

- (c) For HHS and DOE funded programs, the requirements for determining whether an applicant Household is eligible for assistance require the Subrecipient to annualize the Household income based on verifiable documentation of income.
- (1) The Subrecipient must calculate projected annual income by annualizing current income. Income that may not last for a full 12 months (e.g., unemployment compensation) should be calculated assuming current circumstances will last a full 12 months.
 - (2) Subrecipient must collect verifiable documentation of Household income received in the thirty (30) days prior to the date of application.
 - (3) Once all sources of income are known, Subrecipient must convert reported income to an annual figure. Convert periodic wages to annual income by multiplying:
 - (A) Hourly wages by the number of hours worked per year (2,080 hours for full-time employment with a 40-hour week and no overtime);
 - (B) Weekly wages by 52;
 - (C) Bi-weekly wages (paid every other week) by 26;
 - (D) Semi-monthly wages (paid twice each month) by 24; and
 - (E) Monthly wages by 12.
 - (4) To annualize other than full-time income, multiply the wages by the actual number of hours or weeks the person is expected to work.
 - (5) Except where a more frequent period is required by federal regulation, re-certification of income eligibility must occur at least every twelve months.
- (d) For ESG and HHSP, Subrecipients must use the income determination method outlined in 24 CFR 5.609, must use the list of income included in HUD Handbook 4350, and must exclude from income those items listed in HUD's Updated List of Federally Mandated Exclusions from Income, as may be amended from time to time.
- (e) If a federal or state requirement provides an updated definition of income or method for calculating income, the Department will provide written notice to Subrecipients about the implementation date for the new requirements.
- (f) If proof of income is unobtainable, the applicant must complete and sign a Declaration of Income Statement (DIS). In order to use the DIS form, each Subrecipient shall develop and implement a written policy and procedure on the use of the DIS form. In developing the policy and procedure, Subrecipients shall limit the use of the DIS form to cases where there are serious extenuating circumstances that justify the use of the form. Such circumstances might include, but are not limited to, crisis situations such as a natural disaster which prevents the applicant from obtaining income documentation, an applicant that flees a home due to physical abuse, or an applicant who is unable to locate income documentation of a recently deceased Household member. To ensure limited use, the Department will review the written policy and its use, as well as client-provided descriptions of the circumstances requiring use of the form, during on-site monitoring visits.
- (g) The DIS must be notarized. Attainment of notary public commission is an allowable activity as an administrative cost.