

INCOME ELIGIBILITY DETERMINATION

Mississippi will use the Part 5 Definition of Annual Income as defined in 24 CFR 5.608 to determine the homebuyer's eligibility for participation in NSP. Part 5 defines annual income as the gross amount (before any deductions are made) of income of all adult household members that is anticipated to be received during the coming 12-month period. Specific issues related to the calculation of Part 5 annual income that must be considered are 1) Whose income to count, 2) Types of income, and 3) Treatment of Assets.

Whose Income to Count

Income from certain groups of people requires special consideration when calculating a household's annual income. The income of the following group or categories of people must be counted:

- Minors (age 17 and under)
- Live-in aides
- Person with disabilities
- Temporarily absent family members
- Adult students living away from home

Types of Income to Count

In the Part 5 definition of annual income there are certain types of household income that are included in the definition and excluded from the definition. A list of the Part 5 income "inclusions" and "exclusions" is published in the Code of Federal Regulations at 24 CFR 5.609. This list is periodically updated by HUD when changes are made by the United States Congress. An easy to read inclusion and exclusion table is published at 24 CFR 5.609. Sub recipients, lenders and other participants in the Neighborhood Stabilization Program are generally expected to implement any changes to the regulations within 60 days of publication in the Federal Register. You may search the Federal Register at www.gpoaccess.gov/fr/. For best results type "24 CFR Part 5" into the Search Terms field on this webpage.


Treatment of Assets

Sub-recipients, lenders and anyone using the Part 5 definition of annual income to determine the eligibility of homebuyers for NSP assistance must answer the following three questions regarding family assets:



- What should be included as an asset?
- How should the value of the assets be computed?
- How should the actual income from assets be determined for inclusion in the annual income calculation?

Additional information may be found at 24 CFR Part 5.608 and at:

<http://www.hud.gov/offices/cpd/affordablehousing/training/web/calculator/definitions/part5.cfm/>

 Part 5 Inclusions

This table presents the Part 5 income inclusions as stated in the Code of Federal Regulations.

General Category	Statement from 24 CFR 5.609 paragraph (b) (April 1, 2004)
1. Income from wages, salaries, tips, etc.	The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services.
2. Business Income	The <u>net income</u> 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. 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.
 3. Interest & Dividend Income	 Interest, dividends, and other <u>net income of any kind from real or personal property</u> . Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in number 2 (above). <u>Any withdrawal of cash or assets from an investment will be included in income</u> , except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD.
4. Retirement & Insurance Income	The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and <u>other similar types of periodic receipts</u> , including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in number 14 of Income Exclusions).
5. Unemployment & Disability Income	Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay (except as provided in number 3 of Income Exclusions).
6. Welfare Assistance	Welfare Assistance. Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income:

	<ul style="list-style-type: none"> ▸ Qualify as assistance under the TANF program definition at 45 CFR 260.31; and ▸ Are otherwise excluded from the calculation of annual income per 24 CFR 5.609(c). <p>If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:</p> <ul style="list-style-type: none"> ▸ the amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; <i>plus</i> ▸ the maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is reduced from the standard of need by applying a percentage, the amount calculated under 24 CFR 5.609 shall be the amount resulting from one application of the percentage.
7. Alimony, Child Support, & Gift Income	Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling.
8. Armed Forces Income	All regular pay, special day and allowances of a member of the Armed Forces (except as provided in number 7 of Income Exclusions).

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Part 5 Exclusions

This table presents the Part 5 income exclusions as stated in the Code of Federal Regulations.

General Category	Statement from 24 CFR 5.609 paragraph (c) (April 1, 2004)
1. Income of Children	Income from employment of children (including foster children) under the age of 18 years.
2. Foster Care Payments	Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone).
3. Inheritance and Insurance Income	Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in number 5 of Income Inclusions).
4. Medical Expense Reimbursements	Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member.
5. Income of Live-in	Income of a live-in aide (as defined in 24 CFR 5.403).

Aides	
6. Disabled Persons	Certain increases in income of a disabled member of qualified families residing in HOME-assisted housing or receiving HOME tenant-based rental assistance (24 CFR 5.671(a)).
7. Student Financial Aid	The full amount of student financial assistance paid directly to the student or to the educational institution.
8. Armed Forces Hostile Fire Pay	The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.
9. Self-Sufficiency Program Income	<ul style="list-style-type: none"> a. Amounts received under training programs funded by HUD. b. 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). c. Amounts received by a participant in other publicly assisted programs that are specifically for, or in reimbursement of, out-of-pocket expenses incurred (special equipment, clothing, transportation, childcare, etc.) and which are made solely to allow participation in a specific program. d. Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time. e. Incremental earnings and benefits resulting to any family member from participation in qualifying state or local employment training programs (including training not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program.
10. Gifts	Temporary, nonrecurring, or sporadic income (including gifts).
11. Reparations	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.
12. Income from Full-	Earnings in excess of \$480 for each full-time student 18 years old or

time Students	older (excluding the head of household or spouse).
13. Adoption Assistance Payments	Adoption assistance payments in excess of \$480 per adopted child.
14. Social Security & SSI Income	Deferred periodic amounts from SSI and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts.
15. Property Tax Refunds	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.
16. Home Care Assistance	Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep this developmentally disabled family member at home.
17. Other Federal Exclusions	<p>Amounts specifically excluded by any other federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions of 24 CFR 5.609(c) apply, including:</p> <ul style="list-style-type: none"> ▸ The value of the allotment made under the Food Stamp Act of 1977; ▸ Payments received under the Domestic Volunteer Service Act of 1973 (employment through VISTA, Retired Senior Volunteer Program, Foster Grandparents Program, youthful offender incarceration alternatives, senior companions); ▸ Payments received under the Alaskan Native Claims Settlement Act; ▸ Income derived from the disposition of funds to the Grand River Band of Ottawa Indians; ▸ Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes; ▸ Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program; ▸ Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721); ▸ The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U.S. Claims Court and the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands; ▸ Amounts of scholarships funded under Title IV of the Higher Education Act of 1965, including awards under the Federal work

study program or under the Bureau of Indian Affairs student assistance programs;

- ▶ Payments received from programs funded under Title V of the Older Americans Act of 1985 (Green Thumb, Senior Aides, Older American Community Service Employment Program);
- ▶ Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.);
- ▶ Earned income tax credit refund payments received on or after January 1, 1991, including advanced earned income credit payments;
- ▶ 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;
- ▶ Payments received under programs funded in whole or in part under the Job Training Partnership Act (employment and training programs for Native Americans and migrant and seasonal farm workers, Job Corps, state job training programs and career intern programs, AmeriCorps);
- ▶ Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation;
- ▶ Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990;
- ▶ Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran;
- ▶ 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; and
- ▶ Allowances, earnings, and payments to individuals participating in programs under the Workforce Investment Act of 1998.

Assets Inclusions and Exclusions

In general terms, an asset is a cash or non cash item that can be converted to cash. Note that when assets are included in the calculation of Part 5 annual income, it is the income earned from the asset - not the value of the asset - that is counted.

This table presents the Part 5 asset inclusions and exclusions as stated in the Code of Federal Regulations.

Statements from 24 CFR Part 5 - April 1, 1998

Inclusions

1. Cash held in savings accounts, checking accounts, safe deposit boxes, homes, etc. For savings accounts, use the current balance. For checking accounts, use the average 6-month balance.
2. Cash value of revocable trusts available to the applicant.
3. Equity in rental property or other capital investments. Equity is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and all reasonable costs (e.g., broker fees) that would be incurred in selling the asset. Under HOME, equity in the family's primary residence is not considered in the calculation of assets for owner-occupied rehabilitation projects.
4. Cash value of stocks, bonds, Treasury bills, certificates of deposit and money market accounts.
5. Individual retirement and Keogh accounts (even though withdrawal would result in a penalty).
6. Retirement and pension funds.
7. Cash value of life insurance policies available to the individual before death (e.g., surrender value of a whole life or universal life policy).
8. Personal property held as an investment such as gems, jewelry, coin collections, antique cars, etc.
9. Lump sum or one-time receipts, such as inheritances, capital gains, lottery winnings, victim's restitution, insurance settlements and other amounts not intended as periodic payments.
10. Mortgages or deeds of trust held by an applicant.

Exclusions

1. Necessary personal property, except as noted in number 8 of Inclusions, such as clothing, furniture, cars and vehicles specially equipped for persons with disabilities.
2. Interest in Indian trust lands.
3. Assets not effectively owned by the applicant. That is, when assets are held in an individual's name, but the assets and any income they earn accrue to the benefit of someone else who is not a member of the household and that other person is responsible for income taxes incurred on income generated by the asset.
4. Equity in cooperatives in which the family lives.
5. Assets not accessible to and that provide no income for the applicant.
6. Term life insurance policies (i.e., where there is no cash value).
7. Assets that are part of an active business. "Business" does not include rental of properties that are held as an investment and not a main occupation.

ENVIRONMENTAL REVIEW

Environmental review responsibilities are a general condition of all NSP grants and must be completed prior to committal (obligation) of any funds other than project delivery costs, design activities and other exempt activities. An environmental review must be completed on each property pursuant to Section 104 (f) of the Housing and Community Development Act of 1974, as amended, and contained in 24 CFR Part 58, which requires compliance with the policies of the National Environmental Policy Act of 1969 (NEPA) and other provisions of law which further the purposes of NEPA. Funds cannot be released by the State until it has been determined that the proposed project(s) will not significantly affect the environment. The environmental review process should, therefore, be initiated as soon as the grant agreement is executed and proposed activities are determined.

In addition, the Mississippi Department of Archives and History will review properties for historical significance. For HUD guidance on conducting environment reviews visit the following website: <http://www.hud.gov/offices/cpd/environment/review>.

National Environmental Policy Act (NEPA)

NSP projects funded are subject to the provisions of the NEPA, which establishes national policy, goals, and procedures for protecting, restoring, and enhancing environmental quality, as well as the environmental procedures, standards, guidelines, and other obligations concerning: