

Admissions and Continued Occupancy Policy (ACOP) for the Public Housing Program

BETHLEHEM HOUSING AUTHORITY

Approved by the HA Board of Commissioners:

Submitted to HUD:

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ADMISSIONS AND CONTINUED OCCUPANCY POLICY
FOR THE
PUBLIC HOUSING PROGRAM

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Glossary

Introduction

ABOUT THE ACOP

REFERENCES CITED IN THE ACOP

Authority for PHA policies is derived from many sources. Primary among these sources are regulations and guidance issued by HUD. State law also directs PHA policy. State law must be followed where such law exists and does not conflict with federal regulations. In the absence of legal requirements or HUD guidance, industry practice may lead to PHA policy. Finally, the public housing lease will affect PHA policy and therefore must be consistent with federal and state laws and regulations.

HUD

HUD provides the primary source of PHA policy through federal regulations, HUD Notices and handbooks. Compliance with federal regulations, current HUD Notices and HUD handbooks is mandatory.

HUD provides nonmandatory guidance to PHAs through HUD published guidebooks. Expired HUD Notices and handbooks also provide guidance for PHA policy. Following HUD guidance is optional, as long as PHA policies comply with federal law, federal regulations and mandatory policy. Because HUD has already determined that the guidance it provides is consistent with mandatory policies, PHA reliance on HUD guidance provides the PHA with a “safe harbor.”

Content contained on the HUD website can provide further clarification of HUD policies. For example, FAQs on the HUD website can provide direction on the application of federal regulations to a specific pattern.

State Law

Where there is no mandatory federal guidance, PHAs must comply with state law, if it exists. Where state law is more restrictive than federal law, but does not conflict with it, the PHA should follow the state law.

Industry Practice

Where no law or HUD authority exists on a particular subject, industry practice may support PHA policy. An industry practice is a way of doing things that is followed by most housing authorities.

RESOURCES CITED IN THE ACOP

The ACOP cites several documents. Where a document or resource is cited frequently, it may be abbreviated. Where it is cited only once or twice, the ACOP may contain the entire name of the document or resource. Following is a key to abbreviations used for various sources that are frequently cited in the ACOP, and a list of references and document locations that are referenced in the ACOP or that may be helpful to you.

Public Housing Occupancy Guidebook

In June 2020 HUD began issuing a new version of the *Public Housing Occupancy Guidebook* chapter-by-chapter. Unlike the previous version of the guidebook in which chapters were numbered, the new version includes chapter names, but no numbers. As the new version of the guidebook has not yet been fully released, and since the previous version of the guidebook contains guidance not found in the new version, the policy cites both versions of the guidebook. Therefore, where the *Public Housing Occupancy Guidebook* is cited in the policy, the citation will make a distinction between the “old” and “new” versions of the guidebook. The “old” version of the guidebook will continue to be cited as *PH OCC GB* with a chapter/page reference (example: PH OCC GB, p. 5-4). If HUD has also released a new chapter on the same topic with information that either adds new information or updates existing information from the previous guidebook, the new guidebook will be cited as *New PH OCC GB* with a chapter title and page reference (example: New PH OCC GB, *Lease Requirements*, p. 11).

Abbreviations

Throughout the ACOP, abbreviations are used to designate certain documents in citations. The following is a table of abbreviations of documents cited by the ACOP.

Abbreviation	Document
CFR	Code of Federal Regulations
HUD-50058 IB	HUD-50058 Instruction Booklet
PH OCC GB	Public Housing Occupancy Guidebook, June 2003
New PH OCC GB	Public Housing Occupancy Guidebook, Various dates of release
RHIIP FAQs	Rental Housing Integrity Improvement Program (RHIIP) Frequently Asked Questions
VG	Verification Guidance, March 2004 (attachment to PIH Notice 2004-1)

Resources and Where to Find Them

Following is a list of resources helpful to the PHA or referenced in the ACOP, and the online location of each.

Document and Location
Code of Federal Regulations http://www.ecfr.gov
Earned Income Disregard FAQs https://www.hud.gov/program_offices/public_indian_housing/phr/about/ao_faq_eid
Enterprise Income Verification (EIV) System PHA Security Procedures, Version 1.2, issued January 2005 https://www.hud.gov/sites/documents/EIVSECGUIDEPHA.PDF
Executive Order 11063 https://www.archives.gov/federal-register/codification/executive-order/11063.html
Federal Register https://www.federalregister.gov/
HUD-50058 Instruction Booklet https://www.hud.gov/sites/documents/FORM50058INSTRUCTBOOKLET.PDF
Joint Statement of the Department of Housing and Urban Development and the Department of Justice, issued May 17, 2004 https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf
Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007 https://www.lep.gov/guidance/HUD_guidance_Jan07.pdf
Notice PIH 2010-26, Nondiscrimination and Accessibility Notice http://www.hud.gov/offices/pih/publications/notices/10/pih2010-26.pdf
Notice PIH 2017-12, Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System https://www.hud.gov/sites/documents/PIH2017-12EIVNOTICE.PDF
Notice PIH 2018-24, Verification of Social Security Numbers (SSNs) Social Security (SS) and Supplemental Security Income (SSI) Benefits; and Effective Use of the Enterprise Income Verification (EIV) System's Identity Verification Report https://www.hud.gov/sites/dfiles/PIH/documents/PIH-2018-24_EIV_SSN_Notice_FINAL.pdf
OMB Circular A-133 https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A133/a133.pdf
Public Housing Occupancy Guidebook, June 2003 https://www.hud.gov/sites/documents/DOC_10760.PDF
VAWA Resources https://www.hud.gov/vawa

The HUD website is <https://www.hud.gov/>.

Guidebooks, handbooks, and other HUD resources may be found at the HUDClips website:
https://www.hud.gov/program_offices/administration/hudclips

Chapter 1

OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION

The PHA receives its operating subsidy for the public housing program from the Department of Housing and Urban Development. The PHA is not a federal department or agency. A public housing agency (PHA) is a governmental or public body, created and authorized by state law to develop and operate housing and housing programs for low-income families. The PHA enters into an Annual Contributions Contract with HUD to administer the public housing program. The PHA must ensure compliance with federal laws, regulations and notices and must establish policies and procedures to clarify federal requirements and to ensure consistency in program operation.

This chapter contains information about the PHA and its programs with emphasis on the public housing program. It also contains information about the purpose, intent and use of the plan and guide.

There are three parts to this chapter:

Part I: The Public Housing Agency (PHA). This part includes a description of the PHA, its jurisdiction, its programs, and its mission and intent.

Part II: The Public Housing Program. This part contains information about public housing operation, roles and responsibilities, and partnerships.

Part III: The Admissions and Continued Occupancy (ACOP). This part discusses the purpose and organization of the plan and its revision requirements.

PART I: THE PHA

1-I.A. OVERVIEW

This part describes the PHA's creation and authorization, the general structure of the organization, and the relationship between the PHA Board and staff.

1-I.B. ORGANIZATION AND STRUCTURE OF THE PHA

Public housing is funded by the federal government and administered by the **Bethlehem Housing Authority (BHA)** for the jurisdiction of the **City of Bethlehem / County of Northampton**.

PHAs are governed by a board of officials that are generally called “commissioners.” Although some PHAs may use a different title for their officials, this document will hitherto refer to the “board of commissioners” or the “board” when discussing the board of governing officials.

Commissioners are appointed in accordance with state housing law and generally serve in the same capacity as the directors of a corporation. The board of commissioners establishes policies under which the PHA conducts business and ensures that those policies are followed by PHA staff. The board is responsible for preserving and expanding the agency’s resources and assuring the agency’s continued viability and success.

Formal actions of the PHA are taken through written resolutions, adopted by the board and entered into the official records of the PHA.

The principal staff member of the PHA is the executive director (ED), who is selected and hired by the board. The ED oversees the day-to-day operations of the PHA and is directly responsible for carrying out the policies established by the commissioners. The ED’s duties include hiring, training, and supervising the PHA’s staff, as well as budgeting and financial planning for the agency. Additionally, the ED is charged with ensuring compliance with federal and state laws, and program mandates. In some PHAs, the ED is known by another title, such as chief executive officer or president.

1-I.C. PHA MISSION

The purpose of a mission statement is to communicate the purpose of the agency to people inside and outside of the agency. It provides the basis for strategy development, identification of critical success factors, resource allocation decisions, as well as ensuring client and stakeholder satisfaction.

PHA Policy

Tag line: A Pathway to Empowerment

Vision: to be a housing provider known for integrity, innovation and empowerment in our community.

Mission: our agency provides quality affordable housing while developing innovative communities and empowerment opportunities for all.

1-I.D. THE PHA'S COMMITMENT TO ETHICS AND SERVICE

As a public service agency, the PHA is committed to providing excellent service to all public housing applicants, residents, and the public. To provide superior service, the PHA resolves to:

- Administer applicable federal and state laws and regulations to achieve high ratings in compliance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.
- Provide decent, safe, and sanitary housing in good repair – in compliance with program uniform physical condition standards – for very low- and low-income families.
- Achieve a healthy mix of incomes in its public housing developments by attracting and retaining higher income families and by working toward deconcentration of poverty goals.
- Encourage self-sufficiency of participant families and assist in the expansion of family opportunities which address educational, socio-economic, recreational and other human services needs.
- Promote fair housing and the opportunity for very low- and low-income families of all races, ethnicities, national origins, religions, ethnic backgrounds, and with all types of disabilities, to participate in the public housing program and its services.
- Create positive public awareness and expand the level of family and community support in accomplishing the PHA's mission.
- Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.
- Administer an efficient, high-performing agency through continuous improvement of the PHA's support systems and commitment to our employees and their development.

The PHA will make every effort to keep residents informed of program rules and regulations, and to advise participants of how the program rules affect them.

PART II: THE PUBLIC HOUSING PROGRAM

1-II.A. OVERVIEW AND HISTORY OF THE PROGRAM

The intent of this section is to provide the public and staff with an overview of the history and operation of public housing.

The United States Housing Act of 1937 (the “Act”) is responsible for the birth of federal housing program initiatives, known as public housing. The Act was intended to provide financial assistance to states and cities for public works projects, slum clearance and the development of affordable housing for low-income residents. There have been many changes to the program since its inception in 1937.

The Housing Act of 1965 established the availability of federal assistance, administered through local public agencies, to provide rehabilitation grants for home repairs and rehabilitation. This act also created the federal Department of Housing and Urban Development (HUD).

The Housing Act of 1969 created an operating subsidy for the public housing program for the first time. Until that time, public housing was a self-sustaining program.

In 1998, the Quality Housing and Work Responsibility Act (QHWRA) – also known as the Public Housing Reform Act or Housing Act of 1998 – was signed into law. Its purpose was to provide more private sector management guidelines to the public housing program and provide residents with greater choices. It also allowed PHAs more remedies to replace or revitalize severely distressed public housing developments. Highlights of the Reform Act include: the establishment of flat rents; the requirement for PHAs to develop five-year and annual plans; income targeting, a requirement that 40% of all new admissions in public housing during any given fiscal year be reserved for extremely low-income families; and resident self-sufficiency incentives.

1-II.B. PUBLIC HOUSING PROGRAM BASICS

HUD writes and publishes regulations to implement public housing laws enacted by Congress. HUD contracts with the PHA to administer programs in accordance with HUD regulations and provides an operating subsidy to the PHA. The PHA must create written policies that are consistent with HUD regulations. Among these policies is the PHA's Admissions and Continued Occupancy Policy (ACOP). The ACOP must be approved by the board of commissioners of the PHA.

The job of the PHA pursuant to HUD regulations is to provide decent, safe, and sanitary housing, in good repair, to low-income families at an affordable rent. The PHA screens applicants for public housing and, if they are determined to be eligible for the program, the PHA makes an offer of a housing unit. If the applicant accepts the offer, the PHA and the applicant will enter into a written lease agreement. At this point, the applicant becomes a tenant in the public housing program.

In the context of the public housing program, a tenant is defined as the adult person(s) (other than a live-in aide who (1) executed the lease with the PHA as lessee of the dwelling unit, or, if no such person now resides in the unit, (2) who resides in the unit, and who is the remaining head of household of the tenant family residing in the dwelling unit. [24 CFR 966.53]. The Public Housing Occupancy Guidebook refers to tenants as "residents." The terms "tenant" and "resident" are used interchangeably in this policy. Additionally, this policy uses the term "family" or "families" for residents or applicants, depending on context.

Since the PHA owns the public housing development, the PHA is the landlord. The PHA must comply with all the legal and management responsibilities of a landlord in addition to administering the program in accordance with HUD regulations and PHA policy.

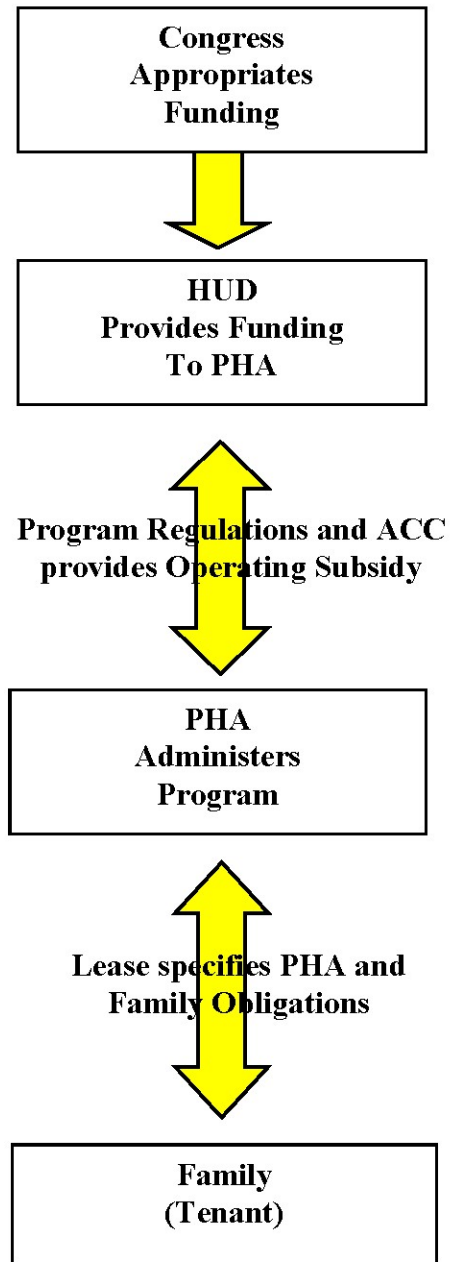
1-II.C. PUBLIC HOUSING PARTNERSHIPS

To administer the public housing program, the PHA must enter into an Annual Contributions Contract (ACC) with HUD. The PHA also enters into a contractual relationship with the tenant through the public housing lease. These contracts define and describe the roles and responsibilities of each party.

In addition to the ACC, the PHA and family must also comply with federal regulations and other HUD publications and directives. For the program to work and be successful, all parties involved – HUD, the PHA, and the tenant – play an important role.

The chart on the following page illustrates key aspects of these relationships.

The Public Housing Relationships



What does HUD do?

Federal law is the source of HUD responsibilities. HUD has the following major responsibilities:

- Develop regulations, requirements, handbooks, notices and other guidance to implement housing legislation passed by Congress
- Allocate operating subsidies to PHAs
- Allocate capital funding to PHAs
- Provide technical assistance to PHAs on interpreting and applying program requirements
- Monitor PHA compliance with program requirements and PHA performance in program administration.

What does the PHA do?

The PHA's responsibilities originate in federal regulations and the ACC. The PHA owns and manages public housing developments, administers the program under contract with HUD and has the following major responsibilities:

- Ensure compliance with all non-discrimination, equal opportunity, and fair housing laws, and ensure that the program is accessible to persons with disabilities
- Establish local policies and procedures for operating the program
- Accept applications from interested applicant families and determine whether they are income eligible for the program
- Maintain waiting list and select families for admission
- Screen applicant families for suitability as renters
- Maintain housing units by making any necessary repairs in a timely manner
- Make unit offers to families (minimize vacancies without overcrowding)
- Maintain properties to the standard of decent, safe, sanitary, and in good repair (including assuring compliance with uniform physical conditions standards)
- Make sure the PHA has adequate financial resources to maintain its housing stock
- Perform regular reexaminations of family income and composition in accordance with HUD requirements
- Collect rent due from the assisted family and comply with and enforce provisions of the lease
- Ensure that families comply with program rules
- Provide families with prompt and professional service
- Comply with HUD regulations and requirements, the Annual Contributions Contract, HUD-approved applications for funding, the PHA's ACOP, and other applicable federal, state and local laws.

What does the tenant do?

The tenant's responsibilities are articulated in the public housing lease. The tenant has the following broad responsibilities:

- Comply with the terms of the lease and PHA house rules, as applicable
- Provide the PHA with complete and accurate information, determined by the PHA to be necessary for administration of the program
- Cooperate in attending all appointments scheduled by the PHA
- Allow the PHA to inspect the unit at reasonable times and after reasonable notice
- Take responsibility for care of the housing unit, including any violations of uniform physical condition standards caused by the family
- Not engage in drug-related or violent criminal activity
- Notify the PHA before moving or termination of the lease
- Use the assisted unit only for residence and as the sole residence of the family. Not sublet the unit or assign the lease
- Promptly notify the PHA of any changes in family composition
- Not commit fraud, bribery, or any other corrupt or criminal act in connection with any housing programs
- Take care of the housing unit and report maintenance problems to the PHA promptly

If all parties fulfill their obligations in a professional and timely manner, the program responsibilities will be fulfilled in an effective manner.

1-II.D. APPLICABLE REGULATIONS

Applicable regulations include:

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 35: Lead-Based Paint
- 24 CFR Part 902: Public Housing Assessment System
- 24 CFR Part 903: Public Housing Agency Plans
- 24 CFR Part 945: Designated Housing
- 24 CFR Part 960: Admission and Occupancy Policies
- 24 CFR Part 965: PHA-Owned or Leased Projects – General Provisions
- 24 CFR Part 966: Lease and Grievance Procedures

PART III: THE ADMISSIONS AND CONTINUED OCCUPANCY POLICIES

1-III.A. OVERVIEW AND PURPOSE OF THE POLICY

The ACOP is the PHA's written statement of policies used to carry out the housing program in accordance with federal law and regulations, and HUD requirements. The ACOP is required by HUD and it must be available for public review [CFR 24 Part 903]. The ACOP also contains policies that support the objectives contained in the PHA's Agency Plan.

All issues related to public housing not addressed in this ACOP are governed by federal regulations, HUD handbooks and guidebooks, notices and applicable state and local laws. The policies in this ACOP have been designed to ensure compliance with the consolidated ACC and all HUD-approved applications for program funding. The PHA is responsible for complying with all changes in HUD regulations pertaining to public housing. If such changes conflict with this plan, HUD regulations will have precedence.

1-III.B. CONTENTS OF THE POLICY

Unlike the housing choice voucher program, HUD regulations for public housing do not contain a list of what must be included in the ACOP. However, individual regulations contain requirements of inclusion in the PHA's written policy. At a minimum, the ACOP plan should cover PHA policies on these subjects:

- The organization of the waiting list and how families are selected and offered available units, including any PHA admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening the PHA waiting list (Chapters 4 and 5)
- Transfer policies and the circumstances under which a transfer would take precedence over an admission (Chapter 12)
- Standards for determining eligibility, suitability for tenancy, and the size and type of the unit needed (Chapters 3 and 5)
- Procedures for verifying the information the family has provided (Chapter 7)
- The method for achieving deconcentration of poverty and income-mixing of public housing developments (Chapter 4)
- Grievance procedures (Chapter 14)
- Policies concerning payment by a family to the PHA of amounts the family owes the PHA (Chapter 15 and 16)
- Interim redeterminations of family income and composition (Chapter 9)
- Policies regarding community service requirements; (Chapter 11)
- Policies and rules about safety and ownership of pets in public housing (Chapter 10).

New Approach to Policy Development

HUD has developed an approach to monitoring PHAs that emphasizes the importance of consistency in operation and decision-making. The ACOP supports that goal by clearly setting forth the PHA's operating policies.

A primary focus of HUD's Rental Integrity Monitoring (RIM) program has been consistency in how PHAs conduct their business and in how HUD monitors PHA activities. Referring to and following the ACOP is essential to maintaining consistency in applying PHA policy.

HUD makes a distinction between mandatory policies and non-mandatory policies:

- Mandatory policies: those driven by legislation, regulations, current handbooks, current PIH notices, and legal opinions from the Office of General Counsel
- Optional, non-binding guidance: includes guidebooks, FAQs, PIH notices that have expired, and recommendations from individual HUD staff.

HUD expects PHAs to develop policies and procedures that are consistent with mandatory policies and to make clear the optional policies the PHA has adopted. The ACOP is comprised of mandatory policies and optional PHA policy. HUD's new direction emphasizes the need for a clearly written and comprehensive ACOP to guide staff in the clear and consistent application of policy.

HUD suggestions, recommendations, written issuances, and guidance are consistent with mandatory federal policy. Therefore, using HUD guidance in the preparation of PHA policy, even though it is not mandatory, provides a PHA with a "safe harbor." If a PHA adopts its own optional policy, it must make its own determination that such policy is consistent with legislation, regulations, and other mandatory requirements. There may be very good reasons for adopting a policy or procedure that is different than that suggested by HUD, but PHAs should carefully think through those decisions and be able to articulate how their policy is consistent with federal laws, regulations and mandatory policy.

1-III.C. UPDATING AND REVISING THE POLICY

The PHA will revise this ACOP as needed to comply with changes in HUD regulations. The original policy and any changes must be approved by the board of commissioners of the PHA, the pertinent sections included in the Agency Plan, and a copy provided to HUD.

PHA Policy

The PHA will review and update the ACOP as needed to reflect changes in regulations, PHA operations, or when needed to ensure staff consistency in operation.

Chapter 2

FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION

This chapter explains the laws and HUD regulations requiring PHAs to affirmatively further civil rights and fair housing in all federally assisted housing programs. The letter and spirit of these laws are implemented through consistent policy and procedures. The responsibility to further nondiscrimination pertains to all areas of the PHA's public housing operations.

This chapter describes HUD regulations and PHA policies related to these topics in three parts:

Part I: Nondiscrimination. This part presents the body of laws and regulations governing the responsibilities of the PHA regarding nondiscrimination.

Part II: Policies Related to Persons with Disabilities. This part discusses the rules and policies of the public housing program related to reasonable accommodation for persons with disabilities. These rules and policies are based on the Fair Housing Act (42.U.S.C.) and Section 504 of the Rehabilitation Act of 1973, and incorporate guidance from the Joint Statement of The Department of Housing and Urban Development and the Department of Justice (DOJ), issued May 17, 2004.

Part III: Prohibition of Discrimination Against Limited English Proficiency Persons. This part details the obligations of the PHA to ensure meaningful access to the public housing program and its activities by persons with limited English proficiency (LEP). This part incorporates the Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons published January 22, 2007, in the *Federal Register*.

PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

Federal laws require PHAs to treat all applicants and tenant families equally, providing the same quality of service, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, and disability. In addition, HUD regulations provide for additional protections regarding sexual orientation, gender identity, and marital status. The PHA will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Orders 11063 and 13988
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the *Federal Register* February 3, 2012, and further clarified in Notice PIH 2014-20
- The Violence against Women Act (VAWA)
- Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted

When more than one civil rights law applies to a situation, the laws will be read and applied together.

PHA Policy

No state or local nondiscrimination laws or ordinances apply.

2-I.B. NONDISCRIMINATION

Federal regulations prohibit discrimination against certain protected classes and other groups of people. State and local requirements, as well as PHA policies, can prohibit discrimination against additional classes of people.

The PHA shall not discriminate because of race, color, sex, religion, familial status, age, disability or national origin (called “protected classes”).

Familial status includes children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18.

The PHA will not discriminate on the basis of marital status, gender identity, or sexual orientation [FR Notice 02/03/12; Executive Order 13988].

PHA Policy

The PHA does not identify any additional protected classes.

The PHA will not use any of these factors to:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the public housing program
- Provide housing that is different from that provided to others
- Subject anyone to segregation or disparate treatment
- Subject anyone to sexual harassment
- Restrict anyone's access to any benefit enjoyed by others in connection with the housing program
- Treat a person differently in determining eligibility or other requirements for admission
- Steer an applicant or tenant toward or away from a particular area based on any of these factors
- Deny anyone access to the same level of services
- Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program
- Discriminate in the provision of residential real estate transactions
- Discriminate against someone because they are related to or associated with a member of a protected class
- Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class

Providing Information to Families

The PHA must take steps to ensure that families are fully aware of all applicable civil rights laws. As part of the public housing orientation process, the PHA will provide information to public housing applicant families about civil rights requirements.

2-I.C. DISCRIMINATION COMPLAINTS

General Housing Discrimination Complaints

If an applicant or tenant family believes that any family member has been discriminated against by the PHA, the family should advise the PHA. The PHA should make every reasonable attempt to determine whether the applicant or tenant family's assertions have merit and take any warranted corrective action.

In all cases, the PHA will advise the family that they may file a fair housing complaint if the family feels they have been discriminated against under the Fair Housing Act.

PHA Policy

Applicants or tenant families who believe that they have been subject to unlawful discrimination may notify the PHA either orally or in writing.

Within 10 **calendar** days of receiving the complaint, the PHA will investigate and attempt to remedy discrimination complaints made against the PHA. The PHA will also advise the family of their right to file a fair housing complaint with HUD's Office of Fair Housing and Equal Opportunity (FHEO). The fair housing poster, posted in conspicuous and accessible locations in PHA lobbies, will reference how to file a complaint with FHEO.

The PHA will keep a record of all complaints, investigations, notices, and corrective actions. (See Chapter 16.)

Complaints under the Equal Access Final Rule [Notice PIH 2014-20]

Notice PIH 2014-20 requires an articulated complaint process for allegations of discrimination under the Equal Access Final rule. The Equal Access Final Rule requires that PHAs provide equal access regardless of marital status, gender identity, or sexual orientation. The PHA will be informed on these obligations by the HUD Field Office or FHEO when an Equal Access complaint investigation begins.

PHA Policy

Applicants or tenant families who believe that they have been subject to unlawful discrimination based on marital status, gender identity, or sexual orientation under the Equal Access Rule may notify the PHA either orally or in writing.

Within 10 **calendar** days of receiving the complaint, the PHA will provide a written notice to those alleged to have violated the rule. The PHA will also send a written notice to the complainant informing them that notice was sent to those alleged to have violated the rule, as well as information on how to complete and submit a housing discrimination complaint form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).

The PHA will attempt to remedy discrimination complaints made against the PHA and will investigate all allegations of discrimination.

Within 10 **calendar** days following the conclusion of the PHA's investigation, the PHA will provide the complainant and those alleged to have violated the rule with findings and either a proposed corrective action plan or an explanation of why corrective action is not warranted.

The PHA will keep a record of all complaints, investigations, notices, and corrective actions. (See Chapter 16.)

VAWA Complaint Processing [Notice FHEO 2023-01]

A complainant may, not later than one year after an alleged VAWA violation has occurred or terminated, file a complaint with FHEO alleging such violation. If there is a violation that began prior to a year before the complaint is filed, but it continues into the one-year time period, HUD will accept the complaint. FHEO will investigate the complaint if it is timely and FHEO otherwise has jurisdiction. If a complaint is filed more than one year after the alleged violation occurred or terminated, FHEO may, but is not required to, investigate the allegations under the additional authority and procedures described in FHEO 2023-01.

Complaints do not need to allege a violation of the Fair Housing Act for FHEO to accept and investigate the complaint.

PHA Policy

Applicants or tenant families who wish to file a VAWA complaint against the PHA may notify the PHA either orally or in writing.

The PHA will advise the family of their right to file a VAWA complaint with HUD's Office of Fair Housing and Equal Opportunity (FHEO). The PHA will inform the family that not later than one year after an alleged VAWA violation has occurred or terminated, applicants and tenants who believe they have been injured by a VAWA violation or will be injured by such a violation that is about to occur may file a VAWA complaint using FHEO's online complaint form via mail, email, or telephone.

The PHA will attempt to remedy complaints made against the PHA and will conduct an investigation into all allegations of discrimination.

The PHA will keep a record of all complaints, investigations, notices, and corrective actions. (See Chapter 16.)

PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES

2-II.A. OVERVIEW

One type of disability discrimination prohibited by the Fair Housing Act is the refusal to make reasonable accommodation in rules, policies, practices, or services when such accommodation may be necessary to afford a person with a disability the equal opportunity to use and enjoy a program or dwelling under the program.

The PHA must ensure that persons with disabilities have full access to the PHA's programs and services. This responsibility begins with the first inquiry of an interested family and continues through every programmatic area of the public housing program [24 CFR 8].

The PHA must provide a notice to each tenant that the tenant may, at any time during the tenancy, request reasonable accommodation of a handicap of a household member, including reasonable accommodation so that the tenant can meet lease requirements or other requirements of tenancy [24 CFR 966.7(b)].

PHA Policy

The PHA will ask all applicants and resident families if they require any type of accommodations, in writing, on the intake application, reexamination documents, and notices of adverse action by the PHA, by including the following language:

“If you or anyone in your family is a person with disabilities, and you require a specific accommodation in order to fully utilize our programs and services, please contact the housing authority.”

A specific position and phone number will be provided as the contact person for requests for accommodation for persons with disabilities.

The PHA will display posters and other housing information and signage in locations throughout the PHA's office in such a manner as to be easily readable from a wheelchair.

2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

A “reasonable accommodation” is a change, exception, or adjustment to a policy, practice or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. Since policies and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others will sometimes deny them an equal opportunity to use and enjoy a dwelling. [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]

Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden" for the PHA, or result in a “fundamental alteration” in the nature of the program or service offered. A fundamental alteration is a modification that alters the essential nature of a provider’s operations.

Types of Reasonable Accommodations

When it is reasonable (see definition above and Section 2-II.E), the PHA shall accommodate the needs of a person with disabilities. Examples include but are not limited to:

- Permitting applications and reexaminations to be completed by mail
- Providing “large-print” forms
- Conducting home visits
- Permitting a higher utility allowance for the unit if a person with disabilities requires the use of specialized equipment related to the disability
- Modifying or altering a unit or physical system if such a modification or alteration is necessary to provide equal access to a person with a disability
- Installing a ramp into a dwelling or building
- Installing grab bars in a bathroom
- Installing visual fire alarms for hearing impaired persons
- Allowing a PHA-approved live-in aide to reside in the unit if that person is determined to be essential to the care of a person with disabilities, is not obligated for the support of the person with disabilities, and would not be otherwise living in the unit.
- Providing a designated handicapped-accessible parking space
- Allowing an assistance animal
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with PHA staff
- Displaying posters and other housing information in locations throughout the PHA's office in such a manner as to be easily readable from a wheelchair

2-II.C. REQUEST FOR AN ACCOMMODATION

If an applicant or participant indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability, HUD requires that the PHA treat the information as a request for a reasonable accommodation, even if no formal request is made [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

The family must explain what type of accommodation is needed to provide the person with the disability full access to the PHA's programs and services.

If the need for the accommodation is not readily apparent or known to the PHA, the family must explain the relationship between the requested accommodation and the disability.

PHA Policy

The PHA will encourage the family to make its request in writing using a reasonable accommodation request form. However, the PHA will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted.

2-II.D. VERIFICATION OF DISABILITY

The regulatory civil rights definition for persons with disabilities is provided in Exhibit 2-1 at the end of this chapter. The definition of a person with a disability for the purpose of obtaining a reasonable accommodation is much broader than the HUD definition of disability which is used for waiting list preferences and income allowances.

Before providing an accommodation, the PHA must determine that the person meets the definition of a person with a disability, and that the accommodation will enhance the family's access to the PHA's programs and services.

If a person's disability is obvious or otherwise known to the PHA, and if the need for the requested accommodation is also readily apparent or known, no further verification will be required [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

If a family indicates that an accommodation is required for a disability that is not obvious or otherwise known to the PHA, the PHA must verify that the person meets the definition of a person with a disability, and that the limitations imposed by the disability require the requested accommodation.

When verifying a disability, the PHA will follow the verification policies provided in Chapter 7. All information related to a person's disability will be treated in accordance with the confidentiality policies provided in Chapter 16 (Program Administration). In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability:

- Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].
- The PHA must request only information that is necessary to evaluate the disability-related need for the accommodation. The PHA may not inquire about the nature or extent of any disability.
- Medical records will not be accepted or retained in the participant file.
- In the event that the PHA does receive confidential information about a person's specific diagnosis, treatment, or the nature or severity of the disability, the PHA will dispose of it. In place of the information, the PHA will note in the file that the disability and other requested information have been verified, the date the verification was received, and the name and address of the knowledgeable professional who sent the information [Notice PIH 2010-26].

2-II.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act, Notice PIH 2010-26]

The PHA must approve a request for an accommodation if the following three conditions are met.

- The request was made by or on behalf of a person with a disability.
- There is a disability-related need for the accommodation.
- The requested accommodation is reasonable, meaning it would not impose an undue financial and administrative burden on the PHA, or fundamentally alter the nature of the PHA's operations.

Requests for accommodations must be assessed on a case-by-case basis. The determination of undue financial and administrative burden must be made on a case-by-case basis involving various factors, such as the overall size of the PHA's program with respect to the number of employees, type of facilities and size of budget, type of operation including composition and structure of workforce, the nature and cost of the requested accommodation, and the availability of alternative accommodations that would effectively meet the family's disability-related needs.

Before making a determination whether to approve the request, the PHA may enter into discussion and negotiation with the family, request more information from the family, or may require the family to sign a consent form so that the PHA may verify the need for the requested accommodation.

PHA Policy

After a request for accommodation is presented, the PHA will respond, in writing, within 10 **calendar** days.

If the PHA denies a request for an accommodation because there is no relationship, or nexus, found between the disability and the requested accommodation, the notice will inform the family of the right to appeal the PHA's decision through an informal hearing (if applicable) or the grievance process (see Chapter 14).

If the PHA denies a request for an accommodation because it is not reasonable (it would impose an undue financial and administrative burden or fundamentally alter the nature of the PHA's operations), the PHA will discuss with the family whether an alternative accommodation could effectively address the family's disability-related needs without a fundamental alteration to the public housing program and without imposing an undue financial and administrative burden.

If the PHA believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, the PHA will notify the family, in writing, of its determination within 10 **calendar** days from the date of the most recent discussion or communication with the family. The notice will inform the family of the right to appeal the PHA's decision through an informal hearing (if applicable) or the grievance process (see Chapter 14).

2-II.F. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS

HUD regulations require the PHA to take reasonable steps to ensure that persons with disabilities related to hearing and vision have reasonable access to the PHA's programs and services [24 CFR 8.6].

At the initial point of contact with each applicant, the PHA shall inform all applicants of alternative forms of communication that can be used other than plain language paperwork.

PHA Policy

To meet the needs of persons with hearing impairments, TTD/TTY (text telephone display / teletype) communication will be available.

To meet the needs of persons with vision impairments, large-print and audio versions of key program documents will be made available upon request. When visual aids are used in public meetings or presentations, or in meetings with PHA staff, one-on-one assistance will be provided upon request.

Additional examples of alternative forms of communication are sign language interpretation; having material explained orally by staff; or having a third party representative (a friend, relative or advocate, named by the applicant) to receive, interpret and explain housing materials and be present at all meetings.

2-II.G. PHYSICAL ACCESSIBILITY

The PHA must comply with a variety of regulations pertaining to physical accessibility, including the following.

- Notice PIH 2010-26
- Section 504 of the Rehabilitation Act of 1973
- The Americans with Disabilities Act of 1990
- The Architectural Barriers Act of 1968
- The Fair Housing Act of 1988

The PHA's policies concerning physical accessibility must be readily available to applicants and resident families. They can be found in three key documents.

- This policy, the Admissions and Continued Occupancy Policy, describes the key policies that govern the PHA's responsibilities with regard to physical accessibility.
- Notice PIH 2010-26 summarizes information about pertinent laws and implementing regulations related to nondiscrimination and accessibility in federally-funded housing programs.
- The PHA Plan provides information about self-evaluation, needs assessment, and transition plans.

The design, construction, or alteration of PHA facilities must conform to the Uniform Federal Accessibility Standards (UFAS). Notice PIH 2010-26 contains specific information on calculating the percentages of units for meeting UFAS requirements.

Newly constructed facilities must be designed to be readily accessible to and usable by persons with disabilities. Alterations to existing facilities must be accessible to the maximum extent feasible, defined as not imposing an undue financial and administrative burden on the operations of the public housing program.

2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

A PHA's decision to deny or terminate the assistance of a family that includes a person with disabilities is subject to consideration of reasonable accommodation [24 CFR 966.7].

When applicants with disabilities are denied assistance, the notice of denial must inform them of their right to request an informal hearing [24 CFR 960.208(a)].

When a family's lease is terminated, the notice of termination must inform the family of their right to request a hearing in accordance with the PHA's grievance process [24 CFR 966.4(l)(3)(ii)].

When reviewing reasonable accommodation requests, the PHA must consider whether reasonable accommodation will allow the family to overcome the problem that led to the PHA's decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, the PHA must make the accommodation [24 CFR 966.7].

In addition, the PHA must provide reasonable accommodation for persons with disabilities to participate in the hearing process [24 CFR 966.56(h)].

PART III: IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY (LEP)

2-III.A. OVERVIEW

Language for Limited English Proficiency Persons (LEP) can be a barrier to accessing important benefits or services, understanding, and exercising important rights, complying with applicable responsibilities, or understanding other information provided by the public housing program. In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally assisted programs and activities may violate the prohibition under Title VI against discrimination on the basis of national origin. This part incorporates the Final Guidance to Federal Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007, in the *Federal Register*.

The PHA will take affirmative steps to communicate with people who need services or information in a language other than English. These persons will be referred to as Persons with Limited English Proficiency (LEP).

LEP persons are defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English. For the purposes of this Admissions and Continued Occupancy Policy, LEP persons are public housing applicants and resident families, and parents and family members of applicants and resident families.

In order to determine the level of access needed by LEP persons, the PHA will balance the following four factors: (1) the number or proportion of LEP persons eligible to be served or likely to be encountered by the public housing program; (2) the frequency with which LEP persons come into contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people's lives; and (4) the resources available to the PHA and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on the PHA.

2-III.B. ORAL INTERPRETATION

The PHA will offer competent interpretation services free of charge, upon request, to the LEP person.

PHA Policy

The PHA will utilize a language line for telephone interpreter services.

When exercising the option to conduct remote hearings, however, the PHA will coordinate with a remote interpretation service which, when available, uses video conferencing technology rather than voice-only interpretation.

Where LEP persons desire, they will be permitted to use, at their own expense, an interpreter of their own choosing, in place of or as a supplement to the free language services offered by the PHA. The PHA, at its discretion, may choose to use the language services even when LEP persons desire to use an interpreter of their choosing. The interpreter may be a family member or friend. If the interpreter chosen by the family is a minor, the PHA will not rely as on the minor to serve as the interpreter.

The PHA will analyze the various kinds of contacts it has with the public, to assess language needs and decide what reasonable steps should be taken. "Reasonable steps" may not be reasonable where the costs imposed substantially exceed the benefits.

Where feasible and possible, according to its language assistance plan (LAP), the PHA will train and hire bilingual staff to be available to act as interpreters and translators, will pool resources with other PHAs, and will standardize documents.

2-III.C. WRITTEN TRANSLATION

Translation is the replacement of a written text from one language into an equivalent written text in another language.

PHA Policy

To comply with written-translation obligations, the PHA will take the following steps:

The PHA will provide written translations of vital documents for each eligible LEP language group that constitutes 5 percent or 1,000 persons, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or

If there are fewer than 50 persons in a language group that reaches the 5 percent trigger, the PHA may not translate vital written materials, but will provide written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

2-III.D. IMPLEMENTATION PLAN

After completing the four-factor analysis and deciding what language assistance services are appropriate, the PHA shall determine whether it is necessary to develop a written implementation plan to address the identified needs of the LEP populations it serves.

If the PHA determines that it is not necessary to develop a written implementation plan, the absence of a written plan does not obviate the underlying obligation to ensure meaningful access by LEP persons to the PHA's public housing program and services.

PHA Policy

If it is determined that the PHA serves very few LEP persons, and the PHA has very limited resources, the PHA will not develop a written LEP plan, but will consider alternative ways to articulate in a reasonable manner a plan for providing meaningful access. Entities having significant contact with LEP persons, such as schools, grassroots and faith-based organizations, community groups, and groups working with new immigrants will be contacted for input into the process.

If the PHA determines it is appropriate to develop a written LEP plan, the following five steps will be taken: (1) Identifying LEP individuals who need language assistance; (2) identifying language assistance measures; (3) training staff; (4) providing notice to LEP persons; and (5) monitoring and updating the LEP plan.

LAP implemented by the BHA.

EXHIBIT 2-1: DEFINITION OF A PERSON WITH A DISABILITY UNDER FEDERAL CIVIL RIGHTS LAWS [24 CFR Parts 8.3 and 100.201]

A person with a disability, as defined under federal civil rights laws, is any person who:

- Has a physical or mental impairment that substantially limits one or more of the major life activities of an individual, or
- Has a record of such impairment, or
- Is regarded as having such impairment

The phrase “physical or mental impairment” includes:

- Any physiological disorder or condition, cosmetic or disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
- Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term “physical or mental impairment” includes but is not limited to: such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

“Major life activities” includes, but is not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, breathing, learning, and/or working.

“Has a record of such impairment” means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major live activities.

“Is regarded as having an impairment” is defined as having a physical or mental impairment that does not substantially limit one or more major life activities but is treated by a public entity (such as the PHA) as constituting such a limitation; has none of the impairments defined in this section but is treated by a public entity as having such an impairment; or has a physical or mental impairment that substantially limits one or more major life activities, only as a result of the attitudes of others toward that impairment.

The definition of a person with disabilities does not include:

- Current illegal drug users
- People whose alcohol use interferes with the rights of others
- Persons who objectively pose a direct threat or substantial risk of harm to others that cannot be controlled with a reasonable accommodation under the public housing program

The above definition of disability determines whether an applicant or participant is entitled to any of the protections of federal disability civil rights laws. Thus, a person who does not meet this definition of disability is not entitled to a reasonable accommodation under federal civil rights and fair housing laws and regulations.

The HUD definition of a person with a disability is much narrower than the civil rights definition of disability. The HUD definition of a person with a disability is used for purposes of receiving the disabled family preference, the **\$525** elderly/disabled household deduction, the allowance for medical expenses, or the allowance for disability assistance expenses.

The definition of a person with a disability for purposes of granting a reasonable accommodation request is much broader than the HUD definition of disability. Many people will not qualify as a disabled person under the public housing program, yet an accommodation is needed to provide equal opportunity.

Chapter 3

ELIGIBILITY

INTRODUCTION

The PHA is responsible for ensuring that every individual and family admitted to the public housing program meets all program eligibility requirements. This includes any individual approved to join the family after the family has been admitted to the program. The family must provide any information needed by the PHA to confirm eligibility and determine the level of the family's assistance.

To be eligible for the public housing program:

- The applicant family must:
 - Qualify as a family as defined by HUD and the PHA.
 - Have income at or below HUD-specified income limits.
 - Qualify based on citizenship or the eligible immigrant status of family members.
 - Provide social security number information for household members as required.
 - Consent to the PHA's collection and use of family information as provided for in PHA-provided consent forms.
 - Not currently receiving a duplicative subsidy.
- The PHA must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or the PHA.

This chapter contains three parts:

Part I: Definitions of Family and Household Members. This part contains HUD and PHA definitions of family and household members and explains initial and ongoing eligibility issues related to these members.

Part II: Basic Eligibility Criteria. This part discusses income eligibility, and rules regarding citizenship, social security numbers, and family consent.

Part III: Denial of Admission. This part covers factors related to an applicant's past or current conduct (e.g. criminal activity) that can cause the PHA to deny admission.

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

3-I.A. OVERVIEW

Some eligibility criteria and program rules vary depending upon the composition of the family requesting assistance. In addition, some requirements apply to the family as a whole and others apply to individual persons who will live in the public housing unit. This part provides information that is needed to correctly identify family and household members and explains HUD's eligibility rules.

3-I.B. FAMILY AND HOUSEHOLD [24 CFR 5.105(a)(2), 24 CFR 5.403, FR Notice 02/03/12, and Notice PIH 2014-20]

The terms *family* and *household* have different meanings in the public housing program.

Family

To be eligible for admission, an applicant must qualify as a family. *Family* as defined by HUD, includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, a single person, who may be an elderly person, disabled person, near-elderly person, or any other single person; or a group of persons residing together. Such group includes, but is not limited to, a family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family), an elderly family, a near-elderly family, a disabled family, a displaced family, or the remaining member of a tenant family. The PHA has the discretion to determine if any other group of persons qualifies as a family.

Gender Identity means actual or perceived gender characteristics.

Sexual orientation means homosexuality, heterosexuality, or bisexuality.

PHA Policy

A family also includes two or more individuals who are not related by blood, marriage, adoption, or other operation of law, but who either can demonstrate that they have lived together previously or certify that each individual's income and other resources will be available to meet the needs of the family.

Each family must identify the individuals to be included in the family at the time of application and must update this information if the family's composition changes.

Household

Household is a broader term that includes additional people who, with the PHA's permission, live in a public housing unit, such as live-in aides, foster children, and foster adults.

3-I.C. FAMILY BREAKUP AND REMAINING MEMBER OF TENANT FAMILY

Family Breakup

Except under the following conditions, the PHA has discretion to determine which members of an assisted family continue to receive assistance if the family breaks up:

- If the family breakup results from an occurrence of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the PHA must ensure that the victim retains assistance. (For documentation requirements and policies related to domestic violence, dating violence, sexual assault, stalking, and human trafficking see section 16-VII.D of this ACOP.)
- If a court determines the disposition of property between members of the assisted family, the PHA is bound by the court's determination of which family members continue to receive assistance.

PHA Policy

When a family on the waiting list breaks up into two otherwise eligible families, only one of the new families may retain the original application date. Other former family members may submit a new application with a new application date if the waiting list is open.

If a family breaks up into two otherwise eligible families while living in public housing, only one of the new families will retain occupancy of the unit.

In addition, when a head of household is ready to vacate the PH premises, there must be a family member holding the status of co-head for at least six (6) months prior to the removal of the head of household to maintain the occupancy status. The remaining family members will be placed on the transfer waiting list for the appropriate bedroom size.

If a court determines the disposition of property between members of an applicant or resident family, the PHA will abide by the court's determination.

In the absence of a judicial decision or an agreement among the original family members, the PHA will determine which family will retain their placement on the waiting list or continue in occupancy. In making its determination, the PHA will take into consideration the following factors: (1) the interest of any minor children, including custody arrangements; (2) the interest of any ill, elderly, or disabled family members; (3) the interest of any family member who is or has been the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, including a family member who was forced to leave a public housing unit as a result of such actual or threatened abuse, and provides documentation in accordance with section 16-VII.D of this ACOP; (4) any possible risks to family members as a result of criminal activity, and (5) the recommendations of social service professionals.

Remaining Member of a Tenant Family [24 CFR 5.403]

The HUD definition of family includes the *remaining member of a tenant family*, which is a member of a resident family who remains in the unit when other members of the family have left

the unit [PH Occ GB, p. 26]. Household members such as live-in aides, foster children, and foster adults do not qualify as remaining members of a family.

If dependents are the only “remaining members of a tenant family” and there is no family member able to assume the responsibilities of the head of household, see Chapter 6, Section 6-I.B, for the policy on “Caretakers for a Child.”

3-I.D. HEAD OF HOUSEHOLD [24 CFR 5.504(b)]

Head of household means the adult member of the family who is considered the head for purposes of determining income eligibility and rent. The head of household is responsible for ensuring that the family fulfills all of its responsibilities under the program, alone or in conjunction with a cohead or spouse.

PHA Policy

The family may designate any qualified family member as the head of household.

The head of household must have the legal capacity to enter into a lease under state and local law. A minor who is emancipated under state law may be designated as head of household.

3-I.E. SPOUSE, COHEAD, AND OTHER ADULT

A family may have a spouse or cohead, but not both [HUD-50058 IB, p. 13].

Spouse means the marriage partner of the head of household.

PHA Policy

A *marriage partner* includes the partner in a "common law" marriage as defined in state law. The term "spouse" does not apply to friends, roommates, or significant others who are not marriage partners. A minor who is emancipated under state law may be designated as a spouse.

The state of Pennsylvania does not recognize "common law" marriages any longer, but this living situation was considered legal at one point. This law was abolished on January 2, 2005. Therefore, anyone that was entered into the "common law" marriage prior to this date, is still considered to be in a "common law" marriage.

A *cohead* is an individual in the household who is equally responsible with the head of household for ensuring that the family fulfills all of its responsibilities under the program, but who is not a spouse. A family can have only one cohead.

PHA Policy

Minors who are emancipated under state law may be designated as coheads.

Other adult means a family member, other than the head, spouse, or cohead, who is 18 years of age or older. Foster adults and live-in aides are not considered other adults [HUD-50058 IB, p. 14].

3-I.F. DEPENDENT [24 CFR 5.603]

A *dependent* is a family member who is under 18 years of age or a person of any age who is a person with a disability or a full-time student, except that the following persons can never be dependents: the head of household, spouse, cohead, foster children/adults and live-in aides. Identifying each dependent in the family is important because each dependent qualifies the family for a deduction from annual income as described in Chapter 6.

Joint Custody of Dependents

PHA Policy

Dependents that are subject to a joint custody arrangement will be considered a member of the family if they live with the applicant or resident family 50 percent or more of the time.

When more than one applicant or assisted family (regardless of program) are claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the PHA will make the determination based on available documents such as court orders, an IRS income tax return showing which family has claimed the child for income tax purposes, school records, or other credible documentation.

3-I.G. FULL-TIME STUDENT [24 CFR 5.603]

A *full-time student* (FTS) is a person who is attending school or vocational training on a full-time basis. The time commitment or subject load that is needed to determine if attendance is full-time is defined by the educational institution.

Identifying each FTS is important because (1) each family member that is an FTS, other than the head, spouse, or cohead, qualifies the family for a dependent deduction and (2) the income of such an FTS is treated differently from the income of other family members.

3-I.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY [24 CFR 5.100, 5.403, 945.105, and FR Notice 02/03/12]

Elderly Persons

An *elderly person* is a person who is at least 62 years of age.

Near-Elderly Persons

A *near-elderly person* is a person who is 50-61 years of age.

Elderly Family

An *elderly family* is one in which the head, spouse, cohead, or sole member is an elderly person. Identifying elderly families is important because these families qualify for the elderly family allowance and the medical allowance as described in Chapter 6 and may qualify for a particular type of development as noted in Chapter 4.

3-I.I. PERSONS WITH DISABILITIES AND DISABLED FAMILY [24 CFR 5.403, FR Notice 02/03/12]

Persons with Disabilities

Under the public housing program, special rules apply to persons with disabilities and to any family whose head, spouse, or cohead is a person with disabilities. The technical definitions of individual with handicaps and persons with disabilities are provided in Exhibit 3-1 at the end of this chapter. These definitions are used for several purposes including ensuring that persons with disabilities are not discriminated against based upon disability.

As discussed in Chapter 2, the PHA must make all aspects of the public housing program accessible to persons with disabilities and consider requests for reasonable accommodations when a person's disability limits their full access to the unit, the program, or the PHA's services.

Disabled Family

A *disabled family* is one in which the head, spouse, or cohead is a person with disabilities. Identifying disabled families is important because these families qualify for the disabled family allowance and the medical allowance as described in Chapter 6 and may qualify for a particular type of development as noted in Chapter 4.

Even though persons with drug or alcohol dependencies are considered persons with disabilities for the purpose of non-discrimination, this does not prevent the PHA from denying admission or acting under the lease for reasons related to alcohol and drug abuse in accordance with the policies found in Part III of this chapter and in Chapter 13.

3-I.J. GUESTS [24 CFR 5.100]

A *guest* is defined as a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.

The lease must provide that the tenant has the right to exclusive use and occupancy of the leased unit by the members of the household authorized to reside in the unit in accordance with the lease, including reasonable accommodation of their guests [24 CFR 966.4(d)]. The head of household is responsible for the conduct of visitors and guests, inside the unit as well as anywhere on or near PHA premises [24 CFR 966.4(f)].

PHA Policy

A resident family must notify the PHA when overnight guests will be staying in the unit for more than three days. A guest can remain in the unit no longer than 14 consecutive days or a total of 30 cumulative calendar days during any 12-month period.

A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure expected to last 20 consecutive days). An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.

Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, that are not included as a family member because they live outside of the public housing unit more than 50 percent of the time, are not subject to the time limitations of guests as described above.

Former residents who have been evicted are not permitted as overnight guests.

Guests who represent the public housing unit address as their residence address or address of record for receipt of benefits or any other purposes will be considered unauthorized occupants. In addition, guests who remain in the unit beyond the allowable time limit will be unauthorized occupants, and their presence constitutes a violation of the lease.

3-I.K. FOSTER CHILDREN AND FOSTER ADULTS

Foster adults are usually persons with disabilities, unrelated to the tenant family, who are unable to live alone [24 CFR 5.609(c)(2)].

The term *foster child* is not specifically defined by the regulations.

Foster children and foster adults that are living with an applicant or resident family are considered household members but not family members. The income of foster children/adults is not counted in family annual income and foster children/adults do not qualify for a dependent deduction [24 CFR 5.603 and HUD-50058 IB, pp. 13-14].

PHA Policy

A foster child is a child that is in the legal guardianship or custody of a state, county, or private adoption or foster care agency, yet is cared for by foster parents in their own homes, under some kind of short-term or long-term foster care arrangement with the custodial agency.

Children that are temporarily absent from the home as a result of placement in foster care are discussed in Section 3-I.L.

3-I.L. ABSENT FAMILY MEMBERS

Individuals may be temporarily or permanently absent from the unit for a variety of reasons including educational activities, placement in foster care, employment, and illness.

Definitions of Temporarily and Permanently Absent

PHA Policy

Generally, an individual who is or is expected to be absent from the public housing unit for 180 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally, an individual who is or is expected to be absent from the public housing unit for more than 180 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Absent Students

PHA Policy

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to the PHA indicating that the student has established a separate household or the family declares that the student has established a separate household.

Absences Due to Placement in Foster Care [24 CFR 5.403]

Children temporarily absent from the home because of placement in foster care are considered members of the family.

PHA Policy

If a child has been placed in foster care, the PHA will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member.

Absent Head, Spouse, or Cohead

PHA Policy

An employed head, spouse, or cohead absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member.

Individuals Confined for Medical Reasons

PHA Policy

An individual confined to a nursing home or hospital on a permanent basis is not considered a family member.

If there is a question about the status of a family member, the PHA will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

Return of Permanently Absent Family Members

PHA Policy

The family must request PHA approval for the return of any adult family members that the PHA has determined to be permanently absent. The individual is subject to the eligibility and screening requirements discussed in this chapter.

3-I.M. LIVE-IN AIDE

Live-in aide means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who: (1) is determined to be essential to the care and well-being of the person(s), (2) is not obligated for the support of the person(s), and (3) would not be living in the unit except to provide the necessary supportive services [24 CFR 5.403].

The PHA must approve a live-in aide if needed as a reasonable accommodation for a person with disabilities in accordance with 24 CFR 8.

A live-in aide is considered a household member but not a family member. The income of the live-in aide is not counted in determining the annual income of the family [24 CFR 5.609(c)(5)].

Relatives may be approved as live-in aides if they meet all the criteria defining a live-in aide. However, a relative who serves as a live-in aide is not considered a family member and would not be considered a remaining member of a tenant family.

PHA Policy

A family's request for a live-in aide may be made either orally or in writing. The PHA will verify the need for a live-in aide, if necessary, with a reliable, knowledgeable professional as provided by the family, such as a doctor, social worker, or case worker. For continued approval, the family may be required to submit a new, written request—subject to PHA verification—at each annual reexamination.

In addition, the family and live-in aide will be required to submit a certification stating that the live-in aide is (1) not obligated for the support of the person(s) needing the care, and (2) would not be living in the unit except to provide the necessary supportive services.

The PHA has the discretion not to approve a particular person as a live-in aide, and may withdraw such approval, if [24 CFR 966.4(d)(3)(i)]:

- The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;

- The person has a history of drug-related criminal activity or violent criminal activity; or

- The person currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

Within 10 **calendar** days of receiving a request for a live-in aide, including all required documentation related to the request, the PHA will notify the family of its decision in writing.

PART II: BASIC ELIGIBILITY CRITERIA

3-II.A. INCOME ELIGIBILITY AND TARGETING

Income Limits

HUD is required by law to establish income limits that determine the income eligibility of applicants for HUD's assisted housing programs, including the public housing program. The income limits are published annually and are based on HUD estimates of the median incomes for families of different sizes in a particular area or county.

Types of Low-Income Families [24 CFR 5.603(b)]

Low-income family. A family whose annual income does not exceed 80 percent of the median income for the area, adjusted for family size.

Very low-income family. A family whose annual income does not exceed 50 percent of the median income for the area, adjusted for family size.

Extremely low-income family. A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area, whichever number is higher.

Area median income is determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30, 50, or 80 percent of the median income for an area if HUD finds that such variations are necessary because of unusually high or low family incomes.

HUD also publishes over-income limits annually, but these are not used at admission. Over-income limits will be discussed in Chapter 13.

Using Income Limits for Eligibility [24 CFR 960.201]

Income limits are used to determine eligibility at admission. Eligibility is established by comparing a family's annual income with HUD's published income limits. To be income-eligible, a family must be a *low-income* family.

Using Income Limits for Targeting [24 CFR 960.202(b)]

At least 40 percent of the families admitted from the PHA waiting list to the public housing program during a PHA fiscal year must be *extremely low-income* families. This is called the “basic targeting requirement.”

If admissions of extremely low-income families to the PHA’s housing choice voucher program during a PHA fiscal year exceed the 75 percent minimum targeting requirement for that program, such excess shall be credited against the PHA’s public housing basic targeting requirement for the same fiscal year.

The fiscal year credit for housing choice voucher program admissions that exceed the minimum voucher program targeting requirement must not exceed the lower of:

- Ten percent of public housing waiting list admissions during the PHA fiscal year
- Ten percent of waiting list admission to the PHA’s housing choice voucher program during the PHA fiscal year
- The number of qualifying low-income families who commence occupancy during the fiscal year of public housing units located in census tracts with a poverty rate of 30 percent or more. For this purpose, qualifying low-income family means a low-income family other than an extremely low-income family.

For discussion of how income targeting is used in tenant selection, see Chapter 4.

3-II.B. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5, Subpart E]

Housing assistance is available only to individuals who are U.S. citizens, U.S. nationals (herein referred to as citizens and nationals), or noncitizens that have eligible immigration status. At least one family member must be a citizen, national, or noncitizen with eligible immigration status in order for the family to qualify for any level of assistance.

All applicant families must be notified of the requirement to submit evidence of their citizenship status when they apply. Where feasible, and in accordance with the PHA's Limited English Proficiency Plan, the notice must be in a language that is understood by the individual if the individual is not proficient in English.

Declaration [24 CFR 5.508]

HUD requires each family member to declare whether the individual is a citizen, a national, or an eligible noncitizen, except those members who elect not to contend that they have eligible immigration status. Those who elect not to contend their status are considered to be ineligible noncitizens. For citizens, nationals and eligible noncitizens the declaration must be signed personally by the head, spouse, cohead, and any other family member 18 or older, and by a parent or guardian for minors. The family must identify in writing any family members who elect not to contend their immigration status (see Ineligible Noncitizens below). No declaration is required for live-in aides, foster children, or foster adults.

U.S. Citizens and Nationals

In general, citizens and nationals are required to submit only a signed declaration that claims their status. However, HUD regulations permit the PHA to request additional documentation of their status, such as a passport.

PHA Policy

Family members who declare citizenship or national status will not be required to provide additional documentation unless the PHA receives information indicating that an individual's declaration may not be accurate.

Eligible Noncitizens

In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a verification consent form and cooperate with PHA efforts to verify their immigration status as described in Chapter 7. The documentation required for establishing eligible noncitizen status varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, the person's age, and the date on which the family began receiving HUD-funded assistance.

Lawful residents of the Marshall Islands, the Federated States of Micronesia, and Palau, together known as the Freely Associated States, or FAS, are eligible for housing assistance under section 141 of the Compacts of Free Association between the U.S. Government and the Governments of the FAS [Public Law 106-504].

Ineligible Noncitizens

Those noncitizens who do not wish to contend their immigration status are required to have their names listed on a noncontending family members listing, signed by the head, spouse, or cohead (regardless of citizenship status), indicating their ineligible immigration status. The PHA is not required to verify a family member's ineligible status and is not required to report an individual's unlawful presence in the U.S. to the United States Citizenship and Immigration Services (USCIS).

Providing housing assistance to noncitizen students is prohibited [24 CFR 5.522]. This prohibition extends to the noncitizen spouse of a noncitizen student as well as to minor children who accompany or follow to join the noncitizen student. Such prohibition does not extend to the citizen spouse of a noncitizen student or to the children of the citizen spouse and noncitizen student. Such a family is eligible for prorated assistance as a mixed family.

Mixed Families

A family is eligible for admission as long as at least one member is a citizen, national, or eligible noncitizen. Families that include eligible and ineligible individuals are considered *mixed families*. Such families will be given notice that their assistance will be prorated, and that they may request a hearing if they contest this determination. See Chapter 6 for a discussion of how rents are prorated, and Chapter 14 for a discussion of grievance hearing procedures.

Ineligible Families [24 CFR 5.514(d), (e), and (f)]

A PHA may elect to provide assistance to a family before the verification of the eligibility of the individual or one family member [24 CFR 5.512(b)]. Otherwise, no individual or family may be assisted prior to the affirmative establishment by the PHA that the individual or at least one family member is eligible [24 CFR 5.512(a)].

PHA Policy

The PHA will not provide assistance to a family before the verification of at least one family member as a citizen, national, or eligible noncitizen.

When a PHA determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be sent a written notice within 10 **calendar** days of the determination.

The notice will explain the reasons for the denial of assistance and will advise the family of its right to request an appeal to the United States Citizenship and Immigration Services (USCIS), or to request a grievance hearing with the PHA. The grievance hearing with the PHA may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice must also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the grievance hearing process.

Grievance hearing procedures are contained in Chapter 14.

Time Frame for Determination of Citizenship Status [24 CFR 5.508(g)]

For new occupants joining the resident family the PHA must verify status at the first interim or regular reexamination following the person's occupancy, whichever comes first.

If an individual qualifies for a time extension for the submission of required documents, the PHA must grant such an extension for no more than 30 days [24 CFR 5.508(h)].

Each family member is required to submit evidence of eligible status only one time during continuous occupancy.

PHA Policy

The PHA will verify the status of applicants at the time other eligibility factors are determined.

3-II.C. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218, Notice PIH 2018-24]

The applicant and all members of the applicant's household must disclose the complete and accurate social security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN. If a child under age six has been added to an applicant family within the six months prior to program admission, an otherwise eligible family may be admitted to the program and must disclose and document the child's SSN within 90 days of admission. A detailed discussion of acceptable documentation is provided in Chapter 7.

Note: These requirements do not apply to noncitizens who do not contend eligible immigration status.

In addition, each participant who has not previously disclosed an SSN, has previously disclosed an SSN that HUD or the SSA determined was invalid, or has been issued a new SSN must submit their complete and accurate SSN and the documentation required to verify the SSN at the time of the next interim or annual reexamination or recertification. **Participants age 62 or older as of January 31, 2010, whose determination of eligibility was begun before January 31, 2010, are exempt from this requirement and remain exempt even if they move to a new assisted unit.**

The PHA must deny assistance to an applicant family if they do not meet the SSN disclosure and documentation requirements contained in 24 CFR 5.216.

3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.230]

HUD requires each adult family member, and the head of household, spouse, or cohead, regardless of age, to sign form HUD-9886, Authorization for the Release of Information Privacy Act Notice, the form HUD-52675, Debts Owed to Public Housing Agencies and Terminations, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements.

The PHA must deny admission to the program if any member of the applicant family fails to sign and submit consent forms which allow the PHA to obtain information that the PHA has determined is necessary in administration of the public housing program [24 CFR 960.259(a) and (b)].

3-II.E. EIV SYSTEM SEARCHES [Notice PIH 2018-18; EIV FAQs; EIV System Training 9/30/20]

Existing Tenant Search

Prior to admission to the program, the PHA must search for all household members using the EIV Existing Tenant Search module. The PHA must review the reports for any SSA matches involving another PHA or a multifamily entity and follow up on any issues identified. The PHA must provide the family with a copy of the Existing Tenant Search results if requested. At no time may any family member receive duplicative assistance.

If the tenant is a new admission to the PHA, and a match is identified at a multifamily property, the PHA must report the program admission date to the multifamily property and document the notification in the tenant file. The family must provide documentation of move-out from the assisted unit, as applicable.

PHA Policy

The PHA will contact the PHA or owner identified in the report to confirm that the family has moved out of the unit and obtain documentation of current tenancy status, including a form HUD-50058 or 50059, as applicable, showing an end of participation. The PHA will only approve assistance contingent upon the move-out from the currently occupied assisted unit.

Debts Owed to PHAs and Terminations

All adult household members must sign the form HUD-52675, Debts Owed to Public Housing and Terminations. Prior to admission to the program, the PHA must search for each adult family member in the Debts Owed to PHAs and Terminations module.

If a current or former tenant disputes the information in the module, the tenant should contact the PHA directly in writing to dispute the information and provide any documentation that supports the dispute. If the PHA determines that the disputed information is incorrect, the PHA will update or delete the record from EIV. Former tenants may dispute debt and termination information for a period of up to three years from the end of participation date in the program.

PHA Policy

The PHA will require each adult household member to sign the form HUD-52675 once at the eligibility determination. Any new members added to the household after admission will be required to sign the form HUD-52675 prior to being added to the household.

The PHA will search the Debts Owed to PHAs and Terminations module as part of the eligibility determination for new households and as part of the screening process for any household members added after the household is admitted to the program. If any information on debts or terminations is returned by the search, the PHA will determine if this information warrants a denial in accordance with the policies in Part III of this chapter.

Income and Income Validation Tool (IVT) Reports

For each new admission, the PHA is required to review the EIV Income and IVT Reports to confirm and validate family reported income within 120 days of the IMS/PIC submission date of the new admission. The PHA must print and maintain copies of the EIV Income and IVT reports in the tenant file and resolve any discrepancies with the family within 60 days of the EIV Income or IVT report dates.

PART III: DENIAL OF ADMISSION

3-III.A. OVERVIEW

A family that does not meet the eligibility criteria discussed in Parts I and II must be denied admission.

In addition, HUD requires or permits the PHA to deny admission based on certain types of current or past behaviors of family members as discussed in this part. The PHA's authority in this area is limited by the Violence against Women Act (VAWA), which prohibits the denial of admission to an otherwise qualified applicant on the basis or as a direct result of the fact that the applicant is or has been the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking [see 24 CFR 5.2005(b)].

While the regulations state that the PHA must prohibit admission for certain types of criminal activity and give the PHA the option to deny for other types of previous criminal history, more recent HUD rules and OGC guidance must also be taken into consideration when determining whether a particular individual's criminal history merits denial of admission.

When considering any denial of admission, PHAs may not use arrest records as the basis for the denial. Further, HUD does not require the adoption of "One Strike" policies and reminds PHAs of their obligation to safeguard the due process rights of applicants and tenants [Notice PIH 2015-19].

HUD's Office of General Counsel issued a memo on April 4, 2016, regarding the application of Fair Housing Act standards to the use of criminal records. This memo states that a PHA violates the Fair Housing Act when their policy or practice has an unjustified discriminatory effect, even when the PHA had no intention to discriminate. Where a policy or practice that restricts admission based on criminal history has a disparate impact on a particular race, national origin, or other protected class, that policy or practice is in violation of the Fair Housing Act if it is not necessary to serve a substantial, legitimate, nondiscriminatory interest of the PHA, or if that interest could be served by another practice that has a less discriminatory effect [OGC Memo 4/4/16].

PHAs who impose blanket prohibitions on any person with any conviction record, no matter when the conviction occurred, what the underlying conduct entailed, or what the convicted person has done since then will be unable to show that such policy or practice is necessary to achieve a substantial, legitimate, nondiscriminatory interest. Even a PHA with a more tailored policy or practice that excludes individuals with only certain types of convictions must still prove that its policy is necessary. To do this, the PHA must show that its policy accurately distinguishes between criminal conduct that indicates a demonstrable risk to resident safety and property and criminal conduct that does not.

This part covers the following topics:

- Required denial of admission
- Other permitted reasons for denial of admission
- Screening
- Criteria for deciding to deny admission
- Prohibition against denial of admission to victims of domestic violence, dating violence, sexual assault, stalking, or **human trafficking**
- Notice of eligibility or denial

3-III.B. REQUIRED DENIAL OF ADMISSION [24 CFR 960.204]

PHAs are required to establish standards that prohibit admission of an applicant to the public housing program if they have engaged in certain criminal activity or if the PHA has reasonable cause to believe that a household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

Where the statute requires that the PHA prohibit admission for a prescribed period of time after some disqualifying behavior or event, the PHA may choose to continue that prohibition for a longer period of time [24 CFR 960.203(c)(3)(ii)].

HUD requires the PHA to deny assistance in the following cases:

- Any member of the household has been evicted from federally assisted housing in the last **three years** for drug-related criminal activity. HUD permits but does not require the PHA to admit an otherwise-eligible family if the household member has completed a PHA-approved drug rehabilitation program or the circumstances which led to eviction no longer exist (e.g. the person involved in the criminal activity no longer lives in the household).

PHA Policy

The PHA will admit an otherwise-eligible family who was evicted from federally assisted housing within the past **three years** for drug-related criminal activity, if the PHA is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by the PHA, or the person who committed the crime is no longer living in the household.

- The PHA determines that any household member is currently engaged in the use of illegal drugs. *Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802]. *Currently engaged in the illegal use of a drug* means a person has engaged in the behavior recently enough to justify a reasonable belief that there is continuing illegal drug use by a household member [24 CFR 960.205(b)(1)].

PHA Policy

Currently engaged in is defined as any use of illegal drugs during the previous **three months**.

- The PHA has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol, may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

PHA Policy

In determining reasonable cause, the PHA will consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. A record or records of arrest will not be used as the sole basis for the denial or proof that the applicant engaged in disqualifying criminal activity. The PHA will also consider evidence from treatment providers or community-based organizations providing services to household members.

- Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing.
- Any household member is subject to a lifetime registration requirement under a state lifetime sex offender registration program.

3-III.C. OTHER PERMITTED REASONS FOR DENIAL OF ADMISSION

HUD permits but does not require the PHA to deny admission for the reasons discussed in this section.

Criminal Activity [24 CFR 960.203(c)]

The PHA is responsible for screening family behavior and suitability for tenancy. In doing so, the PHA may consider an applicant's history of criminal activity involving crimes of physical violence to persons or property and other criminal acts which would adversely affect the health, safety, or welfare of other tenants.

PHA Policy

If any household member is currently engaged in or has engaged in any of the following criminal activities within the past **three years**, the family will be denied admission.

Drug-related criminal activity, defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug [24 CFR 5.100].

Violent criminal activity, defined by HUD as any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage [24 CFR 5.100].

Criminal activity that may threaten the health, safety, or welfare of other tenants [24 CFR 960.203(c)(3)].

Criminal activity that may threaten the health or safety of PHA staff, contractors, subcontractors, or agents.

Criminal sexual conduct, including but not limited to sexual assault, incest, open and gross lewdness, or child abuse.

Evidence of such criminal activity includes, but is not limited to:

Any record of convictions, arrests, or evictions for suspected drug-related or violent criminal activity of household members within the past **three years**.

A record or records of arrest will not be used as the sole basis for the denial or proof that the applicant engaged in disqualifying criminal activity.

In making its decision to deny assistance, the PHA will consider the factors discussed in Sections 3-III.E and 3-III.F. Upon consideration of such factors, the PHA may, on a case-by-case basis, decide not to deny assistance.

Previous Behavior [960.203(c) and (d) and PH Occ GB, p. 48]

HUD authorizes the PHA to deny admission based on relevant information pertaining to the family's previous behavior and suitability for tenancy.

In the event of the receipt of unfavorable information with respect to an applicant, the PHA must consider the time, nature, and extent of the applicant's conduct (including the seriousness of the offense). As discussed in Section 3-III.F, the PHA may also need to consider whether the cause of the unfavorable information may be that the applicant is the victim of domestic violence, dating violence, sexual assault, or stalking.

PHA Policy

The PHA will deny admission to an applicant family if the PHA determines that the family:

- Has a pattern of unsuitable past performance in meeting financial obligations, including rent within the past **three years**.

- Has a pattern of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences within the past **three years** which may adversely affect the health, safety, or welfare of other tenants.

- Owes rent or other amounts to this or any other PHA or owner in connection with any assisted housing program.

- Misrepresented or does not provide complete information related to eligibility, including income, award of preferences for admission, expenses, family composition or rent.

- Has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program in the last **three years**.

- Owes rent or other amounts to this or any PHA in connection with Section 8, public housing, or other public housing assistance under the 1937 Act, unless the family repays the full amount of the debt prior to being selected from the waiting list.

- When denying admission due to family debts as shown in HUD's EIV system, the PHA will provide the family with a copy of the EIV Debt Owed to PHA and Termination report.

- If the family wishes to dispute the information in the report, the family must contact the PHA that entered the information in EIV in writing, explaining why EIV information is disputed. The family must also provide a copy of the letter and all applicable verification to the PHA to support the family's claim. The PHA will consider the information provided by the family prior to issuing a notice of denial.

Has engaged in or threatened violent or abusive behavior toward PHA personnel.

Abusive or violent behavior towards PHA personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to deny admission, the PHA will consider the factors discussed in Sections 3-III.E and 3-III.F. Upon consideration of such factors, the PHA may, on a case-by-case basis, decide not to deny admission.

The PHA will consider the existence of mitigating factors, such as loss of employment or other financial difficulties, before denying admission to an applicant based on the failure to meet prior financial obligations.

3-III.D. SCREENING

Screening for Eligibility

PHAs are authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the public housing program. This authority assists the PHA in complying with HUD requirements and PHA policies to deny assistance to applicants who are engaging in or have engaged in certain criminal activities. To obtain access to the records the PHA must require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903].

The PHA may not pass along to the applicant the costs of a criminal records check [24 CFR 960.204(d)].

PHA Policy

BHA will conduct a three-year criminal background check on all applicants.

The PHA will cover all the fingerprinting cost, however, if the individual fails to show to their scheduled fingerprinting appointment, a \$15.00 fee will be paid by the individual for any missed appointments.

The PHA will perform criminal background checks through local law enforcement for all adult household members.

If the results of the criminal background check indicate there may have been past criminal activity, but the results are inconclusive, the PHA will request a fingerprint card and will request information from the National Crime Information Center (NCIC).

PHAs are required to perform criminal background checks necessary to determine whether any household member is subject to a lifetime registration requirement under a state sex offender program in the state where the housing is located, as well as in any other state where a household member is known to have resided [24 CFR 960.204(a)(4)].

PHA Policy

The PHA will use the **Dru Sjodin National** Sex Offender database to screen applicants for admission.

Additionally, PHAs must ask whether the applicant, or any member of the applicant's household, is subject to a lifetime registered sex offender registration requirement in any state [Notice PIH 2012-28].

If the PHA proposes to deny admission based on a criminal record or on lifetime sex offender registration information, the PHA must notify the household of the proposed action and must provide the subject of the record and the applicant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to a denial of admission [24 CFR 5.903(f) and 5.905(d)].

Obtaining Information from Drug Treatment Facilities [24 CFR 960.205]

HUD authorizes PHAs to request and obtain information from drug abuse treatment facilities concerning applicants. Specifically, the PHA may require each applicant to submit for all household members who are at least 18 years of age, and for each family head, spouse, or cohead regardless of age, one or more consent forms signed by such household members that requests any drug abuse treatment facility to inform the PHA whether the drug abuse treatment facility has reasonable cause to believe that the household member is currently engaging in illegal drug use.

Drug Abuse Treatment Facility means an entity that holds itself out as providing, and provides, diagnosis, treatment, or referral for treatment with respect to the illegal drug use, and is either an identified unit within a general care facility, or an entity other than a general medical care facility.

Currently engaging in illegal use of a drug means illegal use of a drug that occurred recently enough to justify a reasonable belief that there is continuing illegal drug use by a household member.

Any consent form used for the purpose of obtaining information from a drug abuse treatment facility to determine whether a household member is currently engaging in illegal drug use must expire automatically after the PHA has made a final decision to either approve or deny the admission of such person.

Any charges incurred by the PHA for information provided from a drug abuse treatment facility may not be passed on to the applicant or tenant.

If the PHA chooses to obtain such information from drug abuse treatment facilities, it must adopt and implement one of the two following policies:

Policy A: The PHA must submit a request for information to a drug abuse treatment facility for all families before they are admitted. The request must be submitted for each proposed household member who is at least 18 years of age, and for each family head, spouse, or cohead regardless of age.

Policy B: The PHA must submit a request for information only for certain household members, whose criminal record indicates prior arrests or conviction for any criminal activity that may be a sole basis for denial of admission or whose prior tenancy records indicate that the proposed household member engaged in destruction of property or violent activity against another person, or they interfered with the right of peaceful enjoyment of the premises of other residents.

If the PHA chooses to obtain such information, it must abide by the HUD requirements for records management and confidentiality as described in 24 CFR 960.205(f).

PHA Policy

The PHA will obtain information from drug abuse treatment facilities to determine whether any applicant family's household members are currently engaging in illegal drug activity only when the PHA has determined that the family will be denied admission based on a family member's drug-related criminal activity, and the family claims that the culpable family member has successfully completed a supervised drug or alcohol rehabilitation program.

Screening for Suitability as a Tenant [24 CFR 960.203(c)]

The PHA is responsible for the screening and selection of families to occupy public housing units. The PHA may consider all relevant information. Screening is important to public housing communities and program integrity, and to ensure that assisted housing is provided to those families that will adhere to lease obligations.

PHA Policy

The PHA will consider the family's history with respect to the following factors:

- Payment of rent and utilities

- Caring for a unit and premises

- Respecting the rights of other residents to the peaceful enjoyment of their housing

- Criminal activity that is a threat to the health, safety, or property of others

- Behavior of all household members as related to the grounds for denial as detailed in Sections 3-III. B and C

- Compliance with any other essential conditions of tenancy

Resources Used to Check Applicant Suitability [PH Occ GB, pp. 47-56]

PHAs have a variety of resources available to them for determination of the suitability of applicants. Generally, PHAs should reject applicants who have recent behavior that would warrant lease termination for a public housing resident.

PHA Policy

To determine the suitability of applicants the PHA will examine applicant history for the past **three years**. Such background checks will include:

Past Performance in Meeting Financial Obligations, Especially Rent

PHA and landlord references for the past **three years**, gathering information about past performance meeting rental obligations such as rent payment record, late payment record, whether the PHA/landlord ever began or completed lease termination for non-payment, and whether utilities were ever disconnected in the unit. PHAs and landlords will be asked if they would rent to the applicant family again.

Utility company references covering the monthly amount of utilities, late payment, disconnection, return of a utility deposit and whether the applicant can get utilities turned on in their name. (Use of this inquiry will be reserved for applicants applying for units where there are tenant-paid utilities.)

If an applicant has no rental payment history the PHA will check court records of eviction actions and other financial judgments, and credit reports. A lack of credit history will not disqualify someone from becoming a public housing resident, but a poor credit rating may.

Applicants with no rental payment history will also be asked to provide the PHA with personal references. The references will be requested to complete a verification of the applicant's ability to pay rent if no other documentation of ability to meet financial obligations is available. The applicant will also be required to complete a checklist documenting their ability to meet financial obligations.

If previous landlords or the utility company do not respond to requests from the PHA, the applicant may provide other documentation that demonstrates their ability to meet financial obligations (e.g. rent receipts, cancelled checks, etc.)

Disturbances of Neighbors, Destruction of Property or Living or Housekeeping Habits at Prior Residences that May Adversely Affect Health, Safety, or Welfare of Other Tenants, or Cause Damage to the Unit or the Development

PHA and landlord references for the past **three years**, gathering information on whether the applicant kept a unit clean, safe and sanitary; whether they violated health or safety codes; whether any damage was done by the applicant to a current or previous unit or the development, and, if so, how much the repair of the damage cost; whether the applicant's housekeeping caused insect or rodent infestation; and whether the neighbors complained about the applicant or whether the police were ever called because of disturbances.

Police and court records within the past three years will be used to check for any evidence of disturbance of neighbors or destruction of property that might have resulted in arrest or conviction. A record or records of arrest will not be used as the sole basis for the denial or proof that the applicant engaged in disqualifying activity.

A personal reference will be requested to complete a verification of the applicant's ability to care for the unit and avoid disturbing neighbors if no other documentation is available. In these cases, the applicant will also be required to complete a checklist documenting their ability to care for the unit and to avoid disturbing neighbors.

Home visits may be used to determine the applicant's ability to care for the unit.

3-III.E. CRITERIA FOR DECIDING TO DENY ADMISSION

Evidence

PHA Policy

The PHA will use the preponderance of the evidence as the standard for making all admission decisions.

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not.

Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Consideration of Circumstances [24 CFR 960.203(c)(3) and (d)]

HUD authorizes the PHA to consider all relevant circumstances when deciding whether to deny admission based on a family's past history except in the situations for which denial of admission is mandated (see Section 3-III.B).

In the event the PHA receives unfavorable information with respect to an applicant, consideration must be given to the time, nature, and extent of the applicant's conduct (including the seriousness of the offense). In a manner consistent with its policies, PHAs may give consideration to factors which might indicate a reasonable probability of favorable future conduct.

PHA Policy

The PHA will consider the following facts and circumstances prior to making its decision:

The seriousness of the case, especially with respect to how it would affect other residents' safety or property

The effects that denial of admission may have on other members of the family who were not involved in the action or failure to act

The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or (as discussed further in section 3-III.F) a victim of domestic violence, dating violence, sexual assault, stalking, or **human trafficking**

The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history and the likelihood of favorable conduct in the future

While a record or records of arrest will not be used as the sole basis for denial, an arrest may trigger an investigation to determine whether the applicant actually engaged in disqualifying criminal activity. As part of its investigation, the PHA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The PHA may also consider:

Any statements made by witnesses or the applicant not included in the police report

Whether criminal charges were filed

Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal

Any other evidence relevant to determining whether or not the applicant engaged in disqualifying activity

Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property

Evidence of the applicant family's participation in or willingness to participate in social service or other appropriate counseling service programs

In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully

The PHA will require the applicant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

Removal of a Family Member's Name from the Application

Should the PHA's screening process reveal that an applicant's household includes an individual subject to state lifetime registered sex offender registration, the PHA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the PHA must deny admission to the family [Notice PIH 2012-28].

For other criminal activity, the PHA may permit the family to exclude the culpable family members as a condition of eligibility. [24 CFR 960.203(c)(3)(i)].

PHA Policy

As a condition of receiving assistance, a family may agree to remove the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to visit or to stay as a guest in the public housing unit.

After admission to the program, the family must present evidence of the former family member's current address upon PHA request.

Reasonable Accommodation [PH Occ GB, pp. 58-60]

If the family includes a person with disabilities, the PHA's decision concerning denial of admission is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

PHA Policy

If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of admission, the PHA will determine whether the behavior is related to the disability. If so, upon the family's request, the PHA will determine whether alternative measures are appropriate as reasonable accommodation. The PHA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial of admission. See Chapter 2 for a discussion of reasonable accommodation.

3-III.F. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING, AND HUMAN TRAFFICKING

The Violence against Women Act (VAWA) and the HUD regulation at 24 CFR 5.2005(b) prohibit PHAs from denying admission to an otherwise qualified applicant on the basis or as a direct result of the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, **and human trafficking**.

- Although the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror HUD's recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.

Definitions of key terms used in VAWA are provided in section 16-VII of this ACOP, where general VAWA requirements and policies pertaining to notification, documentation, and confidentiality are also located.

Notification

VAWA requires PHAs to provide applicants who are denied assistance with a VAWA Notice of Occupancy Rights (form HUD-5380) and a domestic violence certification form (HUD-5382) at the time the applicant is denied.

PHA Policy

The PHA acknowledges that a victim of domestic violence, dating violence, sexual assault, stalking, or **human trafficking** may have an unfavorable history (e.g., a poor credit history, poor rental history, a record of previous damage to an apartment, a prior arrest record) due to adverse factors that would warrant denial under the PHA's policies.

While the PHA is not required to identify whether adverse factors that resulted in the applicant's denial are a result of domestic violence, dating violence, sexual assault, stalking, or **human trafficking**, the applicant may inform the PHA that their status as a victim is directly related to the grounds for the denial. The PHA will request that the applicant provide enough information to the PHA to allow the PHA to make an objectively reasonable determination, based on all circumstances, whether the adverse factor is a direct result of their status as a victim.

The PHA will include in its notice of denial information about the protection against denial provided by VAWA in accordance with section 16-VII.C of this ACOP, a notice of VAWA rights, and a copy of the form HUD-5382. The PHA will request in writing that an applicant wishing to claim this protection notify the PHA within 14 **calendar** days.

Documentation

Victim Documentation [24 CFR 5.2007]

PHA Policy

If an applicant claims the protection against denial of admission that VAWA provides to victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the PHA will request in writing that the applicant provide documentation supporting the claim in accordance with section 16-VII.D of this ACOP.

Perpetrator Documentation

PHA Policy

If the perpetrator of the abuse is a member of the applicant family, the applicant must provide additional documentation consisting of one of the following:

A signed statement (1) requesting that the perpetrator be removed from the application and (2) certifying that the perpetrator will not be permitted to visit or to stay as a guest in the public housing unit

Documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to their belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.

VICTIM OF DOMESTIC VIOLENCE:

- **If a family declares a property and asks for an exemption because a family member is a victim of domestic violence, dating violence, sexual assault, stalking or human trafficking.**
- **The PHA must accept the self-certification of the family member.**
- **24 CFR 5.2007 applies.**
- **Confidentiality rules**

3-III.G. NOTICE OF ELIGIBILITY OR DENIAL

The PHA will notify an applicant family of its final determination of eligibility in accordance with the policies in Section 4-III.E.

If a PHA uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before the PHA can move to deny the application. In addition, a copy of the record must be provided to the subject of the record [24 CFR 5.903(f) and 5.905(d)].

PHA Policy

If, based on a criminal record or sex offender registration information an applicant family appears to be ineligible, the PHA will notify the family in writing of the proposed denial and provide a copy of the record to the applicant and to the subject of the record. The family will be given 10 **calendar** days to dispute the accuracy and relevance of the information. If the family does not contact the PHA to dispute the information within that 10-**calendar** day period, the PHA will proceed with issuing the notice of denial of admission. A family that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the informal hearing process.

Notice requirements related to denying admission to noncitizens are contained in Section 3-II.B.

Notice policies related to denying admission to applicants who may be victims of domestic violence, dating violence, sexual assault, stalking or **human trafficking** are contained in Section 3-III.F.

EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES

Person with Disabilities [24 CFR 5.403]

The term *person with disabilities* means a person who has any of the following types of conditions.

- Has a disability, as defined in 42 U.S.C. Section 423(d)(1)(A), which reads:

Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months

In the case of an individual who has attained the age of 55 and is blind (within the meaning of “blindness” as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.
- Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C.15002(8)], which defines developmental disability in functional terms as follows:

(A) IN GENERAL – The term *developmental disability* means a severe, chronic disability of an individual that-

 - (i) is attributable to a mental or physical impairment or combination of mental and physical impairments;
 - (ii) is manifested before the individual attains age 22;
 - (iii) is likely to continue indefinitely;
 - (iv) results in substantial functional limitations in 3 or more of the following areas of major life activity: (I) self-care, (II) receptive and expressive language, (III) learning, (IV) mobility, (V) self-direction, (VI) capacity for independent living, (VII) economic self-sufficiency; and
 - (v) reflects the individual’s need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

(B) INFANTS AND YOUNG CHILDREN – An individual from birth to age 9, inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting 3 or more of the criteria described in clauses (i) through (v) of subparagraph (A) if the individual, without services and supports, has a high probability of meeting those criteria later in life.
- Has a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration; substantially impedes their ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

People with the acquired immunodeficiency syndrome (AIDS) or any conditions arising from the etiologic agent for AIDS are not excluded from this definition.

A person whose disability is based solely on any drug or alcohol dependence does not qualify as a person with disabilities for the purposes of this program.

For purposes of reasonable accommodation and program accessibility for persons with disabilities, the term person with disabilities refers to an individual with handicaps.

Individual with Handicaps [24 CFR 8.3]

Individual with handicaps means any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment. The term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents the individual from participating in the program or activity in question, or whose participation, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others. As used in this definition, the phrase:

- (1) Physical or mental impairment includes:
 - (a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine
 - (b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.
- (2) Major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.
- (3) Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.
- (4) Is regarded as having an impairment means:
 - (a) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation
 - (b) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment
 - (c) Has none of the impairments defined in paragraph (a) of this section but is treated by a recipient as having such an impairment

Chapter 4

APPLICATIONS, WAITING LIST AND TENANT SELECTION

INTRODUCTION

When a family wishes to reside in public housing, the family must submit an application that provides the PHA with the information needed to determine the family's eligibility. HUD requires the PHA to place all eligible families that apply for public housing on a waiting list. When a unit becomes available, the PHA must select families from the waiting list in accordance with HUD requirements and PHA policies as stated in its Admissions and Continued Occupancy Policy (ACOP) and its annual plan.

The PHA is required to adopt a clear approach to accepting applications, placing families on the waiting list, and selecting families from the waiting list, and must follow this approach consistently. The actual order in which families are selected from the waiting list can be affected if a family has certain characteristics designated by HUD or the PHA to receive preferential treatment.

HUD regulations require that the PHA comply with all equal opportunity requirements, and it must affirmatively further fair housing goals in the administration of the program [24 CFR 960.103, PH Occ GB p. 13]. Adherence to the selection policies described in this chapter ensures that the PHA will follow all relevant fair housing requirements, as described in Chapter 2.

This chapter describes HUD and PHA policies for accepting applications, managing the waiting list and selecting families from the waiting list. The PHA's policies for assigning unit size and making unit offers are contained in Chapter 5. Together, Chapters 4 and 5 of the ACOP comprise the PHA's Tenant Selection and Assignment Plan (TSAP).

The policies outlined in this chapter are organized into three sections, as follows:

Part I: The Application Process. This part provides an overview of the application process, and discusses how applicants can obtain and submit applications. It also specifies how the PHA will handle the applications it receives.

Part II: Managing the Waiting List. This part presents the policies that govern how the PHA's waiting list is structured, when it is opened and closed, and how the public is notified of the opportunity to apply for public housing. It also discusses the process the PHA will use to keep the waiting list current.

Part III: Tenant Selection. This part describes the policies that guide the PHA in selecting families from the waiting list as units become available. It also specifies how in-person interviews will be used to ensure that the PHA has the information needed to make a final eligibility determination.

PART I: THE APPLICATION PROCESS

4-I.A. OVERVIEW

This part describes the policies that guide the PHA's efforts to distribute and accept applications, and to make preliminary determinations of applicant family eligibility that affect placement of the family on the waiting list. This part also describes the PHA's obligation to ensure the accessibility of the application process.

4-I.B. APPLYING FOR ASSISTANCE

Any family that wishes to reside in public housing must apply for admission to the program [24 CFR 1.4(b)(2)(ii), 24 CFR 960.202(a)(2)(iv), and PH Occ GB, p. 68]. HUD permits the PHA to determine the format and content of its applications, as well how such applications will be made available to interested families and how applications will be accepted by the PHA. However, the PHA must include Form HUD-92006, Supplement to Application for Federally Assisted Housing, as part of the PHA's application [Notice PIH 2009-36].

PHA Policy

Applications are accepted online only; placement will be determined by "Date and Time" of application received through a portal managed by PHA's computer software company.

Families who wish to apply for any of the PHA's programs must complete an online application and must have/create an e-mail account.

Persons with disabilities may call the PHA to receive guidance on the online application process or make other arrangements under a reasonable accommodation to complete their application.

The PHA will not accept applications via fax, mail, e-mail, or submitted in person. Incomplete applications will not be processed.

A two-step process will be used when it is expected that a family will not be selected from the waiting list for at least 60 days from the date of application. Under the two-step application process, the PHA initially will require families to provide only the information needed to make an initial assessment of the family's eligibility, and to determine the family's placement on the waiting list. The family will be required to provide all the information necessary to establish family eligibility and the amount of rent the family will pay when selected from the waiting list.

Applicants are required to inform the PHA in writing of changes in family composition, income, and address, as well as any changes that could affect their placement. Applicants are also required to respond to requests from the PHA to update information on their application, or to determine their continued interest in assistance; failure to respond will result in removal from the waiting list without further notice.

4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

The PHA must take a variety of steps to ensure that the application process is accessible to those people who might have difficulty complying with the standard PHA application process (see PHA policy above).

Disabled Populations [24 CFR 8; PH Occ GB, p. 68]

The PHA must provide reasonable accommodation as needed for persons with disabilities to make the application process fully accessible. The facility where applications are accepted and the application process must be fully accessible, or the PHA must provide an alternate approach that provides equal access to the program. Chapter 2 provides a full discussion of the PHA's policies related to providing reasonable accommodations for people with disabilities.

Limited English Proficiency

PHAs are required to take reasonable steps to ensure meaningful access to their programs and activities by persons with limited English proficiency [24 CFR 1]. Chapter 2 provides a full discussion on the PHA's policies related to ensuring access to people with limited English proficiency (LEP).

4-I.D. PLACEMENT ON THE WAITING LIST

The PHA must review each completed application received and make a preliminary assessment of the family's eligibility. Applicants for whom the waiting list is open must be placed on the waiting list unless the PHA determines the family to be ineligible. Where the family is determined to be ineligible, the PHA must notify the family in writing [24 CFR 960.208(a); PH Occ GB, p. 41].

No applicant has a right or entitlement to be listed on the waiting list, or to any particular position on the waiting list.

Ineligible for Placement on the Waiting List

PHA Policy

If the PHA **waiting list website** determines from the information provided that a family is ineligible, **the waiting list website automatically will send the applicant an electronic notification of their ineligibility to the e-mail provided; therefore, the** family will not be placed on the waiting list. When a family is determined to be ineligible **after reviewing their application from the waiting list**, the PHA **will reject the application and an electronic notification of their ineligibility will be automatically sent to the applicant's email provided. At the request of an applicant, an informal review can be scheduled** (see Chapter 14).

Eligible for Placement on the Waiting List

PHA Policy

The PHA **waiting list website** will send **an electronic notification** of the preliminary eligibility determination **to the applicant's e-mail provided.**

Applicants will be placed on the waiting list according to PHA **local** preference(s): **being a resident of the PHA's jurisdiction and/or being employed in the PHA's jurisdiction 20 or more hours per week**, and the date and time their complete application is received by the PHA when the waiting list opens.

The PHA will assign families on the waiting list according to the bedroom size for which a family qualifies as established in its occupancy standards (see Chapter 5). Families may request to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines (as long as the unit is not overcrowded according to PHA standards and local codes). However, in these cases, the family must agree not to request a transfer for two years after admission, unless they have a change in family size or composition.

Placement on the waiting list does not indicate that the family is, in fact, eligible for admission. When the family is selected from the waiting list, the PHA will verify any preference(s) claimed and determine eligibility and suitability for admission to the program.

PART II: MANAGING THE WAITING LIST

4-II.A. OVERVIEW

The PHA must have policies regarding the type of waiting list it will utilize as well as how the waiting list will be organized and managed. This includes policies on notifying the public on the opening and closing of the waiting list to new applicants, updating family information, purging the list of families that are no longer interested in or eligible for public housing, and conducting outreach to ensure a sufficient number of applicants.

In addition, HUD imposes requirements on how the PHA may structure its waiting list and how families must be treated if they apply for public housing at a PHA that administers more than one assisted housing program.

4-II.B. ORGANIZATION OF THE WAITING LIST

The PHA's public housing waiting list must be organized in such a manner to allow the PHA to accurately identify and select families in the proper order, according to the admissions policies described in this ACOP.

PHA Policy

The waiting list will contain the following information for each applicant listed:

- Name and social security number of head of household

- Unit size required (number of family members)

- Amount and source of annual income

- Accessibility requirement, if any

- Date and time of application or application number

- Household type (family, elderly, disabled)

- Admission preference, if any

- Race and ethnicity of the head of household

- The specific site(s) selected (only if PHA offers site-based waiting lists)

The PHA may adopt one community-wide waiting list or site-based waiting lists. The PHA must obtain approval from HUD through submission of its Annual Plan before it may offer site-based waiting lists. Site-based waiting lists allow families to select the development where they wish to reside and must be consistent with all applicable civil rights and fair housing laws and regulations [24 CFR 903.7(b)(2)].

PHA Policy

The PHA will not adopt site-based waiting lists.

HUD requires that public housing applicants must be offered the opportunity to be placed on the waiting list for any tenant-based or project-based voucher or moderate rehabilitation program that the PHA operates if 1) the other programs' waiting lists are open, and 2) the family is qualified for the other programs [24 CFR 982.205(a)(2)(i)].

HUD permits, but does not require, that PHAs maintain a single merged waiting list for their public housing, Section 8, and other subsidized housing programs [24 CFR 982.205(a)(1)].

PHA Policy

The PHA will not merge the public housing waiting list with the waiting list for any other program the PHA operates.

4-II.C. OPENING AND CLOSING THE WAITING LIST

Closing the Waiting List

The PHA is permitted to close the waiting list, in whole or in part, if it has an adequate pool of families to fully lease units in all of its developments. The PHA may close the waiting list completely, or restrict intake by preference, type of project, or by size and type of dwelling unit. [PH Occ GB, p. 31].

PHA Policy

The PHA will close the waiting list when the estimated waiting period for housing applicants on the list reaches 24 months for the most current applicants, **or after the specific time frame period that the PHA established to open the waiting list has ended.**

Reopening the Waiting List

If the waiting list has been closed, it may be reopened at any time. The PHA should publish a notice announcing the opening of the waiting list in local newspapers of general circulation, minority media, and other suitable media outlets. Such notice must comply with HUD fair housing requirements. The PHA should specify who may apply, and where and when applications will be received.

PHA Policy

The PHA will announce the reopening of the waiting list at least 10 business days prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice.

The notice will inform applicants of the date, time, method, **guidelines, and website to apply.**

To ensure that public notices broadly reach potential applicants in all communities throughout the housing market area, the PHA will distribute public notices to local community-based organizations, such as social service agencies and religious institutions; distribute the notice online through the PHA's website or social media platforms and other online platforms for local housing news; and make use of any local newspapers of general circulation, minority media, and other suitable means.

The PHA will give public notice by publishing the relevant information using the following media outlets:

The Bethlehem Housing Authority will give public notice by publishing the relevant information in suitable media outlets such as: The local newspaper. Information will also be available on our BHA website and our Social Media platform, and the sites mentioned above.

4-II.D. FAMILY OUTREACH [24 CFR 903.2(d); 24 CFR 903.7(a) and (b)]

The PHA should conduct outreach as necessary to ensure that the PHA has a sufficient number of applicants on the waiting list to fill anticipated vacancies and to assure that the PHA is affirmatively furthering fair housing and complying with the Fair Housing Act.

Because HUD requires the PHA to admit a specified percentage of extremely low-income families, the PHA may need to conduct special outreach to ensure that an adequate number of such families apply for public housing.

PHA outreach efforts must comply with fair housing requirements. This includes:

- Analyzing the housing market area and the populations currently being served to identify underserved populations
- Ensuring that outreach efforts are targeted to media outlets that reach eligible populations that are underrepresented in the program
- Avoiding outreach efforts that prefer or exclude people who are members of a protected class

PHA outreach efforts must be designed to inform qualified families about the availability of units under the program. These efforts may include, as needed, any of the following activities:

- Submitting press releases to local newspapers, including minority newspapers
- Developing informational materials and flyers to distribute to other agencies
- Providing application forms to other public and private agencies that serve the low income population
- Developing partnerships with other organizations that serve similar populations, including agencies that provide services for persons with disabilities

PHA Policy

The PHA will monitor the characteristics of the population being served and the characteristics of the population as a whole in the PHA's jurisdiction. Targeted outreach efforts will be undertaken if a comparison suggests that certain populations are being underserved.

4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES

PHA Policy

While the family is on the waiting list, the family must inform the PHA, within 10 **calendar** days of changes in family size or composition, preference status, or contact information, including current residence, mailing address, and phone number. The changes must be submitted in writing.

Changes in an applicant's circumstances while on the waiting list may affect the family's qualification for a particular bedroom size or entitlement to a preference. When an applicant reports a change that affects their placement on the waiting list, the waiting list will be updated accordingly.

4-II.F. UPDATING THE WAITING LIST

HUD requires the PHA to establish policies that describe the circumstances under which applicants will be removed from the waiting list [24 CFR 960.202(a)(2)(iv)].

Purging the Waiting List

The decision to remove an applicant family that includes a person with disabilities from the waiting list is subject to reasonable accommodation. If the applicant did not respond to the PHA's request for information or updates because of the family member's disability, the PHA must, upon the family's request, reinstate the applicant family to their former position on the waiting list as a reasonable accommodation [24 CFR 8.4(a), 24 CFR 100.204(a), and PH Occ GB, p. 39 and 40]. See Chapter 2 for further information regarding reasonable accommodations.

PHA Policy

The waiting list will be updated as needed to ensure that all applicant information is current and timely.

To update the waiting list, the PHA will send an update request via mail to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for the program.

As part of the initial application, the PHA will ask the family for their preferred methods of communication, which may include mail, phone, email, or contact through a representative or service provider.

This update request will be sent to the last address that the PHA has on record for the family as well as any additional contact methods identified by the family. The update request will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list.

The family's response must be in writing and may be delivered in person, by mail, by email, or by fax. Responses should be postmarked or received by the PHA not later than **30 calendar** days from the date of the PHA letter.

If the family fails to respond within **30 calendar** days, the family will be removed from the waiting list without further notice.

If the notice is returned by the post office with no forwarding address, the applicant will be removed from the waiting list without further notice.

If the notice is returned by the post office with a forwarding address, if the address is in the PHA's jurisdiction, the notice will be re-sent to the address indicated. If the family fails to respond, the family will be removed from the waiting list without further notice.

When a family is removed from the waiting list during the update process for failure to respond, no informal hearing will be offered. Such failures to act on the part of the applicant prevent the PHA from making an eligibility determination; therefore, no informal hearing is required.

If a family is removed from the waiting list for failure to respond, the PHA may reinstate the family if the lack of response was due to PHA error, to circumstances beyond the family's control, as a result of a family member's disability, or as a direct result of status as a victim of domestic violence, dating violence, sexual assault, stalking, or **human trafficking**, including an adverse factor resulting from such abuse.

Removal from the Waiting List

PHA Policy

The PHA will remove an applicant from the waiting list upon request by the applicant family. In such cases no informal hearing is required.

If the PHA determines that the family is not eligible for admission (see Chapter 3) at any time while the family is on the waiting list the family will be removed from the waiting list.

If a family is removed from the waiting list because the PHA has determined the family is not eligible for admission, a notice will be sent to the family's address of record as well as to any alternate address provided on the initial application. The notice will state the reasons the family was removed from the waiting list and will inform the family how to request an informal hearing regarding the PHA's decision (see Chapter 14) [24 CFR 960.208(a)].

PART III: TENANT SELECTION

4-III.A. OVERVIEW

The PHA must establish tenant selection policies for families being admitted to public housing [24 CFR 960.201(a)]. The PHA must not require any specific income or racial quotas for any developments [24 CFR 903.2(d)]. The PHA must not assign persons to a particular section of a community or to a development or building based on race, color, religion, sex, disability, familial status or national origin for purposes of segregating populations [24 CFR 1.4(b)(1)(iii) and 24 CFR 903.2(d)(1)].

The order in which families will be selected from the waiting list depends on the selection method chosen by the PHA and is impacted in part by any selection preferences that the family qualifies for. The availability of units also may affect the order in which families are selected from the waiting list.

The PHA must maintain a clear record of all information required to verify that the family is selected from the waiting list according to the PHA's selection policies [24 CFR 960.206(e)(2)]. The PHA's policies must be posted any place where the PHA receives applications. The PHA must provide a copy of its tenant selection policies upon request to any applicant or tenant. The PHA may charge the family for providing a copy of its tenant selection policies [24 CFR 960.202(c)(2)].

PHA Policy

When an applicant or resident family requests a copy of the PHA's tenant selection policies, the PHA **will direct them to our website.**

4-III.B. SELECTION METHOD

PHAs must describe the method for selecting applicant families from the waiting list, including the system of admission preferences that the PHA will use.

Local Preferences [24 CFR 960.206]

PHAs are permitted to establish local preferences and to give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits the PHA to establish other local preferences, at its discretion. Any local preferences established must be consistent with the PHA plan and the consolidated plan and must be based on local housing needs and priorities that can be documented by generally accepted data sources [24 CFR 960.206(a)].

PHA Policy

Local preferences will be aggregated using a system in which each preference will receive an allocation of points. The more preference points an applicant has, the higher the applicant's place on the waiting list. Applicants qualifying for both preferences will thus be assigned a total of three points. Among applicants with the same preference points, date and time of application will be used to determine placement on the waiting list.

The point system criterion only applies to the active waiting list opened in June 2019, which includes the **Veteran status – Honorably discharged** – If you or your spouse is a veteran honorably discharged or is currently on active duty, must provide a copy of the DD214 or the active duty ID card (**1 point**), and the **Displaced by Natural Disaster** – Displaced by natural disaster such as fire, earthquake or hurricane – provide the most current paperwork received by FEMA or the Red Cross for such event (**3 points**), in addition to the preferences below. For any other waiting lists opened after June 2019, the applicant's placement will be determined by date and time of application received, and the eligibility requirement of residence and working in the PHA's jurisdiction 20 hours or more per week.

The PHA will use the following local preferences:

Residence/Working 20 hours or more (1 point)

Residence – an applicant family who qualifies as a resident of the Bethlehem's jurisdiction – must provide a current lease or a Resident Verification Form signed by the property owner. The applicant must provide documents with current address such as: utility bills and picture ID – either driver's license or state ID.

Working Family Preference (1 point): To bring higher income families into public housing, the PHA will establish a preference for “working” families, where the head, spouse, cohead, or sole member is currently working at least 20 hours per week. As required by HUD, families where the head and spouse, or sole member is a person age 62 or older, or is a person with disabilities, will also be given the benefit of the working preference [24 CFR 960.206(b)(2)]. **An applicant must provide a BHA disability form completed by a Medical Professional or a letter by a Medical Professional stating such**

disability, and/or provide a currently dated award letter from the Social Security Administration Office (SSD/SSI).

VAWA (Violence Against Women/Men Act) – (2 points) Domestic Violence

Preference: The PHA will offer a preference to families that include victims of domestic violence, dating violence, sexual assault, stalking, or **human trafficking** who have either been referred by a partnering service agency or consortia or who are seeking an emergency transfer under VAWA from the PHA's Housing Choice Voucher program or other covered housing program operated by the PHA. The applicant must certify that the abuser will not reside with the applicant unless the PHA gives prior written approval.

The PHA will work with the following partnering service agencies:

Bethlehem Police Department and Turning Point of the Lehigh Valley

Example 1: Head of household is elderly but does not work. There is no spouse or cohead. This family receives the benefit of the working preference.

Example 2: Head of household is 64, spouse is disabled. Neither work. This family receives the benefit of the working preference.

Example 3: Head of household is 63, spouse is neither elderly nor disabled. Neither work. This family does NOT receive benefit of the working preference since both the head of household and spouse (or cohead) must be elderly and/or disabled to receive benefit of the working preference unless one is currently working at least 20 hours a week.

Income Targeting Requirement [24 CFR 960.202(b)]

HUD requires that extremely low-income (ELI) families make up at least 40 percent of the families admitted to public housing during the PHA's fiscal year. ELI families are those with annual incomes at or below the federal poverty level or 30 percent of the area median income, whichever number is higher [*Federal Register* notice 6/25/14]. To ensure this requirement is met, the PHA may skip non-ELI families on the waiting list in order to select an ELI family.

If a PHA also operates a housing choice voucher (HCV) program, admissions of extremely low-income families to the PHA's HCV program during a PHA fiscal year that exceed the 75 percent minimum target requirement for the voucher program, shall be credited against the PHA's basic targeting requirement in the public housing program for the same fiscal year. However, under these circumstances the fiscal year credit to the public housing program must not exceed the lower of: (1) ten percent of public housing waiting list admissions during the PHA fiscal year; (2) ten percent of waiting list admissions to the PHA's housing choice voucher program during the PHA fiscal year; or (3) the number of qualifying low-income families who commence occupancy during the fiscal year of PHA public housing units located in census tracts with a poverty rate of 30 percent or more. For this purpose, qualifying low-income family means a low-income family other than an extremely low-income family.

PHA Policy

The PHA will monitor progress in meeting the ELI requirement throughout the fiscal year. ELI families will be selected ahead of other eligible families on an as-needed basis to ensure that the income targeting requirement is met.

Mixed Population Developments [24 CFR 960.407]

A mixed population development is a public housing development or portion of a development that was reserved for elderly families and disabled families at its inception (and has retained that character) or the PHA at some point after its inception obtained HUD approval to give preference in tenant selection for all units in the development (or portion of a development) to elderly and disabled families [24 CFR 960.102]. Elderly family means a family whose head, spouse, cohead, or sole member is a person who is at least 62 years of age. Disabled family means a family whose head, spouse, cohead, or sole member is a person with disabilities [24 CFR 5.403]. The PHA must give elderly and disabled families equal preference in selecting these families for admission to mixed population developments. The PHA may not establish a limit on the number of elderly or disabled families that may occupy a mixed population development. In selecting elderly and disabled families to fill these units, the PHA must first offer the units that have accessibility features for families that include a person with a disability and require the accessibility features of such units. The PHA may not discriminate against elderly or disabled families that include children (Fair Housing Amendments Act of 1988).

Units Designated for Elderly or Disabled Families [24 CFR 945]

The PHA may designate projects or portions of a public housing project specifically for elderly or disabled families. The PHA must have a HUD-approved allocation plan before the designation may take place.

Among the designated developments, the PHA must also apply any preferences that it has established. If there are not enough elderly families to occupy the units in a designated elderly development, the PHA may allow near-elderly families to occupy the units [24 CFR 945.303(c)(1)]. Near-elderly family means a family whose head, spouse, or cohead is at least 50 years old, but is less than 62 [24 CFR 5.403].

If there are an insufficient number of elderly families and near-elderly families for the units in a development designated for elderly families, the PHA must make available to all other families any unit that is ready for re-rental and has been vacant for more than 60 consecutive days [24 CFR 945.303(c)(2)].

The decision of any disabled family or elderly family not to occupy or accept occupancy in designated housing shall not have an adverse affect on their admission or continued occupancy in public housing or their position on or placement on the waiting list. However, this protection does not apply to any family who refuses to occupy or accept occupancy in designated housing because of the race, color, religion, sex, disability, familial status, or national origin of the occupants of the designated housing or the surrounding area [24 CFR 945.303(d)(1) and (2)].

This protection does apply to an elderly family or disabled family that declines to accept occupancy, respectively, in a designated project for elderly families or for disabled families, and requests occupancy in a general occupancy project or in a mixed population project [24 CFR 945.303(d)(3)].

PHA Policy

The PHA does not have designated elderly or designated disabled housing at this time.

Deconcentration of Poverty and Income-Mixing [24 CFR 903.1 and 903.2]

The PHA's admission policy must be designed to provide for deconcentration of poverty and income-mixing by bringing higher income tenants into lower income projects and lower income tenants into higher income projects. A statement of the PHA's deconcentration policies must be included in its annual plan [24 CFR 903.7(b)].

The PHA's deconcentration policy must comply with its obligation to meet the income targeting requirement [24 CFR 903.2(c)(5)].

Developments subject to the deconcentration requirement are referred to as 'covered developments' and include general occupancy (family) public housing developments. The following developments are not subject to deconcentration and income mixing requirements: developments operated by a PHA with fewer than 100 public housing units; mixed population or developments designated specifically for elderly or disabled families; developments operated by a PHA with only one general occupancy development; developments approved for demolition or for conversion to tenant-based public housing; and developments approved for a mixed-finance plan using HOPE VI or public housing funds [24 CFR 903.2(b)].

Steps for Implementation [24 CFR 903.2(c)(1)]

To implement the statutory requirement to deconcentrate poverty and provide for income mixing in covered developments, the PHA must comply with the following steps:

Step 1. The PHA must determine the average income of all families residing in all the PHA's covered developments. The PHA may use the median income, instead of average income, provided that the PHA includes a written explanation in its annual plan justifying the use of median income.

PHA Policy

The PHA will determine the average income of all families in all covered developments on an annual basis.

Step 2. The PHA must determine the average income (or median income, if median income was used in Step 1) of all families residing in each covered development. In determining average income for each development, the PHA has the option of adjusting its income analysis for unit size in accordance with procedures prescribed by HUD.

PHA Policy

The PHA will determine the average income of all families residing in each covered development (not adjusting for unit size) on an annual basis.

Step 3. The PHA must then determine whether each of its covered developments falls above, within, or below the established income range (EIR), which is from 85% to 115% of the average family income determined in Step 1. However, the upper limit must never be less than the income at which a family would be defined as an extremely low-income family (federal poverty level or 30 percent of median income, whichever number is higher).

Step 4. The PHA with covered developments having average incomes outside the EIR must then determine whether or not these developments are consistent with its local goals and annual plan.

Step 5. Where the income profile for a covered development is not explained or justified in the annual plan submission, the PHA must include in its admission policy its specific policy to provide for deconcentration of poverty and income mixing.

Depending on local circumstances the PHA's deconcentration policy may include, but is not limited to the following:

- Providing incentives to encourage families to accept units in developments where their income level is needed, including rent incentives, affirmative marketing plans, or added amenities
- Targeting investment and capital improvements toward developments with an average income below the EIR to encourage families with incomes above the EIR to accept units in those developments
- Establishing a preference for admission of working families in developments below the EIR

- Skipping a family on the waiting list to reach another family in an effort to further the goals of deconcentration
- Providing other strategies permitted by statute and determined by the PHA in consultation with the residents and the community through the annual plan process to be responsive to local needs and PHA strategic objectives

A family has the sole discretion whether to accept an offer of a unit made under the PHA's deconcentration policy. The PHA must not take any adverse action toward any eligible family for choosing not to accept an offer of a unit under the PHA's deconcentration policy [24 CFR 903.2(c)(4)].

If, at annual review, the average incomes at all general occupancy developments are within the EIR, the PHA will be considered to be in compliance with the deconcentration requirement and no further action is required.

PHA Policy

For developments outside the EIR the PHA will take the following actions to provide for deconcentration of poverty and income mixing:

The PHA will monitor the applicants and residents' income to assure that the PHA follows the policy of deconcentration of poverty and income mixing in its developments.

Order of Selection [24 CFR 960.206(e)]

The PHA system of preferences may select families either according to the date and time of application or by a random selection process.

PHA Policy

Families will be selected from the waiting list based on preference points. Among applicants with the same preference points, families will be selected on a first-come, first-served basis according to the date and time their complete application is received by the PHA.

When selecting applicants from the waiting list, the PHA will match the characteristics of the available unit (unit size, accessibility features, unit type) to the applicants on the waiting lists. The PHA will offer the unit to the highest ranking applicant who qualifies for that unit size or type, or that requires the accessibility features.

By matching unit and family characteristics, it is possible that families who are lower on the waiting list may receive an offer of housing ahead of families with an earlier date and time of application or higher preference status.

Factors such as deconcentration or income mixing and income targeting will also be considered in accordance with HUD requirements and PHA policy.

4-III.C. NOTIFICATION OF SELECTION

When the family has been selected from the waiting list, the PHA must notify the family [24 CFR 960.208].

PHA Policy

The PHA will notify the family by mail when it is selected from the waiting list.

The notice will inform the family of the following:

Date, time, and location of the scheduled application interview, including any procedures for rescheduling the interview

Who is required to attend the interview

Documents that must be provided at the interview to document the legal identity of household members, including information about what constitutes acceptable documentation

Documents that must be provided at the interview to document eligibility for a preference, if applicable

Other documents and information that should be brought to the interview

If a notification letter is returned to the PHA with no forwarding address, the family will be removed from the waiting list without further notice. Such failure to act on the part of the applicant prevents the PHA from making an eligibility determination; therefore no informal hearing will be offered.

4-III.D. THE APPLICATION INTERVIEW

HUD recommends that the PHA obtain the information and documentation needed to make an eligibility determination through a private interview. Being invited to attend an interview does not constitute admission to the program.

Assistance cannot be provided to the family until all SSN documentation requirements are met. However, if the PHA determines that an applicant family is otherwise eligible to participate in the program, the family may retain its place on the waiting list for a period of time determined by the PHA [Notice PIH 2018-24].

Reasonable accommodation must be made for persons with disabilities who are unable to attend an interview due to their disability [24 CFR 8.4(a) and 24 CFR 100.204(a)].

PHA Policy

Families selected from the waiting list are required to participate in an eligibility interview.

The head of household and the spouse/cohead will be strongly encouraged to attend the interview together. However, either the head of household or the spouse/cohead may attend the interview on behalf of the family. Verification of information pertaining to adult members of the household not present at the interview will not begin until signed release forms are returned to the PHA.

The interview will be conducted only if the head of household or spouse/cohead provides appropriate documentation of legal identity (Chapter 7 provides a discussion of proper documentation of legal identity). If the family representative does not provide the required documentation, the appointment may be rescheduled when the proper documents have been obtained.

Pending disclosure and documentation of social security numbers, the PHA will allow the family to retain its place on the waiting list for **30 days**. If not all household members have disclosed their SSNs at the next time a unit becomes available, the PHA will offer a unit to the next eligible applicant family on the waiting list.

If the family is claiming a waiting list preference, the family must provide documentation to verify their eligibility for a preference (see Chapter 7). If the family is verified as eligible for the preference, the PHA will proceed with the interview. If the PHA determines the family is not eligible for the preference, the interview will not proceed and the family will be placed back on the waiting list according to the date and time of their application.

The family must provide the information necessary to establish the family's eligibility, including suitability, and to determine the appropriate amount of rent the family will pay. The family must also complete required forms, provide required signatures, and submit required documentation. If any materials are missing, the PHA will provide the family with a written list of items that must be submitted.

Any required documents or information that the family is unable to provide at the interview must be provided within 10 business days of the interview (Chapter 7 provides details about longer submission deadlines for particular items, including documentation of Social Security numbers and eligible noncitizen status). If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial (see Chapter 3).

An advocate, interpreter, or other assistant may assist the family with the application and the interview process.

Interviews will be conducted in English. For limited English proficient (LEP) applicants, the PHA will provide translation services in accordance with the PHA's LEP plan.

If the family is unable to attend a scheduled interview, the family should contact the PHA in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend a scheduled interview, the PHA will send another notification letter with a new interview appointment time. Applicants who fail to attend two scheduled interviews without PHA approval will have their applications withdrawn based on the family's failure to supply information needed to determine eligibility. The second appointment letter will state that failure to appear for the appointment without a request to reschedule will be interpreted to mean that the family is no longer interested and their application will be withdrawn. Such failure to act on the part of the applicant prevents the PHA from making an eligibility determination, therefore the PHA will not offer an informal hearing.

4-III.E. FINAL ELIGIBILITY DETERMINATION [24 CFR 960.208]

The PHA must verify all information provided by the family (see Chapter 7). Based on verified information related to the eligibility requirements, including PHA suitability standards, the PHA must make a final determination of eligibility (see Chapter 3).

When a determination is made that a family is eligible and satisfies all requirements for admission, including tenant selection criteria, the applicant must be notified of the approximate date of occupancy insofar as that date can be reasonably determined [24 CFR 960.208(b)].

PHA Policy

The PHA will notify a family in writing of their eligibility within 10 **calendar** days of the determination and will provide the approximate date of occupancy insofar as that date can be reasonably determined.

The PHA will expedite the administrative process for determining eligibility to the extent possible for applicants who are admitted to the public housing program as a result of an emergency transfer from another PHA program.

The PHA must promptly notify any family determined to be ineligible for admission of the basis for such determination, and must provide the applicant upon request, within a reasonable time after the determination is made, with an opportunity for an informal hearing on such determination [24 CFR 960.208(a)].

PHA Policy

If the PHA determines that the family is ineligible, the PHA will send written notification of the ineligibility determination within 10 **calendar** days of the determination. The notice will specify the reasons for ineligibility and will inform the family of its right to request an informal hearing (see Chapter 14).

If the PHA uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a denial, **a copy of the FBI Information Sheet will be mailed along with the letter of denial to the individual. The applicant may request an informal review to dispute the accuracy and relevance of the criminal charges. Then the PHA will determine their eligibility.**

The PHA must provide the family a notice of VAWA rights (form HUD-5380) as well as the HUD VAWA self-certification form (form HUD-5382) in accordance with the Violence against Women Act, and as outlined in 16-VII.C, at the time the applicant is provided assistance or at the time the applicant is denied assistance. **This notice must be provided in both of the following instances: (1) when a family actually begins receiving assistance (lease execution); or (2) when a family is notified of its ineligibility.**

Chapter 5

OCCUPANCY STANDARDS AND UNIT OFFERS

INTRODUCTION

The PHA must establish policies governing occupancy of dwelling units and offering dwelling units to qualified families.

This chapter contains policies for assigning unit size and making unit offers. The PHA's waiting list and selection policies are contained in Chapter 4. Together, Chapters 4 and 5 of the ACOP comprise the PHA's Tenant Selection and Assignment Plan (TSAP).

Policies in this chapter are organized in two parts.

Part I: Occupancy Standards. This part contains the PHA's standards for determining the appropriate unit size for families of different sizes, compositions, and types.

Part II: Unit Offers. This part contains the PHA's policies for making unit offers, and describes actions to be taken when unit offers are refused.

PART I: OCCUPANCY STANDARDS

5-I.A. OVERVIEW

Occupancy standards are established by the PHA to ensure that units are occupied by families of the appropriate size. This policy maintains the maximum usefulness of the units, while preserving them from underutilization or from excessive wear and tear due to overcrowding. Part I of this chapter explains the occupancy standards. These standards describe the methodology and factors the PHA will use to determine the size unit for which a family qualifies, and includes the identification of the minimum and maximum number of household members for each unit size. This part also identifies circumstances under which an exception to the occupancy standards may be approved.

5-I.B. DETERMINING UNIT SIZE

In selecting a family to occupy a particular unit, the PHA may match characteristics of the family with the type of unit available, for example, number of bedrooms [24 CFR 960.206(c)].

HUD does not specify the number of persons who may live in public housing units of various sizes. PHAs are permitted to develop appropriate occupancy standards as long as the standards do not have the effect of discriminating against families with children [PH Occ GB, p. 62].

Although the PHA does determine the size of unit the family qualifies for under the occupancy standards, the PHA does not determine who shares a bedroom/sleeping room.

The PHA's occupancy standards for determining unit size must be applied in a manner consistent with fair housing requirements.

PHA Policy

The PHA will use the same occupancy standards for each of its developments.

The PHA's occupancy standards are as follows:

The PHA will assign one bedroom for each two persons within the household, except in the following circumstances:

Persons of different generations will not be required to share a bedroom.

Live-in aides will be allocated a separate bedroom. No additional bedrooms will be provided for the live-in aide's family.

Single person families will be allocated a zero or one bedroom.

Children related to a household member by birth, adoption, or court awarded custody will be considered when determining unit size.

Foster children will be considered when determining unit size. The family may add foster children to the household if it does not overcrowd the unit based on the PHA's occupancy standards.

Children away at school, but for whom the unit is considered the primary residence, and children temporarily placed outside the home, will be considered when determining unit size.

Children in the process of being adopted will be considered when determining unit size.

Children who will live in the unit less than 50 percent of the time will not be considered when determining unit size.

The PHA will reference the following standards in determining the appropriate unit bedroom size for a family:

BEDROOM SIZE	MINIMUM NUMBER OF PERSONS	MAXIMUM NUMBER OF PERSONS
0	1	1
1	1	2
2	2	4
3	3	6
4	4	8

5-I.C. EXCEPTIONS TO OCCUPANCY STANDARDS

Types of Exceptions

PHA Policy

The PHA will consider granting exceptions to the occupancy standards at the family's request if the PHA determines the exception is justified by the relationship, age, sex, health or disability of family members, or other personal circumstances.

For example, an exception may be granted if a larger bedroom size is needed for medical equipment due to its size and/or function, or as a reasonable accommodation for a person with disabilities. An exception may also be granted for a smaller bedroom size in cases where the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides (according to the chart in Section 5-I.B) and the family does not want to transfer to a larger size unit.

When evaluating exception requests the PHA will consider the size and configuration of the unit. In no case will the PHA grant an exception that is in violation of local housing or occupancy codes, regulations or laws.

Requests from applicants to be placed on the waiting list for a unit size smaller than designated by the occupancy standards will be approved if the unit is not overcrowded according to local code, and the family agrees not to request a transfer for a period of **one** years from the date of admission, unless they have a subsequent change in family size or composition.

To prevent vacancies, the PHA may provide an applicant family with a larger unit than the occupancy standards permit. However, in these cases the family must agree to move to a suitable, smaller unit when another family qualifies for the larger unit and there is an appropriate size unit available for the family to transfer to.

Processing of Exceptions

PHA Policy

All requests for exceptions to the occupancy standards must be submitted in writing.

In the case of a request for exception as a reasonable accommodation, the PHA will encourage the resident to make the request in writing using a reasonable accommodation request form. However, the PHA will consider the exception request any time the resident indicates that accommodation is needed whether or not a formal written request is submitted.

Requests for a larger size unit must explain the need or justification for the larger size unit, and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source unless **the disability and the disability-related request for accommodation is readily apparent or otherwise known.**

The PHA will notify the family of its decision within 10 **calendar** days of receiving the family's request.

PART II: UNIT OFFERS

24 CFR 1.4(b)(2)(ii); 24 CFR 960.208

5-II.A. OVERVIEW

The PHA must assign eligible applicants to dwelling units in accordance with a plan that is consistent with civil rights and nondiscrimination laws.

In filling an actual or expected vacancy, the PHA must offer the dwelling unit to an applicant in the appropriate offer sequence. The PHA will offer the unit until it is accepted. This section describes the PHA's policies with regard to the number of unit offers that will be made to applicants selected from the waiting list. This section also describes the PHA's policies for offering units with accessibility features.

PHA Policy

The PHA will offer one unit only, if the applicant rejects such a unit, the applicant will be withdrawn from the waiting list.

5-II.B. NUMBER OF OFFERS

PHA Policy

The PHA has adopted one unit offer only, this will be the final one. The applicant will be offered a suitable unit in any of our developments, unless the applicant requested a specific location at the time of their application.

5-II.C. TIME LIMIT FOR UNIT OFFER ACCEPTANCE OR REFUSAL

PHA Policy

Applicants must accept or refuse a unit offer within 3 **calendar** days of the date of the unit offer.

5-II.D. REFUSALS OF UNIT OFFERS

Good Cause for Unit Refusal

An elderly or disabled family may decline an offer for designated housing. Such a refusal must not adversely affect the family's position on or placement on the public housing waiting list [24 CFR 945.303(d)].

PHA Policy

Applicants may refuse to accept a unit offer for "good cause." *Good cause* includes situations in which an applicant is willing to move but is unable to do so at the time of the unit offer, or the applicant demonstrates that acceptance of the offer would cause undue hardship not related to considerations of the applicant's race, color, national origin, etc. [PH Occ GB, p. 104]. Examples of good cause for refusal of a unit offer include, but are not limited to, the following:

The family demonstrates to the PHA's satisfaction that accepting the unit offer will require an adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities.

The family demonstrates to the PHA's satisfaction that accepting the offer will place a family member's life, health, or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders; other court orders; risk assessments related to witness protection from a law enforcement agency; or documentation of domestic violence, dating violence, sexual assault, stalking, **or human trafficking** in accordance with section 16-VII.D of this ACOP. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption.

A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final application) or live-in aide necessary to the care of the principal household member.

The unit is inappropriate for the applicant's disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to a 30-day notice to move.

The unit has lead-based paint and the family includes children under the age of six.

In the case of a unit refusal for good cause the applicant will not be removed from the waiting list as described later in this section. The applicant will remain at the top of the waiting list until the family receives an offer for which they do not have good cause to refuse.

The PHA will require documentation of good cause for unit refusals.

Unit Refusal without Good Cause

PHA Policy

When an applicant rejects the final unit offer without good cause, the PHA will remove the applicant's name from the waiting list and send notice to the family of such removal.

The applicant may reapply for assistance if the waiting list is open. If the waiting list is not open, the applicant must wait to reapply until the PHA opens the waiting list.

5-II.E. ACCESSIBLE UNITS [24 CFR 8.27]

PHAs must adopt suitable means to assure that information regarding the availability of accessible units reaches eligible individuals with disabilities, and take reasonable nondiscriminatory steps to maximize the utilization of such units by eligible individuals whose disability requires the accessibility features of a particular unit.

When an accessible unit becomes vacant, before offering such units to a non-disabled applicant the PHA must offer such units:

- **First, to a current resident of another unit of the same development, or other public housing development under the PHA's control, who has a disability that requires the special features of the vacant unit and is occupying a unit not having such features, or if no such occupant exists, then**
- Second, to an eligible qualified applicant on the waiting list having a disability that requires the special features of the vacant unit.

When offering an accessible unit to an applicant not having a disability requiring the accessibility features of the unit, the PHA may require the applicant to agree (and may incorporate this agreement in the lease) to move to a non-accessible unit when available.

PHA Policy

Families requiring an accessible unit may be over-housed in such a unit if there are no resident or applicant families of the appropriate size who also require the accessible features of the unit.

When there are no resident or applicant families requiring the accessible features of the unit, including families who would be over-housed, the PHA will offer the unit to a non-disabled applicant.

When offering an accessible unit to a non-disabled applicant, the PHA will require the applicant to agree to move to an available non-accessible unit when either a current resident or an applicant needs the features of the unit and there is another unit available for the non-disabled family. This requirement will be a provision of the lease agreement.

5-II.F. DESIGNATED HOUSING

When applicable, the PHA's policies for offering units designated for elderly families only or for disabled families only are described in the PHA's Designated Housing Plan.

Chapter 6

INCOME AND RENT DETERMINATIONS

PART I: INTRODUCTION

This chapter outlines the U.S. Department of Housing and Urban Development's (HUD) income determination requirements for participation in the Public Housing (PH) program and provides guidance to the Public Housing Authority (PHA) in how to determine income.

This chapter will:

- Define annual income and provide guidance on sources of income, assets, and deductions.
- Define adjusted income and provide guidance on specific adjusted income components; and
- Guide on determining the proper relation codes on the Form HUD-50058.

Although this chapter covers HUD requirements and provides examples of the types of income to be included and excluded, the PHA retains some flexibility in establishing local policies and procedures related to total tenant payment (TTP) calculations. For unique scenarios, it is important to remember the general rules of income determination:

- Determine the best possible estimate of adjusted income for the coming year based on the information available; and
- Document decisions, calculations, and the information used for verification in the tenant file.

Chapter 7 provides policies on the verification process.

The Bethlehem Housing Authority will use the policies and methods described in this chapter to ensure that only eligible families receive assistance and that no family pays more or less than its obligations under the regulations.

This chapter describes HUD's regulations and the PHA's policies related to these topics in **nine parts as follows:**

- Part I: Introduction**
- Part II: Household Characteristics**
- Part III: Annual Income**
- Part IV: Annualizing and Calculating Income**
- Part V: Assets**
- Part VI: Deductions and Expenses**
- Part VII: Adjusted Income**
- Part VIII: Calculating Total Tenant Payment**
- Part IX: Exhibits**

Exhibit 6-1: Income Exclusions

Exhibit 6-2: HUD Student Aid and Financial Assistance Resource Sheet

Exhibit 6-3: Inflationary Adjustment

PART II: HOUSEHOLD CHARACTERISTICS

6-II. Overview and Regulations

Household characteristics are important for determining annual and adjusted income, including the types of income included in the calculation, and the applicable deductions. The PHA must ensure that household characteristics are entered properly in their system of record and, subsequently, on the HUD-50058. Systems of record often assign certain calculations automatically based on the characteristics entered, so these must be entered accurately.

This section summarizes certain household characteristics and their impact on annual and adjusted income.

Regulations

3 24 CFR § 5.603(b)
4 24 CFR § 5.603(b)
5 24 CFR § 5.611(a)(1)
6 24 CFR § 5.609(c)(1)
7 24 CFR § 5.603(b)
8 24 CFR §§ 5.603(b), 5.611(a)(1)
9 24 CFR § 5.609(c)(11)
10 24 CFR § 5.609(c)(6)
11 24 CFR § 5.403
12 24 CFR § 5.611(a)(2)
13 24 CFR § 5.611(a)(3)
14 24 CFR § 5.403
15 24 CFR § 5.611(a)
16 24 CFR § 5.611(a)
17 24 CFR § 5.403
18 24 CFR § 5.403
20 Form HUD-50058
21 24 CFR § 5.609(c)(5)
22 24 CFR § 5.609(c)(2)
23 24 CFR § 5.603(b) 24 Form HUD-50058
25 24 CFR § 5.609(c)(2)
26 24 CFR § 5.609(c)(1)
27 24 CFR § 5.603(b)
28 Form HUD-50058 Instruction Booklet
29 24 CFR §§ 5.403, 5.603; Form HUD-50058 Instruction Booklet
30 24 CFR § 5.609
31 24 CFR § 5.611

6-II.A. Dependents

A dependent is a family member (except foster children and foster adults) who is either under the age of 18, a person with a disability, or a full-time student.³

The family head of household, co-head, or spouse cannot be a dependent.⁴

- The family will receive a \$480 deduction for each dependent.⁵ **This amount will be adjusted annually (Refer to Exhibit 6-3 Inflationary Adjustment)**
- The income of family members under the age of 18 (including foster children) is excluded from annual income. ⁶

6-II.B. Full-time Students

A family member is considered a full-time student if he or she is attending school or vocational training on a full-time basis.⁷ Full-time status is usually defined by the educational or vocational institution. Therefore, verification with the institution that the family member is enrolled full-time is required. Family members, other than the head, co-head, or spouse, who are age 18 or over and are full-time students are considered dependents.

- The family will receive a \$480 deduction for each dependent.⁸ **This amount will be adjusted annually (Refer to Exhibit 6-3).**
- If a full-time student other than the head, co-head, or spouse receives earned income, any earned income above \$480 annually will be excluded from annual income.⁹ **This amount will be adjusted annually (Refer to Exhibit 6-3)**

If the head, co-head, or spouse is a full-time student and receives earned income, the full amount of their earned income will be included in the annual income.

For any student receiving financial assistance under Section 479B of the Higher Education Act (HEA) of 1965, as amended, paid to the student or educational institution, including the head, co-head, or spouse, the full amount of assistance is excluded from annual income.¹⁰ For any student receiving other financial assistance, the PHA must verify and determine that the other student's financial assistance is for the student's actual charge to determine what is included in annual income or excluded. **Refer to Exhibit 6-1 and Exhibit 6-2.**

6-II.C. Elderly Families

Elderly families are families in which the head, co-head, or spouse is 62 years or older. An elderly family may include one or more people aged 62 or older living with a live-in aide. ¹¹

- Elderly families receive a \$525 deduction from annual income.¹² **This amount will be adjusted annually (Refer to Exhibit 6-3)**

- Elderly families may receive a deduction for unreimbursed medical expenses equal to the amount by which the expenses exceed 10% of the family's annual income.¹³

6-II.D. Disabled Families

Disabled families are families in which the head, co-head, spouse, or sole member is a person with a disability.¹⁴

- Disabled families receive a **\$525** deduction from annual income. **This amount will be adjusted annually (Refer to Exhibit 6-3)**
- Disabled families may receive a deduction for the sum of the following more than 10% of annual income—
 - o unreimbursed medical expenses,
 - o unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member with a disability when necessary to enable any family member to be employed if the deduction is less than the earned income of family members 18 and over who can work because of the attendant care or apparatus.
- Disabled families receive a \$480 deduction for each dependent.¹⁶ **This amount will be adjusted annually (Refer to Exhibit 6-3)**

To be eligible for certain deductions, the family member's disability status must be verified.¹⁵

If the disability is obvious, readily apparent, or already known, the PHA cannot require verification of the disability. If the disability is not apparent or is not already known to the PHA, the PHA may verify that the person has a disability but must request only information that is necessary to make the determination. The PHA must not inquire about the nature or extent of any disability. 24 CFR § 5.611(a)

6-II.E. Live-in Aides

Elderly, near-elderly, and disabled households may be eligible to have a live-in aide as a reasonable accommodation.¹⁷ A live-in aide is a person who lives with one or more elderly persons, near-elderly persons, or persons with a disability, and who:

- (1) is determined by the PHA to be essential to the care and well-being of the person(s);
- (2) is not financially responsible for paying bills for or sharing resources to support the tenant; and
- (3) would not be living in the unit except to provide necessary supportive services.¹⁸

The live-in aide as well as their children are coded as "L" on the HUD-50058. The live-in aide and the live-in aide's family residing in the unit are considered household members but not family members.¹⁹ The live-in aide must be coded properly on the HUD-50058 to

ensure that their income and characteristics are not displayed on the tenant family's EIV Income Report.²⁰

- The live-in aide's income is not included in annual income and the household is not eligible for any deductions based on the live-in aide's characteristics.²¹

The household includes everyone who lives in the unit. Household members are used to determine unit size. The family includes all household members **except** live-in aides foster children and foster adults. Family members are used to calculate subsidies and payments.

6-II.F. Foster Care Children and Adults

New Definitions of Foster Adult and Foster Child

Regulation: 24 CFR § 5.603

The final rule establishes definitions for “foster adult” and “foster child.”

A foster adult is defined as a member of the household who is 18 years or older and meets the definition of a foster adult under state law. State-level agencies define who is considered a foster adult/child, so the classification may vary from state to state.

In general, a **foster adult** is unable to live independently due to a debilitating physical or mental condition and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

A **foster child** is defined as a member of the household who meets the definition of a foster child under state law. In general, a foster child is placed with the family by an authorized placement agency (e.g., a public child welfare agency) or by judgment, decree, or other order of any court of competent jurisdiction.

Foster adults/children are not considered family members and must not be included in calculations of income for eligibility and rent determination purposes. **However, foster adults/children are considered household members and must be included when determining unit size** or subsidy standards based on established policies.

The definition of “dependent” under § 5.603 was revised to explicitly exclude foster children and foster adults. **PHAs may not provide a dependent deduction** under § 5.611(a) for a foster child or foster adult. Consistent with the determination that foster adults/children are not family members, income earned by foster adults/children, **payments received for the care of foster adults/children, and expenses incurred related to foster adults/children are not considered to be family income or family expenses** used in the determination of annual income.

Reasonable unreimbursed **child-care expenses** (as defined in § 5.603) **for foster children under 13 years of age may be deducted** from annual income if those expenses are necessary to enable a member of the family to work, look for work, or to further their education, but only if the unreimbursed child-care expense for the care of the foster child is paid from the family's annual income (and not another source, such as a stipend from a child welfare agency).

PHAs may use their discretion to establish permissive deductions under 24 CFR 5.611(b) related to foster children and foster adults – for example, **to allow unreimbursed health and medical expenses (defined in § 5.603) of an elderly or disabled family related to their foster child or foster adult to be deducted** from annual income, so long as the expenses are paid from the elderly or disabled family's annual income (and not another source, such as a stipend from a child welfare agency).

Families may be eligible to continue to receive the **child-care expense deduction**, under a **hardship exemption**, when the unreimbursed child-care expense is **for the care of a foster child under the age of 13**, but only if the unreimbursed child-care expense for the care of the foster child is paid from the family's annual income (and not another source, such as a stipend from a child welfare agency).

See HUD's Notice PIH 2023-27 Attachment C (paragraph C.5) (Child-Care Expenses Deduction and Hardship Exemption to Continue Child-Care Expenses Deduction) of this notice.

When a member of an assisted family is temporarily placed in foster care (as confirmed by the state child welfare agency), the member is still counted as a family member in the unit from which they were removed. This means that a foster child or foster adult could be considered an assisted family member in one household while also being a foster child 55 or adult in another household and receiving consideration in both families' voucher size and/or unit size.

PHA Discretion: None

PHA Policy

Refer to Chapter 6-VI.H. for the policy on permissive deduction.

6-II.G. Relation Codes on the HUD-50058

Certain household characteristics are coded on line 3h under the “relation code” of Form HUD-50058, which is a module of HUD’s Inventory Management System/PIH Information Center (IMS/PIC).

The relation codes must be entered accurately since a household member’s relation or characteristics may affect the family’s adjusted income as described in the sections above.²⁸ Below provides information about each relation code, including the definition of the code, the effect on annual income, and the effect on expenses and deductions. Some private market systems of record assist PHA staff by automatically applying certain deductions or excluding income from certain family members based on their characteristics.

For Household members who are considered members:

Relation Code: H - Head of Household (HOH)

Definition: The one adult member of the household, designated by the family or by PHA policy as the head of household, who is wholly or partly responsible for rent payment. ²⁹

Effect on Annual Income: All of this person’s income must be counted unless the source of income is specifically excluded.³⁰

Applicable Deductions: If the HOH (or the co-head or spouse) is elderly or a person with disabilities, the family will be considered an Elderly or Disabled Family and must receive a \$525 deduction from annual income. **This amount will be adjusted annually (Refer to Exhibit 6-3).** An Elderly/Disabled family is also eligible to deduct medical and/or attendant care expenses as applicable.³¹

Relation Code: S – Spouse

Definition: The marriage partner of HOH.²⁹

Effect on Annual Income: All of this person’s income must be counted unless the source of income is specifically excluded.³⁰

Applicable Deductions: If the HOH (or the co-head or spouse) is elderly or a person with disabilities, the family will be considered an Elderly or Disabled Family and must receive a \$525 deduction from annual income. **This amount will be adjusted annually (Refer to Exhibit 6-3).** An Elderly/Disabled family is also eligible to deduct medical and/or attendant care expenses as applicable.³¹

Relation Code: K – Co-head

Definition: An individual in the household who is equally responsible for the lease with the HOH. Indicate either a spouse or a co-head, but not both. A co-head never qualifies as a dependent. However, a co-head may be under 18 years old if declared an “emancipated minor” as many States will allow an emancipated minor to sign a lease.²⁹

Note: In Pennsylvania, there is no general emancipation statute. Therefore, you must be 18 or older to sign a contract that is binding due to legal proceedings in court.

Effect on Annual Income: All this person’s income must be counted unless the source of income is specifically excluded.³⁰ Applicable Deductions: If the HOH (or the co-head or

spouse) is elderly or a person with disabilities, the family will be considered an Elderly or Disabled Family and must receive a \$525 deduction from annual income. This amount will be adjusted annually (Refer to Exhibit 6-3). An Elderly/Disabled family is also eligible to deduct medical and/or attendant care expenses as applicable.³¹

Relation Code: A – Other Adult

Definition: A member of the household (excludes foster adults), other than the head, spouse, or co-head, who is 18 years of age or older on the effective date of action (line 2b), regardless of disability status.²⁹

Effect on Annual Income: All this person's income must be counted unless the source of income is specifically excluded.³⁰

Applicable Deductions: If a member marked as "other adult" is a person with disabilities, the member will be considered a dependent.

Relation Code: E – Full-time Student 18 Years of Age or Older

Definition: A member of the household, other than the head, spouse, co-head, or foster child or adult, 18 years of age or older on the effective date of the action (line 2b) who carries a subject load considered full-time student under the standards and practices of the educational institution attended.²⁹

Effect on Annual Income: Earned income is counted as \$480.³⁰ This amount will be adjusted annually (Refer to Exhibit 6-3).

Applicable Deductions: Considered dependents and the family will receive a \$480 deduction for each dependent.³¹ This amount will be adjusted annually (Refer to Exhibit 6-3).

Relation Code: Y – Other Youth Under 18 Years of Age

Definition: A member of the household (regardless of disability status), who is under 18 years of age on the effective date of action (line 2b) and is not a foster child.²⁹

Effect on Annual Income: Earned income is not counted. Benefits income received by or on be of children is counted.³⁰

Applicable Deductions: Considered dependents and the family will receive a \$480 deduction for each dependent. This amount will be adjusted annually (Refer to Exhibit 6-3).

For Household members who are not considered members:

Relation Code: F – Foster Child/Adult

Definition: A foster care child is a member of the household who is under 18 years of age or a member who is a full-time student, 18 years or older, and who is under the parental control and responsibility of someone other than his or her mother or father due to placement by a state agency. A foster care adult is a member of the household (usually a person with a disability, unrelated to the tenant family, who is unable to live alone) who is 18 years of age or older and for whom the family provides necessary shelter, care, and protection.²⁹

Effect on Annual Income: Payments received by the family to care for foster children or foster adults are not counted as income. Income received by or on behalf of foster children/adults is not counted as income.³⁰

Applicable Deductions: Not considered dependent. The household is not eligible for any deductions or expenses on behalf of foster care children or adults.

Relation Code: L – Live-in Aide

Definition: A person who lives with an elderly person or person with disabilities and who: (1) is determined by the PHA to be essential to the care and well-being of the person(s); (2) is not obligated to support the person(s); and (3) would not be living in the unit except to provide necessary supportive services. Children of live-in aides are also marked as “L” on the Form HUD-50058.²⁹

Effect on Annual Income: Income of live-in aides or their families is not counted as income.³⁰

Applicable Deductions: The household is not eligible for any deductions or expenses on behalf of live-in aides or their families.³¹

PART III: ANNUAL INCOME

6-III.A. ANNUAL INCOME

HOTMA significantly revises the annual income regulations. 24 CFR 5.609(b)

Generally, all income is included unless it is specifically excluded.

The new rule:

- Removes the examples of included income sources and provides a broader definition of income.
- Includes an expanded and clarified list of income exclusions.
- Also refer to HOTMA Income and Exclusions Resources Sheet for all exclusions.

Annual Income

Regulations: 24 CFR §§ 5.609(a)(1)–(a)(2)

Annual income includes all amounts received from all sources by each member of the family who is 18 years of age or older, the head of household, or spouse of the head of household, in addition to unearned income received by or on behalf of each dependent who is under 18 years of age. Annual income does not include amounts specifically excluded in paragraph (b) of 24 CFR § 5.609. See Attachment G (Income Exclusions).

All amounts received by the head of household, co-head, or spouse, including the income of a day laborer, independent contractor, and seasonal worker (see 6-III.B paragraphs a, b, and c, below) are included in annual income regardless of age unless otherwise excluded in paragraph (b) of 24 CFR § 5.609.

Note: Annual income includes “all amounts received,” not the amount that a family may be legally entitled to receive but did not. **For example**, a family’s child-support or alimony income must be based on payments received, not the amounts the family is entitled to receive based on any court or agency order. A copy of a court order or other written payment agreement alone may not be sufficient verification of amounts received by a family. **However**, when a family member’s wages or benefits are garnished, levied, or withheld to pay restitution, child support, tax debt, student loan debt, or other applicable debts, PHAs must use the gross amount of the income, before the reduction, to determine a family’s annual income. Annual income also includes all actual anticipated income from assets even if the asset is excluded from net family assets but the income from the asset is not otherwise excluded. Imputed returns on net family assets are included in annual income only when net family assets exceed \$50,000 (a figure that is annually adjusted for inflation) and actual asset income cannot be calculated for all assets (see Part 6-V.D below, for a discussion of scenarios where income can be calculated for some but not all assets). PHAs will not impute income from assets if the total value of net family assets is equal to or less than \$50,000 (as adjusted by inflation). See Part 6-V.B below - (Determining Net Family Assets), below, for the definition of net family assets and paragraph F.6 (Actual and Imputed Income from Assets).

PHA Discretion: None.

The following chart, General Rules for Income and Excluded Income summarizes the basic types of annual income:

General Rules for Included and Excluded Income³³	
Live-in Aides	Income from all sources is excluded [24 CFR 5.609(c)(5)].
Foster Care Children/Adults	Income from all sources is excluded [24 CFR 5.609(a)(1)].
Head, Spouse, or Cohead Other Adult Family Members	<p>Earned income Included: Full amount, before payroll deductions, of wages and salaries, overtime pay, commission, fees, tips, bonuses, and other compensation.</p> <p>Asset income earned over a 12-month period on assets to which the family has access is included.³⁸</p> <p>Benefit income e.g., Social Security, Supplemental Security Income, disability, unemployment, TANF.</p> <p>Regular contributions or gifts (cash or non-cash) are provided regularly. Contribution may include rent and utility payments paid on behalf of the family. [24 CFR 5.609(b)(7)].</p> <p>All sources of income not specifically excluded by the regulations are included.</p>
Children under 18 years of age	<p>Earned income is excluded [24 CFR 5.609(c)(1)].</p> <p>Asset income earned over a 12-month period on assets to which the family has access is included.³⁸</p> <p>Benefit income e.g., Social Security, Supplemental Security Income, disability, unemployment, TANF.</p> <p>Regular contributions or gifts (cash or non-cash) are provided regularly. Contribution may include rent and utility payments paid on behalf of the family. [24 CFR 5.609(b)(7)].</p> <p>All other sources of income, except those specifically excluded by the regulations, are included.</p>

Full-time students 18 years of age or older (not head, spouse, or cohead)	<p>Earned income included up to \$480/year [24 CFR 5.609(c)(11)]. This amount will be adjusted annually. Refer to Exhibit 6-3.</p> <p>Full amount, before payroll deductions, of wages and salaries, overtime pay, commission, fees, tips, bonuses, and other compensation.</p> <p>Note: Include the entire amount if less than \$480 annually.</p> <p>Asset income earned over a 12-month period on assets to which the family has access is included.³⁸</p> <p>Benefit income e.g., Social Security, Supplemental Security Income, disability, unemployment, TANF.</p> <p>Regular contributions or gifts (cash or non-cash) are provided regularly. Contribution may include rent and utility payments paid on behalf of the family. [24 CFR 5.609(b)(7)].</p> <p>All sources of income not specifically excluded by the regulations are included.</p>
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Income of Live-in Aides, Foster Children, and Foster Adults

Regulation: 24 CFR § 5.609(b)(8)

The income of a live-in aide, foster child, or foster adult as defined in 24 CFR §§ 5.403 and 5.603 is **excluded** from the family's calculation of annual income.

PHA Discretion: None.

Foster Children / Adults Payments

24 CFR 5.609(b)(8)

The income of foster child or adult (as defined in 24 CFR 5.403 and 5.603 are **excluded**. Note on Foster Children/Adults and Live-in Aide: Foster adults and foster children are members of the household and therefore considered when determining appropriate unit size and utility allowance. However, they are not considered members of the “assisted family” in determining annual and adjusted income or net family assets; nor are the assets of foster adults or children taken into consideration for purposes of asset limitation. A live-in aide is treated similarly for purposes of income and assets.

Minors Earned Income

[24 CFR 5.609(b)(3)]

All earned income of all children under the age of 18, including foster children, is **excluded**.

Earned Income of Dependent Full-Time Students

Regulation: 24 CFR § 5.609(b)(14)

Earned income of dependent full-time students over the amount of the deduction for a dependent in § 5.611 is excluded from annual income. Full-time students must be dependent family members for this exclusion to apply. This exclusion does not apply to the head of household, spouse, or co-head. This means that the **first \$480** of the income earned by dependent full-time students will be **included** in the family's calculation of annual income.

The dependent deduction will be adjusted annually by the (CPI-W). Full-time dependent students are eligible to receive both the \$480 (as adjusted for inflation) dependent deduction and the exclusion described in this paragraph.

PHA Discretion: None.

6-III.B. EARNED INCOME

Regulation: 24 CFR § 5.609(b)(1)

Full amount, before payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation.

Regulation: 24 CFR § 5.100

Earned Income is defined as income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare assistance, Social Security, and other governmental subsidies/benefits), or any cash or in-kind benefits.

PHA Discretion: None.

PHA Policy

For Tips:

Unless tips are included in a family member's paystubs or traditional third-party, or W-2 verification, the PHA will require family members to provide verification from the employer. If an employer is unable to provide the tips information needed, the PHA will accept a signed self-certification certifying estimate of tips received for the prior year or tips anticipated to be received in the coming year.

Other Employees Compensation (Bonuses or Commissions)

Unless the bonuses or commissions are included in a family member's paystubs, traditional third-party verification, or W-2 form, the PHA will require family members to provide written verification from their employer stating that they do not have this information on hand. Then the PHA will accept a signed BHA format Self-Certification of Income from the family members to be filed in the tenant's file with all other income verifications. The PHA will follow HUD's verification hierarchy. The PHA will count only the amount provided or estimated by the employer or the family to anticipate annual income from bonuses and commissions.

a) Definition of Day Laborer

Regulation: 24 CFR § 5.603(b)

Summary: A day laborer is defined as an individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future. Income earned as a day laborer is not considered nonrecurring income under 24 CFR § 5.609(b)(24) and must be included, unless specifically excluded in 24 CFR § 5.609(b) (e.g., earnings of full-time students over the dependent deduction (24 CFR §§ 5.609(b)(3), (b)(14), etc.).

PHA Discretion: None.

b) Definition of Independent Contractor

Regulation: 24 CFR § 5.603(b)

Summary: An independent contractor is an individual who qualifies as an independent contractor instead of an employee by the Internal Revenue Code federal income tax requirements and whose earnings are consequently subject to the self-employment tax.

In general, an individual is an independent contractor if they have the right to control or direct only the conduct of the work. For example, while instructions and route information are generally provided, third-party delivery and transportation service providers are considered independent contractors unless state law dictates otherwise. In addition, individuals considered “gig workers,” such as babysitters, landscapers, rideshare drivers, and house cleaners, typically fall into the category of independent contractors.

Income earned as an independent contractor is not considered nonrecurring income and must be included unless specifically excluded in 24 CFR § 5.609(b) (e.g., 24 CFR §§ 5.609(b)(3), (b)(14), etc.).

PHA Discretion: None.

c) Definition of Seasonal Worker

Regulation: 24 CFR § 5.603(b)

Summary: A seasonal worker is defined as an individual who is: 1) hired into a short-term position (e.g., for which the customary employment period for the position is 6 months or fewer); and 2) the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the employer or industry. Some examples of seasonal work include employment limited to holidays or agricultural seasons. Seasonal work may include but is not limited to employment as a lifeguard, ballpark vendor, or snowplow driver. Income earned as a seasonal worker is not considered nonrecurring income and must be included unless specifically excluded in 24 CFR § 5.609(b) (e.g., § 5.609(b)(14), etc.).

PHA Discretion: None.

d) Military Pay

All regular pay, special pay, and allowances of a member of the Armed Forces are counted [24 CFR 5.609(b)(8)] **except** for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(c)(7)].

6-III.C. Self-Employment or Operation of a Business

Gross Income from Self-Employment or Operation of a Business

Regulation: 24 CFR §§ 5.609(b)(24) and 5.609(b)(28)

The gross income received by a family through self-employment or the operation of a business is excluded from income. Gross income is all income amounts received into the business, before the deduction of business expenses. To determine the amount of business or self-employment income included in a family's annual income, the net income of the business must first be determined.

Net income is the “gross income amount minus business expenses” that allows the business to operate.

The net income from self-employment or the operation of a business is considered income. Expenditures for business expansion or amortization of capital indebtedness are not deductible when determining the income from a business. An allowance for the depreciation of assets used in a business or profession may be deducted, based on a straight-line depreciation, as provided in IRS's regulations. Any withdrawal of cash or assets from the operation of a business is income except to the extent that such withdrawal is to reimburse the family member for cash or assets that the family has invested in the operation of the business.

Example: Exclusion of Gross Income from Self-Employment or Operation of a Business

Bill Conrad is the sole owner of BC Lawn Service. BC Lawn Service grossed \$75,000 annually in 2024. BC Lawn Service also incurred a total of \$35,000 in business expenses, including lawn equipment, rakes, insurance, depreciation of a tractor, and wage payments. After subtracting the \$35,000 in business expenses from the \$75,000 gross income, the net income is \$40,000, which will be included in Bill's calculation of annual income.

PHA Discretion: None.

PHA Policy

To determine business expenses that may be deducted from gross income, the PHA will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses [see IRS Publication 535], unless a topic is addressed by HUD regulations or guidance. PHA will calculate net income based on the verification received. The family must provide the required verifications. Refer to Chapter 7 – Verification.

6.III.D. Elimination of the Earned Income Disregard (EID)

Regulation: 24 CFR § 5.611

The Earned Income Disregard (EID) will not apply to any family who is not eligible for and already participating in the disallowance as of December 31, 2023.

The EID allowed eligible families to have a portion of their earned income excluded from annual income for a maximum period of 24 consecutive months. Although HOTMA eliminates the EID from HUD regulations, families who were receiving the EID benefit as of December 31, 2023, may continue to receive the full benefit until the remaining timeframe for an individual family's EID expires.

Because the EID lasts up to 24 consecutive months, no family will still be receiving the EID benefit after December 31, 2025.

PHA Discretion: None.

Public Housing program participants qualifying for Earned Income Disallowance or Disregard (EID) were eligible to have a portion of their earned income excluded from annual income for a maximum of period of 24 consecutive months.

Qualifying individuals were current program participants (applicants were ineligible) who had an increase in annual income because of:

- Employment, and they had been unemployed or experiencing “underemployment” for one or more years prior to employment. Underemployment was defined as earning less than the amount calculated at 10 hours weekly for 50 weeks at the establishment minimum wages for the applicable locality.
- An increase in earnings during participation in a self-sufficiency or job training program; or
- Employment or an increase in earnings and the participant having received Temporary Assistance for Needy Families (TANAF) benefits or services within the past six months.

For qualifying participants, PHA was required to:

Excluded the full amount of the increase in income for the initial 12 consecutive months out of the 24 total months based on the date the qualified individual became employed or experienced an increase in earned income.

Exclude at least 50% of the increase in income for the remaining 12 consecutive months out of 24 total months after the initial 12-month period.

Begin the exclusion on the first of the month after the qualifying change.

PHA Policy

Since HOTMA eliminates the EID from HUD regulations, families who are receiving the EID benefit as of December 31, 2023, may continue to receive the full benefit until the remaining timeframe for an individual family's EID expires. Because the EID lasts up to 24 consecutive months, no family will still be receiving the EID benefit after December 31, 2025

6-III.E. Training Programs

HUD-Funded Training Programs – 24 CFR 5.609(c)(8)(i)

All amounts received under any training program funded by HUD are excluded.⁵⁴

Employment Training Programs 24 CFR 5.609(b)(12)(iv)

Incremental earnings and benefits from training programs funded by HUD or qualifying federal, state, tribal, or local employment training programs (including training programs not affiliated with local government) and training of a family member as resident management staff. Excluded amounts must be received with clearly defined goals and objectives and only excluded during the participation in the program unless the amounts are excluded as Federal Financial Aide (5.609(b)(9)(i).

PHA Policy

The PHA defines a training program as “a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period. It is designed to lead to a higher level of proficiency, and it enhances the individual's ability to obtain employment. It may have performance standards to measure proficiency. **Training may include but is not limited to:**

- Take place in a series of sessions over a period of time;
- Be designed to lead to a higher level of proficiency;
- Enhance the individual's ability to become employed;
- Have performance standards;
- Provide classroom training;
- Provide on-the-job training;
- Provide basic education.

The end of participation in a training program must be reported by the PHA's interim reporting requirements (see Chapter 9 - Reexaminations).

6-III.F. Definition of Unearned Income

Regulation: 24 CFR § 5.100

Unearned income means any annual income, as calculated under 24 CFR § 5.609, that is not earned income.

PHA Discretion: None.

6-III.G. Social Security and Other Benefits Income

The gross amount of social security benefits income, before Medicare or other deductions, must be counted as income, except for specific amounts excluded under 24 CFR 5.609(c)(14).⁵⁷ If social security benefits are reduced to make up for prior overpayments, HUD's policy dictates that PHAs count the income the Social Security Administration will provide (the amount received)—not the amount that would have been provided if no error had been made.

This policy also applies to other similar benefits as well as social security.⁵⁸ When Social Security, Supplemental Security Income (SSI), or veterans' disability benefits are paid in a lump sum or prospective monthly amounts because of deferred periodic payments, that amount is excluded from annual income.⁵⁹

6-III.H. Alimony and Child Support

PHAs must count as income alimony and child support amounts received, such as part of a divorce or separation agreement.⁶²

HUD strongly encourages PHAs to determine in their policies what documentation is required to show what the family receives. For example, if the household has filed with the local support enforcement agency, printouts from the agency may indicate the frequency and amounts of payments received.

PHA Policy

To determine annual income from child support or alimony, the PHA will use any available information concerning alimony and child support received. The underlying goal is to determine anticipated annual income over the next 12 months.

For alimony, the PHA will accept as verification court-ordered documents of divorce or separation showing frequency and amount of payment to anticipate annual income for the next 12 months, including any printouts.

For child support, if the household has filed with the local support enforcement agency, printouts from the agency showing the frequency and amounts of payments received will be accepted as verification to anticipate annual income for the next 12 months. Families are not required to undertake independent enforcement action.

If a family reports not receiving support payments, and the support printout shows that no payments have been made in the past 30 days, the PHA will not include child support in annual income.

If a family reports that they are receiving support payments and the printout shows that payments have been made in the last 3 months, regular or irregular payments, the PHA will take the total amount paid in the past 3 months and annualize by multiply by 4.

Any lump-sum payment over \$1000 in the past 3 months will be removed before annualizing, and then added back to the annualized amount. When determining the last 3 months of payments, the PHA will look at the date the printout was printed to determine a fair average of 3 full months of payments. For example, if the printout is dated May 25, the PHA will not use any payments made in the month of May, rather it will use the months of April, March, and February. Nevertheless, since child support can be one of the most difficult types of income to calculate, the PHA will use any currently available information from the local support enforcement agency printout, or court-ordered.

Note: If a support payment printout is not available due to being a new or recent support court order, the PHA will use the court order document provided by the tenant showing the amount and frequency of payments. The tenant is responsible for reporting any future changes.

For voluntary support, the family must provide the name, address, and phone number of the child's parent paying the voluntary support for the PHA to verify the information by sending a PHA format Voluntary Support Verification. If efforts to verify by mail, email, or phone call have failed, then the family is to provide a self-certification to anticipate annual income or to remove voluntary support from the family annual income.

6-III.I. Lump Sum Payment from Unemployment or Welfare Assistance

Generally, lump sum payments received by a family, such as insurance payments and settlements for personal or property losses are considered assets, not income.⁴⁶

Lump sum payments caused by delays in processing periodic payments, such as unemployment or welfare assistance, are included as income.⁴⁷ However, any portion of the lump sum that is paid for a period before admission in the public housing program would not be counted as annual income.

6-III.J. Withdrawal from Investments as Income

PHAs must include periodic payments from investments as income except to the extent the withdrawal is reimbursement of cash or assets invested by the family.⁴⁸ For example, if a tenant invested \$5,000 to purchase an annuity which is now worth \$20,000 and is now receiving monthly installments, income would not be counted until the full \$5,000 amount invested has been reimbursed.

6-III.K. Welfare Assistance

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local government [24 CFR 5.603 (b)].

PHA Policy

To determine annual income, the PHA will accept current tenant-provided third-party notice from the local Department of Welfare showing benefit amounts received from assistance such as TANF or General Assistance or will accept current printouts of benefits from PA COMPASS.

6-III.L. Welfare Benefit Reduction 24 CFR 5.615

The PHA may not include imputed welfare income at the time of admission if the family was not assisted at the time the sanction was imposed.

However, if an assisted family commits welfare fraud or has been sanctioned due to non-compliance with economic self-sufficiency requirements, the PHA may not reduce the family rent.

Welfare benefit reduction affects families who receive welfare assistance or other public assistance benefits from a State or other public agency under a program for which Federal, State, or local law requires that member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

Imputed welfare income is the amount of annual income not received by a family because of a specified welfare benefit reduction, that is included in the family's annual income to determine rent.

Specified welfare benefit reduction does not include a reduction or termination of welfare benefits:

- At the expiration of a lifetime or other time limit of welfare benefits,
- Because a family member is not able to obtain employment, even though they have complied with requirements, or
- Because a family has not complied with other welfare agency requirements.

Therefore, at the request of the PHA, the Welfare agency will inform the PHA in writing the amount and term of the specified benefit reduction, the reason for the reduction, and any subsequent changes in the term or amount of such benefit reduction. The PHA will use this information to determine the amount of imputed welfare income to be entered into the HUD50058. A family's annual income includes the amount of imputed welfare income plus the total amount of other income.

The amount of imputed welfare income is offset by the amount of additional income a family receives after the time the sanction was imposed.

PHA Policy

PHA will comply with all welfare benefit reduction requirements. PHA will verify all reported welfare reductions to determine the cause of reduction and the imputed welfare income, if applicable.

The PHA will request written verification from the welfare agency that the benefit reduction was caused by welfare fraud or non-compliance with economic self-sufficiency requirements before determining annual income or denying a family's request for a reduction in annual income in the case of a specified welfare benefit reduction.

The PHA will also verify the amount and term of the specified welfare benefit reduction.

The following are the steps the PHA will take to ensure that the requirements for the welfare benefit reduction are being carried out:

Step 1: Tenant is receiving TANF benefit of \$780 per month, but the tenant reports a decrease in income due to a welfare benefit reduction.

Step 2: If the tenant fails to provide the PHA with the notice they received from the Department of Welfare stating the reason for the welfare benefit reduction, the PHA must follow up and verify in writing if the welfare benefit reduction was due to welfare fraud or non-compliance with economic self-sufficiency requirements.

Step 3: Once the PHA verifies any of these two causes, the PHA will process an interim reexamination to report these changes on the HUD50058 under the 7b income code "IW" for annual imputed welfare income, regardless of the interim policy.

Step 4: Once PHA processes the HUD50058, the PHA will send the tenant a rent amendment along with a PHA format Welfare Reform Act Notice.

Step 5: PHA will then place in the tenant's certification file a PHA format "Alert Imputed Welfare Income Worksheet to monitor tenant's imputed welfare amount as the tenant continues to report changes of income.

Step 6: The amount of imputed welfare income is offset by the amount of additional income a family receives after the time the sanction was imposed.

Verifying a Specified Welfare Benefit Reduction: PHA must request written verification from the welfare agency that the benefit reduction was caused by noncompliance with economic self-sufficiency requirements or welfare fraud before determining annual income or denying a family's action in annual income in the case of a specified welfare benefit reduction.

The PHA also must verify the amount and term of the specified welfare benefit reduction.⁶⁶ HUD strongly encourages PHAs to make good faith efforts to enter into cooperation agreements with local welfare agencies, not only to obtain the necessary information regarding welfare sanctions, but also to target economic self-sufficiency and other services to families.

Any family whose assistance is adversely affected because of PHA enforcement of these requirements must be notified of their right to an informal hearing.⁶⁷

Calculating Imputed Welfare Income

The amount of annual income not actually received because of a specified welfare benefit reduction but included in annual income for determining rent is called imputed welfare income.

When a specified welfare benefit reduction occurs, the family's annual income includes the amount of the imputed welfare income plus the total amount of other annual income.⁶⁸

If the family was not an assisted family at the time of the sanction, the PHA must not include imputed welfare income in annual income at admission.⁶⁹ Refer to below Table and Examples.

The below table breaks down the possible reasons for benefit reduction or termination and whether imputed welfare assistance needs to be included in annual income.

Reasons for welfare benefits reduction or termination:	Is imputed welfare assistance included in annual income? ⁷⁰
Due to a limit of how long benefits may be received.	No, imputed welfare assistance is not included in income
The family was not able to obtain required employment however the family complied with welfare program economic self-sufficiency requirements	No, imputed welfare assistance is not included in income.
The family has not complied with other welfare agency requirements. For example, the family did not attend their welfare recertification appointment	No, imputed welfare assistance is not included in income.
The family committed welfare fraud.	Yes, imputed welfare assistance must be included in income
The family did not comply with economic self-sufficiency requirements	Yes, imputed welfare assistance must be included in income

Income from other sources received by the family after the sanction is imposed offsets the amount of imputed welfare income.

For example, if the family has found employment in the time between the sanction and the income certification, the new employment income would be subtracted from the imputed welfare income. If the new employment income were to be equal to or greater than the imputed welfare income, there would be no need to include the imputed welfare income in the determination of annual income.⁷¹

Imputed Welfare Income Examples			
	Scenario #1	Scenario #2	Scenario #3
	An assisted family is receiving \$500/month in welfare benefits (TANF). Benefits stop due to welfare fraud.	An assisted family is receiving \$500/month in welfare benefits (TANF). Benefits are reduced to \$200/month due to noncompliance with economic self-sufficiency.	A previously unassisted family was receiving \$500/month in welfare benefits (TANF). Benefits stop due to fraud.
TANF Income before specified welfare benefit reduction	\$500	\$500	\$500
Current TANF Income	\$0	\$200	\$0
Imputed Welfare Income	\$500	\$300	\$0
Total Monthly Income	\$500	\$500	\$0
	A family member begins working, earning \$200/month	A family member begins working, earning \$200/month	A family member begins working, earning \$400/month
TANF Income	\$0	\$200	\$0
Employment Income (offsets imputed welfare income)	\$200	\$200	\$400
Imputed Welfare Income (Prior imputed welfare income – employment income)	\$300 (\$500 - \$200)	\$100 (\$300 - \$200)	\$0 (\$0) no imputed welfare income as sanction imposed prior to the family receiving housing assistance
Total Monthly Income	\$500	\$500	\$400

6-III.M. Income for Temporarily and Permanently Absent Family Members

PHAs must count all income of family members approved by the PHA to reside in the unit, even if they are temporarily absent.⁴² It is important for the PHA to make a distinction between permanent and temporary absence and define what constitutes permanent and temporary absence in its policies. For example, the absence of a family member employed at a temporary job on the other side of the State may be considered temporary, while an absence of a family member because of a divorce action may be considered permanent. If a family member is confined to a nursing home or hospital on a permanent basis, PHAs may determine that that person is no longer a member of the assisted household, and the income of that person is not counted. Public Housing program regulations do not define “temporarily or permanently absent” or specify a timeframe associated with a temporary versus a permanent absence.

PHAs have broad discretion to define this and must include all associated definitions in their ACOP.

PHA Policy

The head of household, spouse, or co-head who signed the lease with the PHA are required to report all changes in their family composition within 10 days of occurrence. Therefore, they have the obligation to determine if a family member from their assisted household is temporarily or permanently absent from their household. If the family member is considered temporarily absent from the household due to short or long-term temporary jobs out of the area, or temporarily confine to a professional medical facility, the family member will still be consider a family a member and their income will be counted in the family’s annual income, unless the head of household, spouse, or co-head request to delete family member from the household and provides verification from a third-party source.

6-III.N. Income of Absent Students

PHA Policy

When someone who has been considered a family member attends school away from home, the family member will continue to be considered a family member **and their income continue to be included**, unless head, spouse, or co-head request for absent student to be deleted from the household as a family member because absent student has established a separate residency.

6-III.O. Income of Minors Placement in Foster Care

Children temporarily absent from the home because of placement in foster care are considered members of the family [24 CFR 5.403]. Any income they may receive will be included in the family’s annual income, unless the family provides verification from the third-party income source that the family is no longer receiving the income source.

PHA Policy

If a child has been placed in foster care, the PHA will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member **and the child's income will continue to be included in the family's annual income, unless family provides verification that the family is no longer receiving income for the child, such as SSI, SS, or child support.**

6-III.P. Income of Absent Head, Spouse, Co-Head, or Adult

PHA Policy

If an adult family member absents from the unit **more than 30 days** due to employment traveling requirements, or temporarily in a professional medical facility, the family member will continue to be considered an assisted family member **and their income will be counted in the family's annual income, unless the head, spouse, or co-head request that the family member be deleted from the household.,**

If a head, spouse, or co-head will be absent from the household for more than 30 days, that individual is required to report this to the PHA within 10 days of the date the individual intends to leave. All parties who signed the lease are required to inform the PHA if they will be absent from the household temporarily or permanently.

If temporarily absent, their income will be counted in the family's annual income, unless they can demonstrate a reason why their income should not be counted. For example, they are temporarily in a nursing facility and their social security benefit is required to go to the nursing facility.

If the head, spouse, or co-head, fails to report their absent to the PHA as required above, and have been out of the household for more than 30 days, the remaining party who signed the lease, has the authority to consider the absent individual permanently absent from the household, and also has the authority to request for the absent individual to be deleted from the household and request a lease revision. Nevertheless, the PHA will first make every attempt to contact the absent head, spouse, or co-head, to confirm their absences, if their contact info is available such as current phone number, or income source phone number such as an employer. PHA will maintain tenant's file well documented.

For verification of deletion from household for an adult:

The PHA will require a family to provide a current PA Driver's License, or PA ID card showing their change of address, letter from their income source showing change of address if applicable, and a residency lease if applicable. PHA will use tenant self-certification from the head, co-head, or spouse, as a last resort.

6-III.Q. Income of Family Member Confined in a Nursing Facility or Hospital for Medical Reasons

PHA Policy

An assisted family member confined to a nursing facility or hospital on a permanent basis will not be considered part of the assisted household. Therefore, the PHA will follow-up with the family to have assisted individual vacate.

However, if there is a question about the status of the assisted individual, the PHA will request verification from a medical professional and will use this determination to decide if the individual should vacate the premises or remain in the household as an assisted individual. All income will be counted in the annual income **unless** the PHA receives verification that income is being forwarded directly to the nursing facility such as social security, SSI, or pension.

A family can at any time present evidence that the individual is confined on a permanent basis and request for the PHA to vacate the individual.

6-III-R. Income of Absences Due to Incarceration

PHA Policy

If a family member is expected to be incarcerated for more than 60 days, that person will not be considered a family member and must be deleted from the household. If the individual intends to return to the unit following incarceration, the individual is subject to eligibility and screening requirements discussed in the chapter on eligibility. This applies also to the head and co-head of the household. All income will be included in the family's annual income.

6-III-S. Joint Custody of Children

PHA Policy

Dependents that are subject to a joint custody arrangement will be considered a member of the family if they live with the applicant or family 50 percent or more of the time. When more than one applicant or assisted family (regardless of program) is claiming the same dependents as part of their family members, the family with primary custody at the time of admission or reexamination will be able to claim the dependents **and the dependent's income will be counted in the family's annual income, regardless if one parent is an assisted family, and the other parent lives in a private sector outside of housing assistance.**

If there is a dispute about which family should claim, the PHA will make the determination based on available documents such as court orders, an IRS income tax return showing which family has claimed the child for income tax purposes, school records, or other credible documentation. The PHA will make any determination on the best available information.

6-III.T. Caretakers/Guardian Income for a Remaining Child in the Household

PHA Policy

The approval of a caretaker/guardian for a remaining child in the unit with no other assisted adult in the household will be at the PHA's discretion and subject to the PHA's screening criteria.

Unless a parent, or grandparents requests to be added to the household, the PHA will take the following actions.

For the safety of the child or children, the PHA will seek assistance from the local Children and Youth Department agency to report the remaining child or children left in the household without a legal designated caretaker/guardian.

If a caretaker/guardian has assumed responsibility for the remaining child or remaining without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker/guardian will be treated as a visitor for 30 days and must seek assistance from the local Children and Youth Department agency for the safety of the child, or children.

If the responsible agency determines and designates an adult caretaker/guardian, the caretaker/guardian will be added to the household once they have passed the PHA's screening criteria.

During any period that a caretaker/guardian is considered a visitor, the income of the caretaker/guardian is not counted in the family's annual income and the caretaker/guardian does not qualify for any deductions from family annual income, until they are approved and execute a revised lease, as head of household.

PART IV: ANNUALIZIG AND CALCULATING INCOME

6-IV.A. Annualizing Income –

24 CFR § 5.609(a)(2) and (d) 73 24 CFR § 960.253(e)

Once all household characteristics and sources of income are known and verified, the PHA must anticipate the family's income over the next 12 months.⁷²

PHAs **may choose** among several methods of annualizing income to determine the anticipated annual income.

Policies for determining annual income are to be included in the agency's ACOP and PHAs must inform the families of the income calculation method that would be applied to them so that the family can plan accordingly.⁷³

The following table describes popular acceptable methods of calculating annual income and when they are most appropriate to use.

Calculation Method	Description	When to Use
Year-to-date	Divide the total gross YTD income on most recent paystub by number of pay periods as of date on paystub then multiply by total number of pay periods in a full year. Check the frequency table to determine the number of pay periods in a year.	Participant has held the same job since before January 1 st of the current year, and the most recent paystub is dated after March 1 st of the current year. There are fluctuations in the participant's income throughout the year.
Average gross pay	Take the average gross pay on the most recent paystubs (at least 2)	When participants' pay varies between pay periods, has multiple jobs or schedule includes periodic mandatory overtime and participant has not the same job since January 1 st of the current year.
Base times (x) rate	Take the estimated number of hours from the offer letter, contract, or employment verification (if range of hours provided, take the average) and multiply it by the verified hourly rate to determine the amount per pay	When a Participant has started a new job and does not have enough pay stubs to estimate income.

	period. Then multiply by the number of pay periods in a full year. Check the frequency table to determine the number of pay periods in a year.	
Irregular	Gather income information from all sources over a specific time from (all pay from a one-month or three-month period depending on frequency). Average the among over that timeframe and annualize it over a full year (i.e. average pay over 3 months multiplied by 4 would provide an average for the full year.	When participant has a temporary, variable or seasonal scheduled, has worked sporadically throughout the year, has combination of any of the above or an on-call or otherwise unpredictable schedule or rate of pay (i.e. day work/construction work based on projects need or ride-share driver)
<u>Frequency of Pay</u> Weekly Bi-weekly Bi-monthly Monthly	Number of Pay Period Annually: 52 26 24 12	

If it is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal, or cyclic income) or the PHA believes that past income is the best available indicator of expected future income, the PHA may annualize the income anticipated for a shorter period, subject to redetermination at the end of the shorter period.⁷⁴

PHA Policy

The PHA opted to use frequency of pay. The PHA's goal is to anticipate the unearned annual income and earned annual income. Concerning earned income, the PHA goal is to anticipate earned annual income to be received and comply with HUD's minimum two consecutive paystubs requirement of the Third-Party Verification Techniques.

When two current and consecutive pay stubs are not available, the PHA will project income based on the information from a traditional written third-party verification form or the best available information as noted in the above table that describes popular acceptable methods of calculating annual income and when they are most appropriate to use.

When two current and consecutive paystubs are available, PHA will use the minimum of the required two paystubs to anticipate the gross annual wages to be received. PHA will calculate the current and consecutive gross amounts shown on the paystubs, according to frequency of pay weekly, bi-weekly, semi-monthly, or monthly pay. The PHA will use calculating tape and attach it to the verifications. This is straightforward.

However, if the paystubs or traditional written third-party verification, indicates a partial pay, the PHA will discuss it with the tenants and require a minimum of three (3) current and consecutive paystubs and use the second and third pay to determine average anticipated gross annual income from wages. The PHA's goal is to take into consideration any known factors that would influence a fair and reasonable expectation of tenants' gross annual wages for the coming year.

If a family reports hours decreased, the tenant will have to provide four current and consecutive paystubs to determine decreased anticipated income, or a letter from their employer noting the changes in hours worked per week, the current pay rate, effective date of decreased hours.

Note: When using traditional third-party verification, BHA will **not** use the greater amount between gross amounts actually paid and the listed hourly rate with hours worked per week. BHA will use the actual gross amounts paid to take an average to anticipated annual income.

6-IV.B. New Admissions and Interim Reexaminations Calculation

Regulations:

24 CFR §§ 5.609(c)(1); 882.515; 891.410(c) and (g)(2); 891.610(c) and (g)(2); 960.257; and 982.516

When calculating a household's income, including asset income, at the time of admission to the program or during interim reexaminations, PHAs must use anticipated income (current income) (i.e., the family's estimated income for the upcoming 12-month period). This requirement is consistent with the pre-HOTMA process for conducting income examinations at admission and for interim reexaminations.

PHA Policy

When calculating a household's income, including asset income, at the time of admission to the program or during interim reexamination, the PHA will use anticipated income as required above.

6-IV.C. Annual Reexaminations Calculation

Regulations:

24 CFR §§ 5.609(c)(2); 882.808; 891.410(g)(1); and 891.610(g)(1) 960.257; and 982.516

The final rule revises the standards for income calculation during annual reexamination. PHAs have the option of using a "safe harbor" income verification from another federal means-tested program to verify gross annual income. See HUD's Notice PIH 2023-27 Attachment J (paragraph J.4) (Determination of Income Using Other Means Tested Public Assistance (i.e., "Safe Harbor") of this notice for an example of how to calculate annual income using the safe harbor method.

During annual reexaminations, except where the PHA uses a streamlined income determination under 24 CFR §§ 5.657(d), 960.257(c), or 982.516(b) (see HUD's Notice PIH 2023-27 Attachment I (paragraph I.8) (Streamlined Income Determination)), PHAs must first determine the family's income for the previous 12-month period and use this amount as the family income for annual reexaminations; however, adjustments to reflect current income must be made.

Any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination of family income in accordance with the PHA's policies and 24 CFR §§ 5.657(c), 960.257(b), or 982.516(c), must be considered.

Income from assets is always anticipated, irrespective of the income examination type. A change in income, for example, may be a loss of income or the addition of a new source of income. Changing to a different employer in the prior year does not necessarily constitute a change if the income earned from either employer is substantially the same.

PHA will look at the entirety of the family's unearned income and earned income from the prior year, in which earned income may have been one constant job or many different jobs that start and stop.

Cost of Living Adjustments (COLA) to Social Security income and Social Security disability income are always considered changes to income because the COLA is an adjustment that automatically occurs annually by law. See 6-IV.D. below for more information on the COLA.

The three steps outlined below apply for both earned and unearned income.

Overview of Calculating Annual Income at Annual Reexamination

Step 1: Determine the annual income for the previous 12-month period as defined at 24 CFR § 5.609(a) and (b). If there have been no changes to income beyond this calculation, then this is the amount that will be used to determine the family's rental assistance. The PHA reviews the following information to determine prior-year income:

- The EIV Income Report (must be pulled within 120 days of the effective date of the annual reexamination to be considered current);
- The income reported on the most recent reexamination HUD-50058; and
- What the family certified to on the PHA current annual reexamination paperwork for prior-year income, if available.

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination.

- If an interim reexamination was performed within the reexamination cycle and there are no additional changes, the PHA must use the annual income from the interim reexamination to determine the family's rental assistance. The PHA may use the verification obtained from the interim reexamination for this step.
- If the PHA did not perform an interim reexamination or if the family reports that there have been changes since the last reexamination, move to Step 3.

Step 3: If there were changes in annual income not processed by the PHA since the last reexamination, use current income.

- Family reports their income for the prior year and whether there have been permanent changes. If there are no reported changes to an income source, the PHA may use documentation of prior-year income to calculate the annual income used for the current annual reexamination HUD-50058.

For example, the PHA could use the following documentation:

- EIV + self-certification (wages, Supplemental Security Income (SSI), Social Security, and unemployment)
- Current level 4 documents verifying prior-year income that are dated within the required timeframe (120 days of receipt by the PHA, for example:
 - o Year-end statement

- o Pay stub with year-to-date amount
- o Tax forms (Form 1040, W2, 1099, etc.)

If there are reported changes by the family or the PHA notes discrepancies between EIV and what the family reports, follow the verification hierarchy to document and verify income. See Attachment J (paragraph J.5) (Verification Hierarchy) of the HUD Notice PIH 2023-27 for information about verification.

PHA Policy

PHA opted not to use the “safe harbor” income verification or the streamlined income determination under 24 CFR §§ 5.657(d), 960.257(c), or 982.516(b).

PHA will follow the requirement to first determine the family’s income for the previous 12-month period and use this amount as the family income for annual reexaminations and will use any adjustments to reflect current income.

Any change of income since the family’s last annual reexamination, including those that did not meet the 10% threshold to process an interim reexamination of family income in accordance with the PHA’s policies and 24 CFR §§ 5.657(c), 960.257(b), or 982.516(c), will be considered. PHA will also use income from assets that is always anticipated, irrespective of the income examination type.

For annual reexaminations, the PHA will refer and use examples below.

Example 1: Calculating Annual Income at Annual Reexamination Using EIV

Background: Staff are processing the 3/1/2024 annual reexamination for Ruby Myers and her minor daughter, Georgia. No interim reexaminations have been processed, and Ruby has not reported any changes to annual income to the PHA since the 3/1/2023 annual reexamination. The SSA published 2024 COLA is 3.2 percent.	
<u>Last 3/1/2023 Annual Reexamination</u>	
Ruby: Wages: \$30,000	Georgia: SSI: \$10,980 (\$915 monthly)
<u>The EIV report pulled on 12/15/2023</u>	
Ruby: Wages Total: \$33,651 Quarter 3 of 2023: \$8,859 (City Public School) Quarter 2 of 2023: \$8,616 (City Public School) Quarter 1 of 2023: \$8,823 (County Public School) Quarter 4 of 2022: \$7,353 (County Public School)	Georgia: SSI Total: \$10,980 2023 benefit \$915 monthly
<u>Income Reported on Reexamination Application</u>	
Ruby: Wages at City Public School: \$32,000 (switched jobs but no permanent change to amount)	Georgia: SSI benefits: \$10,980 (no changes in income)
<u>Calculating Ruby's wages:</u> Step 1: Determine prior annual income from EIV (i.e., Q4 2022 through Q3 of 2023: \$33,651). Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination (in this case, there have been no interim reexaminations processed since the last annual reexamination). Step 3: Ruby certifies that the \$33,651 of wages in EIV is accurate and reflects her current annual income, so the PHA will use \$33,651 for annual wages for the 3/1/2024 annual reexamination given there have been no additional changes to annual income.	<u>Calculating Georgia's SSI benefit:</u> Step 1: Determine the prior annual income from EIV (i.e., \$915 x 12 months: \$10,980). Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination (in this case, there have been no interim reexaminations processed since the last annual reexamination). Step 3: Ruby certifies the SSI income in EIV is accurate and reflects Georgia's current annual income. The PHA must adjust the prior-year income (2023 SSI benefit) by the 3.2-percent COLA and will use this amount to calculate annual SSI income for the 3/1/2024 annual reexamination: COLA: \$29.28 (\$915 x 0.032) New gross SSI benefit: \$11,331.36 (\$944.28 x 12 months)
If Ruby did not agree with the annual wages reported in EIV, the PHA would be required to verify her current income in accordance with HUD's verification hierarchy in Attachment J (paragraph J.5) (Verification Hierarchy) of HUD's Notice PIH 2023-27.	
<u>Summary of Annual Income (as reported on the HUD-50058)</u>	
Ruby (Head of Household): Other Wage: \$33,651	Georgia (Other Youth Under 18): SSI: \$11,331.36
Meyers Family Total Family Income: \$44,987	

**Example 2: Calculating Annual Income at Annual Reexamination Using EIV
But Family Disagrees with EIV**

Background: Staff are processing Paul Hewson's 5/1/2024 annual reexamination. Since the last annual reexamination, Paul reported a decrease in annual income that exceeded 10 percent. Last year, Paul reported a decrease in earned income because he transferred from a full-time job at Sasha's Sweets to a part-time job at Viking Bakery. Following HUD's EIV verification hierarchy, staff confirmed Paul was no longer employed at Sasha's Sweets and decreased his anticipated annual income from \$28,000 to \$7,500 resulting from his new part-time employment at Viking Bakery; an interim reexamination was processed effective 7/1/2023. After the 7/1/2023 interim, Paul worked briefly at two different jobs, but he says he is no longer working and is not planning to work.

5/1/2023 Annual Reexamination

Wages: \$28,000

Last 7/1/2023 Interim Reexamination

Wages: \$7,500

The EIV report pulled on 1/15/2024

Wages Total: \$18,271

Quarter 3 of 2023: \$2,500 (Viking Bakery)

Quarter 3 of 2023: \$796 (Sweet Tooth Candy Bar)

Quarter 2 of 2023: \$1,300 (Sasha's Sweets)

Quarter 2 of 2023: \$584 (Larry's Concessions)

Quarter 2 of 2023: \$2,401 (Viking Bakery)

Quarter 1 of 2023: \$6,500 (Sasha's Sweets)

Quarter 4 of 2022: \$600 (Sasha's Sweets)

SS/SSI: No history of benefits.

Income Reported on Reexamination Application

Wages: \$0 (permanent change; no longer receiving)

Social Security: \$14,400 (\$1,200 monthly)

Paul certified on the PHA's annual reexamination paperwork that he does **not** agree with the annual wages of \$18,271 reported in EIV and it is not reflective of his current anticipated annual income. He reported he is currently unemployed, and provided a copy of an award letter from the Social Security Administration to document that he will begin receiving a monthly disability benefit of \$1,200 effective 3/1/2024.

Calculating Wages and SS Benefit

Step 1: Determine prior annual income taking into consideration the 8/1/2023 interim reexamination (i.e., EIV wages reflected Q4 2022 through Q3 2023: \$18,271)

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there was a 7/1/2023 interim that reduced wages to \$7,500.

Step 3: Obtain documentation to verify current income and confirm Paul is no longer employed at Viking Bakery or The Sweet Tooth Candy Bar (the employers reported in the most recent quarter of EIV). This step is necessary, because Paul did not agree with the EIV income report or income reported on the last interim reexamination. Paul reported that he is no longer working at all.

Process the annual reexamination effective 5/1/2024 using annual SS income of \$14,400 and \$0 wages.

Summary of Annual Income (as reported on the HUD-50058)

Paul (Head of Household): \$14,400 (SS)

Hewson Family Total Annual Income: \$14,400

Example 3: Calculating Annual Income at Annual Reexamination

Background: Staff are processing the 11/1/2024 annual reexamination for Samantha and Fergus Poole, head of household and spouse. On 2/14/2024 Samantha reported her monthly child support payment was reduced from \$200 to \$100 per month, but an interim reexamination was not processed, because the reduction in child support income for Samantha's daughter, Hailey, did not result in a decrease of 10 percent or more in annual adjusted income, and the PHA did not establish a lower threshold (see HUD's Notice PIH 2023-27 Attachment I, paragraph I.1). Samantha did not report any additional changes to the PHA.

Last reexamination – 11/1/2023 Annual Reexamination

Samantha:

Business income: \$28,000

VA disability pension: \$12,000

Child support: \$2,400

Fergus:

Wages: \$8,250

Other non-wage income: \$3,000 (Go Fund Me online fundraiser)

The EIV report was pulled on 9/16/2024.

Samantha:

Wages Total: \$0 (no wages data reported since Q1 2023)

Fergus:

Wages Total: \$8,600

Quarter 1 of 2024: \$2,100 (Ian's Fish 'n' Chips)

Quarter 1 of 2024: \$500 (Claire's Healthcare Supplies)

Quarter 4 of 2023: \$1,000 (Claire's Healthcare Supplies)

Quarter 3 of 2023: \$1,800 (The Onion Garden Shop)

Quarter 2 of 2023: \$3,200 (Ivar's Fish Haus)

Current Family Circumstances: Income Reported on Reexamination Application

Samantha and Fergus reported how much income was earned/received in the previous 12-month period and noted permanent changes, where applicable, for each source of their income on PHA annual reexamination form. However, no information was reported by the family concerning other non-wage income. Fergus reported only wages and his current employment at Ian's Fish 'n' Chips for the annual reexamination. The family supplied the supporting documentation noted below to the PHA for the 11/1/2024 annual reexamination.

Samantha:

Samantha: Business income: \$28,750 (last year); has decreased to \$18,000 (permanent change)

VA disability benefit: \$12,000 (last year); has increased to \$12,300 (permanent change)

Child support: \$2,400 (last year); has decreased to \$1,200 (permanent change)

Fergus:

Wages: \$6,000

Calculating Samantha's Net Business Income

Step 1: Determine prior annual net business income (i.e., \$28,000 on last HUD–50058/HUD).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: Adjust to reflect current net business income. Samantha reported on the annual reexamination application that business income permanently decreased to \$18,000. The PHA must obtain supporting documentation from Samantha that demonstrates current net business income. Samantha provided documentation that supported the current annual net business income is \$18,000. Process the annual reexamination effective 11/1/2024 using annual net business income determined in Step 3.

Calculating Samantha's VA Pension Income

Step 1: Determine prior annual VA pension income (i.e., \$12,000 supported by a VA award letter Samantha supplied that documents the prior year monthly VA pension was \$1,000).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: The PHA needs to adjust to reflect current VA pension income. Samantha supplies a VA award letter showing the COLA adjusted monthly pension of \$1,025, or \$12,300 annually. Process the annual reexamination effective 11/1/2024 using annual VA pension income determined in Step 3 (\$12,300 in this example).

Calculating Samantha's Child Support Income

Step 1: Determine prior annual child support income (i.e., \$2,400 on the last HUD–50058).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination. The family reported a decrease from \$200 to \$100 monthly, but the change was not processed because it did not meet the threshold.

Step 3: The family reported changes, so the PHA must adjust to reflect current child support income. In this example, the family submitted a child support history report from the local child support office that documents regular \$100 monthly child supports payments beginning 3/1/2024 through the current month. Process the annual reexamination effective 11/1/2024 using current annual child support income determined in

Calculating Fergus's Wages

Step 1: Determine prior annual income from wages in EIV (i.e., Q2 2023 through Q1 of 2024: \$8,600).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: There is a discrepancy between what the family reported and EIV, so the PHA must verify and adjust to reflect current annual income from wages. Fergus reported \$6,000 in annual income from wages on the annual reexamination from a single employer, Ian's Fish 'n' Chips.

The PHA projected annual income of \$7,800 based on the two paystubs for this employer, and EIV shows \$8,600 earned in the most recent four quarters in EIV.

To complete Step 3, the PHA must do the following: resolve the discrepancy between EIV wages, the \$6,000 annual income Fergus reported, and the \$7,800 projected based on the paystubs he provided, and verify he is no longer employed at Claire's Healthcare Supplies in accordance with HUD's verification hierarchy and local policies.

The PHA determined that Fergus reported his net vs. gross annual income from wages, which he corrected on the annual reexamination form to reflect his current gross annual income of \$9,000.

The PHA verified Fergus was no longer employed at Claire's Healthcare Supplies and obtained two additional paystubs. Based on two current and consecutive paystubs, Fergus is now projected to earn \$9,360 annually. Process the annual reexamination effective 11/1/2024 using income from wages determined in Step 3 (\$9,360 in this example).

Calculating Fergus's Other Non-Wage Income

Step 1: Determine prior annual income from other non-wage income (i.e., \$3,000 on the last HUD-50058/HUD-50059).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: The family did not report any non-wage income on the annual reexamination form, but it was included on the last HUD-50058. The PHA must verify and adjust to reflect current non-wage income.

The PHA must verify no income was received through a "Go Fund Me" online fundraiser so that it may be excluded. Fergus provided a self-certification that he hasn't solicited funds online and doesn't plan to in the following year; he also provided records from the account that documented no fundraising activity in the prior 12-month period. Process the annual reexamination effective 11/1/2024 using annual non-wage income of \$0 determined in Step 3.

Summary of Annual Income (as reported on the HUD-50058)

Samantha (Head of Household):

Own business: \$18,000

Pension: \$12,300

Child support: \$1,200

Fergus (Co-head):

Wages: \$9,360

Poole Family Total Annual Income: \$40,860

PHA Policy

The PHA will comply with calculation requirements for annual reexamination calculations.

At Annual Reexamination, when EIV is obtained and the family does not dispute the EIV employer income, the PHA will use EIV income data, as noted in the **above Example 1** Calculating Annual Income at Annual Reexamination Using EIV.

When the family does not agree with the EIV employer income and provides current paystubs, PHA will use current tenant-provided documents to project annual income, as noted in the **above Example 2 and 3** Calculating Annual Income at Annual Reexamination using EIV.

When accepting third-party verification according to regulations, the family must provide an original or authentic document generated by a third-party source dated within 90 days of the date received. For fixed income sources, a statement dated within the appropriate benefit year is acceptable documentation. PHA may obtain any tenant-provided documents and follow up directly with the third-party source to obtain necessary verification of information, when necessary.

For new sources, unless the family provided a third-party verification, the PHA will determine income based on the information from a traditional written third-party verification form or the best available information. The PHA will obtain verification in accordance with HUD's verification hierarchy requirements on chapter 7.

The PHA will review and analyze current data to anticipate annual income. In all cases, the family certification file will be documented to support all entries in the HUD50058.

When the PHA cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the PHA will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income. Any time current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases, the family may present information and documentation to the PHA to show why the historic pattern does not

represent the family's anticipated income. When tenant-provided third-party documents are used to anticipate annual income, they will be dated within the 90 days of the reexamination interview date.

6-IV. D. Applying the Current SSA COLA at Next Annual and Interim Reexamination

Regulations: 24 CFR §§ 5.609(c)(2); 960.257; 982.516; and 891.105

Annually in October, the Social Security Administration (SSA) announces the cost-of-living adjustment (COLA) by which federal SS and SSI benefits are adjusted to reflect the increase, if any, in the cost of living as measured by the Consumer Price Index for Urban Wage Earners and Clerical Workers prepared by the Bureau of Labor Statistics.

The purpose of the COLA is to ensure that the purchasing power of SS and SSI benefits are not eroded by inflation. The federal COLA does not apply to state-paid disability benefits. Additional information regarding the SSA COLA is available online at www.socialsecurity.gov.

Effective the day after SSA has announced the COLA, PHAs are required to factor in the COLA when determining SS and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1 or later of the upcoming year.

Example: Adjusting the SS Benefit by the COLA

Elizabeth Peterson receives \$500 a month (SS benefit). The PHA is processing her annual reexam (in November 2023), which is effective 1/2/2024. The PHA must determine annual SS income as follows:

- **Current benefit amount: \$500**
- **COLA: \$18.00 (\$500 x 3.6 percent [or 0.036])**
- **New gross SS benefit effective 01/01/2024: \$518.00 (\$500 current benefit + \$18 COLA)**
- **Annual SS income effective 1/1/2024: \$6,216 (\$518x12)**

PHA Policy

As required, effective the day after SSA has announced the COLA, PHA will factor in the COLA for all annual reexaminations and interims of family that have not yet been completed and will be effective January 1 or later of the upcoming year.

6-IV.E. De Minimis Errors

Regulations: 24 CFR §§ 5.609(c)(4); 5.657(f); 960.257(f); 982.516(f); 882.515(f); 882.808(i)(5); 891.105; and 891.655

PHAs will not be considered out of compliance solely due to de minimis errors in calculating family income. De minimis errors occur when a PHA determination of a family's income deviates from the correct income determination by no more than \$30 per month in monthly adjusted income (or \$360 in annual adjusted income). HUD may revise the threshold amount that constitutes a "de minimis error" through rulemaking. PHAs will not be issued a finding by HUD for de minimis errors in income calculation.

As PHAs become aware of the existence of an income calculation error, they are obligated to correct the error(s) retroactive to the effective date of the action the error was made regardless of the dollar amount associated with the error.

PHAs must take corrective action to credit or repay a family if the family was overcharged tenant rent, including when PHAs make de minimis errors in the income determination. Families will not be required to repay the PHA in instances where the PHA miscalculated income resulting in a family being undercharged for rent.

PHAs must revise their Administrative Plans, ACOPs, and Tenant Selection Plans, as applicable, to reflect how they will repay or credit a family the amount they were overcharged as a result of the PHA's de minimis error in income determination.

PHA Policy

As PHA becomes aware of the existence of an income calculation error, PHA will correct the error(s) retroactive to the effective date of the action the error was made regardless of the dollar amount associated with the error.

PHAs will take corrective action to credit or repay a family if the family was overcharged rent, including when the PHA makes de minimis errors in the income determination. Tenants will not be required to repay the PHA in instances where the PHA miscalculated income resulting in a family being undercharged for rent.

The PHA will repay or credit a tenant the amount they were overcharged because of the PHA's de minimis error in income determination. If the amount due to the family is \$500 or more, the PHA will distribute a check to the tenant, unless there is a delinquent balance due on the tenant's account. The delinquent balance will be paid first. If the tenant pays no rent amount due to being on a negative rent status, the PHA will distribute a check regardless of the amount, unless the tenant requests that the amount be credited to their account.

PART V: ASSETS

6-V.A. ASSET LIMITATION

Regulations 24 CFR §§ 5.100 (real property); 5.603; and 5.618

The Public Housing must deny admission of an applicant if they are determined to not meet the requirements of the asset limitation (see paragraph A.1 and A.2 below).

PHAs have discretion with respect to application of the asset limitation at annual and interim reexamination, as discussed in paragraph below. For reexaminations, paragraph A.1 below does not apply to PHAs who establish total nonenforcement policies as described in paragraph below.

A.1 Asset Limitation

This section describes the asset limitation. The enforcement options are described in subsequent paragraphs A.2. and A.3. A family is out of compliance with the asset limitation if they have either of the following:

- **Net family assets that exceed \$100,000, as adjusted annually for inflation.**

Definition of Net family assets: Net family assets are defined as the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of investment, except as excluded (see below section V. B. - Determination New Family Assets and Exclusions from Net Family Assets). HUD will adjust this amount annually in accordance with the Consumer Price Index–Urban Wage Earners and Clerical Workers (CPI–W). See Exhibit 6-3 in this chapter - Inflationary Adjustments) for more information on inflationary adjustments.

In determining whether the net family assets for a family exceed \$100,000 (as adjusted for inflation), a PHA may accept a declaration from the family that their net assets do not exceed \$50,000 (as adjusted for inflation), without needing to further verify that declaration. See Chapter 7 – Exhibit - Self-Certification of Net Family Assets Equal to or Less Than \$50,000 (as adjusted by inflation). For assets disposed of for less than fair market value during the two years preceding the date of application for the program or reexamination, as applicable, the difference in value between the consideration received and the fair market value must be included in net family assets. 18

- **Real property that is suitable for occupancy.**

Real property means “real property as provided under the State law in which the property is located.” Families are out of compliance if they have a present ownership interest in, a legal right to reside in, and the effective legal authority to sell a property (based on laws of the state or locality in which the property is located) that is suitable for occupancy by the family as a residence.

However, there are several exemptions to the real property restriction, discussed below in paragraph A.4.a (Exemptions to the Real Property Restriction in the Asset Limitation).

In determining whether the family owns real property that would make them out of compliance, a PHA may rely upon a self-certification, both at the time of admission and at reexamination, from the family stating that they do not have any present ownership interest in any real property. A PHA could use a form that requests certification of the family's present ownership interest in the property and inquire about the family's legal right to reside in, and the effective legal authority to sell any real property that is suitable for occupancy by the family. If the family certifies that they do not have any present ownership interest in real property, the PHA may take that as sufficient to determine the family is not out of compliance with the real property restriction. However, if the family owns real property, the must seek third-party verification of the family's legal right to reside in the property, the effective legal authority to sell the property, and whether the property is suitable for occupancy by the family as a residence.

Note: Ownership of real property is relevant to the asset limitation in two distinct ways:

- 1) if the family has an ownership interest in real property, that interest may cause the family's net family assets to exceed \$100,000 (adjusted for inflation), in which case the family is out of compliance; and
- 2) if the family has a present ownership interest in, a legal right to reside in, and the effective legal authority to sell a property that is suitable for occupancy by the family as a residence, then the family is out of compliance.

There are several exemptions to the real property restriction at § 5.618(a)(1)(ii), discussed in paragraph A.4.a., which identify when a real property ownership interest does not by itself render the family out of compliance with the asset limitation. However, those exemptions do not indicate that such real property is excluded from the calculation of net family assets. Unless the real property is specifically excluded from net family assets in the definition under § 5.603, it may be included in net family assets. If the value of that real property brings the net family assets above \$100,000 (as adjusted for inflation), the family will be out of compliance.

A.2 Compliance at Admission

At admission, ownership of net family assets that exceed \$100,000 (as adjusted) or ownership of disqualifying real property require denial of assistance. PHAs do not have the discretion to “not enforce or provide limited enforcement” of the asset limitation at admission.

A. 3 PHA Discretion at Annual and Interim Reexamination

PHAs have discretion with respect to the application of the asset limitation at annual and interim reexamination. PHAs may adopt a written policy of total non-enforcement, enforcement, or limited enforcement, as described below. They may also adopt exceptional policies as described A.3.d below.

Regardless of the policy they adopt, PHAs must comply with federal fair housing and civil rights requirements, including reasonable accommodation requirements. This obligation applies regardless of whether PHAs establish enforcement, limited enforcement, or exception policies to the asset limitation at reexamination. This may mean, for example, that a PHA would be required to allow someone to cure their noncompliance or provide more time to demonstrate they have cured their noncompliance before terminating assistance if there was a nexus between the person's disability and their need to cure or their need for additional time to demonstrate they have cured their noncompliance. Reasonable accommodation could require delaying the initiation of termination or eviction proceedings for more than six months.

A.3.a Total Non-Enforcement

At annual and interim reexamination, PHAs may choose not to enforce the asset limitation, if they establish a written non-enforcement policy. PHAs may establish a total non-enforcement policy for all families at reexaminations, which would mean that they will not initiate termination or eviction proceedings for a family for non-compliance with the asset limitation. Where the PHA exercises this discretion to allow families who would otherwise fail to comply with the asset limitation to continue renting their units, the families will continue to receive assistance. If they adopt a total non-enforcement policy, PHAs must apply the non-enforcement policy the same for all families within a program (e.g., if adopted in a PHA's Admissions and Continued Occupancy Policy, it must apply to all Public Housing families). Any non-enforcement policy must be included in the PHA's Administrative Plan or ACOP.

Note: PHAs who adopt a total non-enforcement policy are still required to calculate net family assets in the manner required by § 5.603, as part of the process of calculating annual income in accordance with § 5.609. While calculating net family assets, PHAs thus still need to determine whether the family owns real property that must be included in net family assets. **However**, if they adopt a total non-enforcement policy, they are not required to obtain and verify additional information about owned real property strictly to determine whether it qualifies for an exemption under § 5.618 (e.g., whether owned real property is suitable for occupancy). For example, if a PHA finds a family owns real property, that real property would need to be included in the calculation of net family assets unless it is specifically excluded by § 5.603, but the PHA would not need to inquire whether it was suitable for occupancy.

A.3.b. Enforcement

PHAs may choose to enforce the asset limitation at reexamination. PHAs with an enforcement policy at reexamination must initiate termination or eviction proceedings within six months of the income examination that determined the family was out of compliance. They may delay the initiation of termination or eviction proceedings for noncompliant families for up to but no longer than six months. See paragraph A.4 on the features that determine whether owned real property renders the family out of compliance with the asset limitation. See paragraph A.5 on how requirements to initiate termination or eviction proceedings vary by program. Any enforcement policy, including the amount of time that a PHA will delay the initiation of termination or eviction proceedings for noncompliant families, must be included in the PHA's Administrative Plan or ACOP.

A.3.c Limited Enforcement: Option to Cure

PHA may alternatively adopt a written policy of limited enforcement, which would differ from total enforcement of the asset limitation at reexamination in only one regard: all families who are found to be out of compliance at reexamination would be provided the same opportunity to come back into compliance. Families would have up to but no longer than six months, depending on the limited enforcement policy that the PHA adopts, to demonstrate that they have come back into compliance. If the family does demonstrate they have come back into compliance within that period, the PHA would not initiate termination or eviction proceedings.

Limited enforcement policies cannot provide families more than six months to come back into compliance and do not extend the period the PHA may delay initiation of termination or eviction proceedings; the PHA may still only delay initiation of termination or eviction proceedings for the family for a period of not more than six months. (In the case of reasonable accommodation, a family may be afforded more than six months to comply.) See paragraph A.4 on the features that determine whether owned real property renders the family out of compliance with the asset limitation.

If the PHA has adopted a limited enforcement policy, that policy must address the timeframe for curing non-compliance (e.g., families will have six months to demonstrate they have cured non-compliance with the asset limitation). In establishing a limited enforcement policy, PHAs may choose to allow an opportunity to cure non-compliance that is less than six months. Any limited enforcement policy, including the amount of time that a PHA will delay the initiation of termination or eviction proceedings for families who do not demonstrate compliance, must be included in the PHA's Administrative Plan or ACOP.

What families must do to cure non-compliance depends on why they were identified as out of compliance. Families could cure non-compliance by removing prohibited assets — for example, by selling real property or bringing net family assets below \$100,000 (as

adjusted for inflation). However, the value of assets disposed of for less than fair market value would still be counted in the family's net family asset total in the two years preceding the date of application for the program or reexamination. (See V.B below) for a discussion of what constitutes a disposition of assets for less than fair market value.

If the family is non-compliant with the asset limitation because of a present ownership interest in real property, but their net family assets do not exceed \$100,000 (adjusted for inflation), they can cure non-compliance by demonstrating that either they no longer own the prohibited asset or that it now qualifies for an exemption (e.g., because the family is now offering it for sale), so long as the family's net family assets do not exceed \$100,000 (adjusted for inflation) after such action is taken. (Note, however, that offering real property for sale does not thereby exclude the real property from the calculation of net family assets.)

A family with more than \$100,000 (as adjusted annually for inflation) in net family assets may bring their assets below the threshold in several ways. The family could purchase something that is not counted among net family assets, such as necessary personal property (e.g., a car used for everyday transportation). Alternatively, the family may cure non-compliance by moving assets such that they are no longer counted among net family assets, so long as doing so is not counted as disposing of assets for less than fair market value. In some circumstances, the family may transfer funds into a retirement plan recognized as such by the Internal Revenue Service (e.g., an individual retirement arrangement, employer retirement plan, or retirement plan for self-employed individuals), if the account is held by a member of the family. An asset moved to a retirement account held by a member of the family is not considered an asset disposed of for less than fair market value. Likewise, the family may be able to move funds into an irrevocable trust for the benefit of someone in the assisted family.

When PHAs have a limited enforcement policy and the family demonstrates they have cured non-compliance, PHAs must record the curing of a family's ineligibility in the family's file and permit families to remain in the program. The related updates to the family's income and assets would be processed at the next reexamination, which may be an interim if the family's circumstances meet the threshold for processing such a reexamination, or it may be the next annual reexamination.

A.3.d. Exception Policies

At annual and interim reexamination, PHAs may also establish exceptions to the asset limitation (not at admission or initial certification where the family is being rescreened for assistance). If the PHA has adopted a written exception policy for reexaminations, then families in the specified exception categories will receive either total non-enforcement or limited enforcement, depending on the exception policy the PHA has adopted. Families in the specified exception categories would either

(a) not be subject to termination or eviction proceedings due to non-compliance with the asset limitation at a reexamination, or

(b) they would be provided with an opportunity, up to but no longer than six months, to come back into compliance, after which point the asset limitation would be enforced. An exception policy may be combined with a limited enforcement policy for all other families not in the exception categories, as described below.

PHAs are permitted to include more than one exception as part of any exception policy. Exception policies may be based on family type and may take into consideration such factors as age, disability, income, the ability of the family to find suitable alternative housing, and whether supportive services are being provided. All exception policies must comply with civil rights and fair housing statutes and requirements, including but not limited to requirements identified in 24 CFR § 5.105(a).

Limited exception policies, which establish an opportunity to cure non-compliance, cannot provide families more than six months to cure these conditions. (In the case of reasonable accommodation, a family may be afforded more than six months to comply.) If they have adopted such a policy, PHAs must initiate termination or eviction proceedings for families who remain in non-compliance with the asset limitation within six months of the reexamination at which the non-compliance was determined. In establishing a limited exception policy, PHAs may choose a period of delay that is less than six months.

PHAs may choose to combine a limited enforcement policy (which applies to all families) with an exception policy for families in the specified exception categories. **For example,** they may adopt a limited enforcement policy that provides all families a window of six months to cure non-compliance with the asset limitation, and they may simultaneously adopt an exception policy that provides that the asset limitation will not be enforced at all at annual and interim reexaminations for families in the exception categories. PHAs could alternatively adopt a limited enforcement policy for all families that provides a window of less than six months to cure non-compliance, alongside a limited exception policy that allows families in the exception categories a longer period (up to but no longer than six months) to cure non-compliance.

Any exception policy must be included in the PHA's Administrative Plan or ACOP. The exception policy must describe whether excepted families are subject to total non-enforcement or limited enforcement.

Example 1: Asset Limitation Exception Policies

Sample Policy A: For all families that meet the definition of extremely low income at reexamination and are found to be non-compliant with the asset limitation, the PHA will not enforce the asset limitation at reexamination. Such families will not be subject to termination or eviction proceedings due to non-compliance with the asset limitation at reexamination. All other families will be subject to a limited enforcement policy and provided six months to cure noncompliance.

Sample Policy B: For all families that meet the definition of extremely low income at reexamination and are found to be non-compliant with the asset limitation, the PHA will not enforce the asset limitation at reexamination. Such families will not be subject to termination or eviction proceedings due to non-compliance with the asset limitation at reexamination. All other families will be subject to the enforcement policy.

Sample Policy C: Families with an elderly family member or a member with a disability will be given six months to cure their non-compliance with the asset limitation, as stated in the PHA's policies. All other families will be subject to a limited enforcement policy and provided four months to cure noncompliance.

Sample Policy D: Families with an elderly family member or a member with a disability will be given six months to cure their non-compliance with the asset limitation, as stated in the PHA's policies. All other families will be subject to the enforcement policy.

A.4 Real Property Determination

At admission and at reexamination, if the PHA is enforcing the asset limitation, including limited enforcement, and a family declares that they have a present ownership interest in real property, then the PHA must determine whether the property qualifies for an exemption as described in paragraph A.4.a (Exemptions to the Real Property Restriction in the Asset Limitation), whether the family lacks a legal right to reside in the real property as described in paragraph A.4.b. (Legal Right to Reside in the Real Property), whether they lack the effective legal authority to sell the real property as described in paragraph A.4.c. (Effective Legal Authority to Sell the Real Property), or whether the real property is unsuitable for occupancy as described in paragraph A.4.d. (Suitability of Real Property for Occupancy). If the PHA finds that any of these four things are true, then the family's present ownership interest in real property does not itself mean the family is out of compliance with the asset limitation. The type of third-party documentation that will be used to verify the disposition of a family's real property may vary by a family's circumstances and the locality in which the real property is located.

A.4.a. Exemptions to the Real Property Restriction in the Asset Limitation

The real property restriction does not apply to the following:

- Any property for which the family is receiving assistance under 24 CFR § 982.620 (i.e., a manufactured home owned by a family who receives assistance to lease the space

or lot in which it is located). Likewise, any property for which the family is receiving assistance is under the Homeownership Option in 24 CFR Part 982. See 24 CFR § 5.618(a)(1)(ii)(A).

- Any property jointly owned by a family member and another individual who does not live with the family but who resides at the jointly owned property. See 24 CFR § 5.618(a)(1)(ii)(B).
- Any property owned by a family that includes a person who is a victim of domestic violence, dating violence, sexual assault, or stalking, as those terms are defined in 24 CFR Part 5 (Subpart L). **For example**, if the victim is a minor, the real property limitation does not apply to any property owned by the victim's parent or guardian. When a family requests an exemption from the real property limitation on this basis, the PHA must accept self-certification and follow the confidentiality and documentation-request requirements established at 24 CFR § 5.2007. See 24 CFR § 5.618(a)(1)(ii)(C).
- Any property that the family is offering for sale. Documentary evidence of the sales process could include, **for example**, a contract with a real estate agent or a current real estate listing. See 24 CFR § 5.618(a)(1)(ii)(D).

A.4.b. Legal Right to Reside in the Real Property

The real property restriction applies only when the family has the legal right to reside in the real property. Whether a family has the legal right to reside in a property may be dependent on state and local law. The family may own real property that legally they may not reside in. **For example**, the family may own a commercial property, such as a convenience store or other retail establishment, which cannot be occupied as a place of residence by the family. Families who claim they lack the legal right to reside in real property must provide evidence to support their claim(s). What constitutes sufficient evidence will vary by circumstance.

A.4.c. Effective Legal Authority to Sell the Real Property

The real property restriction applies only when the family has the effective legal authority to sell the real property, based on the laws of the state or locality in which the property is located. There may be multiple reasons why a family does not have such legal authority. **For example**, when families are contesting ownership of a property in court, or an individual is in divorce proceedings, they may be unable to sell the property until the completion of those proceedings. Someone who owns heirs' property may not have the authority to sell until others' claims to fractional ownership have been settled. Families who claim they lack the legal authority to sell the real property must provide evidence to support their claim(s). What constitutes sufficient evidence will vary by circumstance. **For example**, a divorce pleading, or complaint may demonstrate that there are actual divorce proceedings occurring. ²⁵

A.4.d. Suitability of Real Property for Occupancy

A property will be considered suitable for occupancy unless the family demonstrates that the real property meets one of the following five conditions (24 CFR § 5.618(a)(2)):

- The property is not capable of meeting the disability-related needs of all members of the family (e.g., does not meet physical accessibility requirements, family has disability-related need for additional bedrooms, family needs proximity to accessible transportation). Documentary requirements to establish disability-related needs must comply with applicable fair housing and civil rights requirements.
- The property is not sufficient for the size of the family. A PHA occupancy standard may be used for such a determination.
- The property is geographically located so that it creates a hardship for the family (e.g., the distance or commuting time between the property and the family's place of work or school would place a hardship on the family, as determined by the PHA. Distance or commute time to school/work are illustrative, but not exhaustive, examples of geographic hardships). Through written policies, PHAs may set parameters on what constitutes such a hardship, but they must consider the specific circumstances of the family, including information provided by the family, in making a determination.
- The property is not safe to reside in because of its physical condition (e.g., the property's physical condition poses a risk to the family's health and safety and the condition of the property cannot be easily remedied). Unsafe property conditions could include external circumstances or environmental factors outside the control of the family. The property may be deemed not suitable for occupancy if the alterations that would be needed to make it safe to live in are cost prohibitive.
- The family does not have the legal right to reside on the property.

A.5. Special Considerations for Terminating Assistance or Evicting Families for Non-Compliance with the Asset Limitation

Even if PHAs do not adopt a non-enforcement or limited enforcement policy and/or exception policy, they may delay for a period of up to six months the initiation of termination or eviction of assistance proceedings. They are not required to initiate termination or eviction of assistance proceedings immediately upon determining the family is out of compliance with the asset limitation, nor are they required to begin the proceedings during the six-month period to have a termination of assistance or eviction completed at the six-month mark. PHAs are encouraged to set policies for the initiation of termination or eviction of assistance proceedings that provide families adequate opportunity to find new housing. What it means to initiate termination or eviction of

assistance proceedings due to non-compliance with the asset limitation will vary by program:

- In the Public Housing program, participants who are not compliant with the asset limitation are subject to termination of assistance and eviction from the unit, if they fail to vacate the unit voluntarily. There is no general provision that allows such families to remain and pay an alternative rent.

PHAs must follow program procedures for terminating assistance or tenancy.

For example, for Public Housing families, when the PHA initiates the eviction and termination process, the PHA must provide a lease termination notice of 30 days unless a state or local law requires a longer notice period, and the family must be provided an opportunity for a hearing under the PHA administrative grievance procedure. 27

A.6. Required Policy Updates to Administrative Plans, ACOPs, and Tenant Selection Plans

A.6.a. Admission Policies

PHAs/MFH Owners must establish written screening criteria in their Administrative Plans, ACOPs, or Tenant Selection Plans, as applicable, to prohibit the admission of applicants who own net family assets that exceed \$100,000 (as adjusted for inflation) and/or real property that is suitable for occupancy. Policies should indicate the general parameters PHAs will use when determining whether the location of real property constitutes a geographic hardship.

A.6.b. Reexamination Policies

Whether a PHA chooses to adopt a total non-enforcement, enforcement, limited enforcement, and/or exception policy for reexaminations, that policy and accompanying details must be set forth in the PHA's ACOP or Administrative Plan or in Tenant Selection Plan, as applicable.

PHAs must also update their Administrative Plans, ACOPs, or Tenant Selection Plans, as applicable, to indicate when they will initiate termination or eviction proceedings after participant families are determined to be out of compliance with the asset limitation, when the PHA has established either an enforcement policy or policies to permit families to cure their noncompliance. PHAs must initiate termination or eviction proceedings for families who remain out of compliance with the asset limitation within six months of the reexamination at which the non-compliance was determined. Policies should indicate the general parameters PHAs will use when determining whether the location of real property constitutes a geographic hardship.

PHA Policy

At the PHA's discretion with respect to the application of the asset limitation at annual and interim reexamination, the PHA has adopted the policy of total non-enforcement.

The PHA's Total Non-Enforcement Policy

At annual and interim reexamination, the PHA will not enforce the asset limitation for all families at annual and interim reexaminations, which would mean that the PHA will not initiate termination or eviction proceedings for a family who is non-compliance with the asset limitation. This discretion will allow families who would otherwise fail to comply with the asset limitation to continue renting their units and receive assistance. This policy of total non-enforcement will apply to all families within the Public Housing Program as required. The PHA will comply with federal fair housing and civil rights requirements.

As required, the PHA will still calculate net family assets in the manner required by § 5.603, as part of the process of calculating annual income in accordance with § 5.609. While calculating net family assets, the PHA will determine whether the family owns real property that must be included in net family assets and have them provide verification needed to support calculation.

However, due to the non-enforcement policy, the PHA will not obtain or verify additional information about owned real property strictly to determine whether it qualifies for an exemption under § 5.618.

If the PHA finds a family who owns real property, that real property would need to be included in the calculation of net family assets unless it is specifically excluded by § 5.603, but the PHA would not need to inquire whether it was suitable for occupancy.

6-V.B. ASSETS

Asset requirement 24 CFR § 609 apply to Public Housing program.

a) Determining Net Family Assets

Regulations: 24 CFR §§ 5.100 and 5.603

Net family assets are defined as the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of investment, except as excluded (see paragraph **b)** below - Exclusions from Net Family Assets).

Assets with negative equity.

The cash value of real property or other assets with negative equity would be considered \$0 for the purposes of calculating net family assets. Negative equity in real property or other investments does not prohibit the family from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

Assets disposed of for less than fair market value.

In determining the value of net family assets, PHAs/MFH Owners must include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received.

For example, if a family gave away a home with a net value of \$80,000, the value of the home must be included in the calculation of net family assets for two years following the transfer of property. If a family sold a home for less than fair market value, the difference between the value and the amount for which they sold it would be included in net family assets for two years following the transfer of property. For example, if a family sold a property with a fair market value of \$80,000 to a friend for \$20,000, then the difference in value (\$60,000) minus the cost to dispose of the property (\$10,000), which is in this example totals \$50,000, would be counted in net family assets for two years from the date of the property's transfer to the other party.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms.

Asset owned by business entity.

If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one-third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant)

Jointly owned assets.

For assets jointly owned by the family and one or more individuals outside of the assisted family, PHAs must include the total value of the asset in the calculation of net family assets, unless the asset is otherwise excluded (see b) below), or unless the assisted family can demonstrate that the asset is inaccessible to them, or that they cannot dispose of any portion of the asset without the consent of another owner who refuses to comply.

If the family demonstrates that they can only access a portion of an asset, then only that portion's value shall be included in the calculation of net family assets for the family. Likewise, any income from a jointly owned asset must be included in annual income, unless that income is specifically excluded (**see b) below**), or unless the family demonstrates that they do not have access to the income from that asset, or that they only have access to a portion of the income from that asset.

If an individual is a beneficiary who is entitled to access the account's funds only upon the death of the account's owner, and may not otherwise withdraw funds from an account, then the account is not an asset to the assisted family, and the family should provide proper documentation demonstrating that they are only a beneficiary on the account.

PH Discretion: None.

Example: Assets Disposed of for Less than Fair Market Value

	<u>Real Estate</u>	<u>Stocks</u>
	<p>Mrs. Jones sold her home to her daughter for \$5,000. The home was valued at \$19,500 and had no loans secured against it. Mrs. Jones paid broker's fees and settlement costs of \$1,700 (approx. 8.7% of the sales price). Note: This is a realistic estimate for the locality).</p> <p>The amount to be included in family assets is \$12,800</p>	<p>Ten months ago, the Daniel family gave their son 300 shares of ABC, Inc. stocks. The market value was \$3,735 (12.45/share). They incurred a broker's fee of \$175 for the transaction.</p> <p>The amount to be included in family assets is \$3,560.</p>
Market Value:	\$19,500	\$3,735
Expense to Convert to Cash:	-\$1,700	-\$175
Cash Value:	\$17,800	\$3,560
Amount Received when Asset Disposed:	-\$5,000	\$0
Value of Asset Disposed of for Less than Fair Market Value:	\$12,800	\$3,560

b) Exclusions from Net Family Assets

Regulations: 24 CFR § 5.603(b)(3)–(b)(4)

Required exclusions from net family assets include the following:

- The value of necessary items of personal property. (See paragraph **c) below** - Necessary and Non-Necessary Personal Property).
- The value of all non-necessary items of personal property with a total combined value of \$50,000 or less, annually adjusted for inflation. (See paragraph **c) below** - Necessary and Non-Necessary Personal Property).
- The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including Individual Retirement Accounts (IRAs), employer retirement plans (e.g., 401(k), 403(b)), and retirement plans for self-employed individuals.
- The value of real property is that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located. Examples of this include but are not limited to co-ownership situations (including situations where one owner is a victim of domestic violence), where one party cannot unilaterally sell the real property; property that is tied up in litigation; inherited property in dispute.
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law that resulted in a member of the family being a person with disabilities.
- The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986; the value of any qualified tuition program under section 529 of such Code; and the amounts in, contributions to, and distributions from any Achieving a Better Life Experience (ABLE) account authorized under section 529A of such code.
- The value of any “baby bond” account created, authorized, or funded by the federal, state, or local government (money held in trust by the government for children until they are adults).
- Interests in Indian trust land.
- Equity in a manufactured home where the family receives assistance under 24 CFR Part 982.
- Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR Part 982.

- Family Self-Sufficiency accounts.
- Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family.
- The full amount of assets held in an irrevocable trust. (See paragraph F.4.d (Trusts) of this notice.)
- The full amount of assets is held in a revocable trust where a member of the family is the beneficiary, but the grantor/owner and trustee of the trust is not a member of the participant family or household. (See paragraph d) - Trusts).

PHA Discretion: PHAs may need to revise application forms, interview guides and individual verification forms to ensure that they are gathering adequate information to make appropriate asset exclusion determinations.

PHA Policy

As needed, the PHA will revise assets forms to ensure that the staff is gathering adequate information to make appropriate assets exclusion determinations.

c) Necessary and Non-Necessary Personal Property

Regulation: 24 CFR § 5.603

Necessary personal property is excluded from net family assets. Non-necessary personal property with a combined value greater than \$50,000, as adjusted by inflation, is considered part of net family assets. When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets.

All assets are categorized as either real property (e.g., land, a home) or personal property. Personal property includes tangible items, like boats, as well as intangible items, like bank accounts.

For example, a family could have non-necessary personal property with a combined value that does not exceed \$50,000 but also own real property such as a parcel of land. Even though the non-necessary personal property would be excluded from net family assets, the real property would be included in net family assets regardless of its value unless the real property meets a different exclusion under 24 CFR § 5.603.

Necessary personal properties are items essential to the family for the maintenance, use, and occupancy of the premises as a home; or they are necessary for employment, education, or health and wellness.

Necessary personal property includes more than merely items that are indispensable to the bare existence of the family. It may include personal effects (such as items that are ordinarily worn or utilized by the individual), items that are convenient or useful to a reasonable existence, and items that support and facilitate daily life within the family's home.

Necessary personal property also includes items that assist a household member with a disability, including any items related to disability-related needs, or that may be required for reasonable accommodation for a person with a disability.

Necessary personal property does not include bank accounts, other financial investments, or luxury items. Determining what is a necessary item of personal property is a highly fact-specific determination, and therefore it is incumbent on PHAs to gather enough facts to qualify whether an asset is necessary or non-necessary personal property.

Items of personal property that do not qualify as necessary personal property will be classified as non-necessary personal property.

The following table lists examples of necessary and non-necessary personal property.

**Table Examples of Necessary and Non-Necessary Personal Property.
(This is not an exhaustive list)**

Necessary Personal Property	Non-Necessary Personal Property
<ul style="list-style-type: none"> • Car(s)/vehicle(s) that a family relies on for transportation for personal or business use (e.g., bike, motorcycle, skateboard, scooter) • Furniture, carpets, linens, kitchenware • Common appliances • Common electronics (e.g., radio, television, DVD player, gaming system) • Clothing • Personal effects that are not luxury items (e.g., toys, books) • Wedding and engagement rings • Jewelry used in religious/cultural celebrations and ceremonies. • Religious and cultural items • Medical equipment and supplies • Health care–related supplies • Musical instruments used by the family. • Personal computers, phones, tablets, and related equipment • Professional tools of trade of the family, for example professional books • Educational materials and equipment used by the family, including equipment to accommodate persons with disabilities. • Equipment used for exercising (e.g., treadmill, stationary bike, kayak, paddleboard, ski equipment) 	<ul style="list-style-type: none"> • Recreational car/vehicle not needed for day-to-day transportation (campers, motorhomes, travel trailers, all-terrain vehicles (ATVs) • Bank accounts or other financial investments (e.g., checking account, savings account, stocks/bonds) • Recreational boat/watercraft • Expensive jewelry without religious or cultural value, or which does not hold family significance. • Collectibles (e.g., coins/stamps) • Equipment/machinery that is not used to generate income for a business. • Items such as gems/precious metals, antique cars, artwork, etc.

Example 1: Necessary and Non-Necessary Personal Property

The Cross family owns three items of personal property. The family has a checking account valued at \$5,000, a \$15,000 recreational boat, and Ms. Cross's \$3,000 engagement ring.

The checking account and recreational boat are both considered non-necessary personal property. They are worth a combined \$20,000. The engagement ring is considered necessary personal property, because it is jewelry used in a religious/cultural celebration or ceremony. Since the total value of non-necessary personal property is less than \$50,000, the family's non-necessary personal property will not be considered when calculating the Cross-family's net family assets.

<u>Cross Family's Personal Property</u>			
Item	Estimated Value	Type	Amount to be considered as non-necessary personal property
Checking account	\$5,000	Non-necessary Personal Property	\$5,000
Ring (engagement ring)	\$3,000	Necessary Personal Property	\$0
Recreational boat	\$15,000	Non-necessary Personal Property	\$15,000
Total Non-necessary Personal Property:			\$20,000
<u>Calculation of Cross Family's Total Net Assets</u>			
Asset		Total to be Considered in Net Family Assets	
Non-necessary Personal Property		\$0	
Real Property		\$0	
Total:		\$0	
The Cross family's total net family assets are \$0.			

PHA Discretion: None.

d) Trusts

Regulations: 24 CFR §§ 5.603 and 5.609

Whether the value of a trust counts as a net family asset and whether distributions from the trust count as annual income to the family depends on the following three factors:

- Whether the trust is under the control of the family.
- Whether distributions are made from the trust's principal; and
- The purpose of the distribution, if the distribution is made from income earned on the trust's principal.

d.i. Trusts as Net Family Assets

The value of irrevocable trusts and revocable trusts that are not under the control of the family are both excluded from net family assets.

The distinguishing feature of a revocable trust is that the grantor can terminate and/or amend the trust at any time for any reason before his or her death. In circumstances when a member of the assisted family is the beneficiary of a revocable trust, but the grantor is not a member of the assisted family, the beneficiary does not "own" the revocable trust, and the value of the trust is excluded from net family assets. For the revocable trust to be considered excluded from net family assets, no family or household member may be the account's trustee.

A revocable trust that is under the control of the family or household (e.g., the grantor is a member of the assisted family or household) **is included** in net family assets, and, therefore, income earned on the trust is included in the family's income from assets. This also means that PHAs will calculate imputed income on the revocable trust if net family assets are more than \$50,000, as adjusted by inflation, and actual income from the trust cannot be calculated (e.g., if the trust is comprised of farmland that is not in use).

d.ii. Actual Income from a Trust

If the PHA determines that the revocable trust is included in the calculation of net family assets, then the actual income earned by the revocable trust is also included in the family's income. Where an irrevocable trust is excluded from net family assets, the PHA must not consider actual income earned by the trust (e.g., interest earned, rental income if property is held in the trust) for so long as the income from the trust is not distributed.

d.iii. Trust Distributions and Annual Income

- Revocable trust considered part of net family assets: If the value of the trust is considered part of the family's net assets, then distributions from the trust are not considered income to the family.
- Revocable or irrevocable trust not considered part of net family assets: If the value of the trust is not considered part of the family's net assets, then distributions from the trust are treated as follows:

- All distributions from the trust's principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principle), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

The table below is a tool to assist PHAs in determining whether a trust should be considered a net family asset and/or whether a trust's earned interest or distributions are considered income to the family.

Table of Annual Income/Net Family Assets Scenarios based on Trust Type

Trust Type	Is trust considered a net family asset?	Is the actual interest earned by the trust considered family income?	Are distributions of trust principle considered family income?	Are distributions of interest earned on the trust principal considered family income?
Revocable Grantor is not part of the assisted family or household (and the family or household is not otherwise in control of the trust)	No	No	No	Yes, unless the distributions are used to pay for the health and medical expenses for a minor
Revocable Grantor is part of the assisted family or household (or the trust is otherwise under the control of the family or household)	Yes	Yes	No	No
Irrevocable (Typically, Special Needs Trusts are irrevocable.)	No	No	No	Yes, unless the distributions are used to pay for the health and medical expenses for a minor

PHAs must be careful to distinguish between distributions of principal and distributions of earnings on a trust's principal when verifying family income from irrevocable trusts and revocable trusts where the grantor is not part of the assisted family or household, so as not to unintentionally include distributions of principal that are not considered income.

PHA Discretion: None.

e) Federal Tax Refunds or Refundable Tax Credits

Regulation: 24 CFR § 5.603

All amounts received by a family in the form of federal tax refunds or refundable tax credits are excluded from a family's net family assets for a period of 12 months after receipt by the family.

Taxpayers have several options for receiving their tax refunds: via paper check or direct deposit into a checking or savings account; via Treasury Direct to buy savings bonds; via direct deposit into a Traditional, Roth, or Simplified Employee Pension Plan-IRA; or via purchase of savings bonds, a Health Savings Account, an Archer Medical Savings Account, or a Coverdell Education Savings Account. Refundable tax credits, such as the Earned Income Tax Credit (EITC), are determined as part of an overall tax return submission to the Internal Revenue Service (IRS). Taxpayers receive one federal tax refund reflecting the taxpayer's tax liability, if negative, including any applicable refundable tax credits.

At the time of an annual or interim reexamination of income, if the federal tax refund was received during the 12 months preceding the effective date of the reexamination, then the amount of the refund that was received by the family is subtracted from the total value of net family assets. When the subtraction results in a negative number, then net family assets are considered \$0.

Note: Only the amount that the family receives is excluded from net family assets. For example, if a family anticipates a \$500 federal tax refund but only receives \$250, then only \$250 will be excluded from the net family assets because that is the amount that the family received.

PHAs are not required to verify the amount of the family's federal tax refund or refundable tax credit(s) if the family's net assets are equal to or below \$50,000 (adjusted annually for inflation), even in years when full verification of assets is required or if the PHA does not accept self-certification of assets. PHAs must verify the amount of the family's federal tax refund or refundable tax credits if the family's net assets are greater than \$50,000.

The anticipated income earned by the assets in which a family has deposited their federal tax refund or refundable tax credits must be included in the family's annual income unless the income is specifically excluded under 24 CFR § 5.609(b).

Example: Federal Tax Refund Excluded from Net Family Assets

The Rodriguez family received a \$4,500 federal tax refund on 3/1/2024 and deposited the refund into their checking account.

At their next annual reexamination with an effective date of 8/1/2024, the PHA asks the family about any assets they own, the anticipated income from the assets, and if they received a federal tax refund or refundable tax credits in the past 12 months and where they deposited the refund/refundable tax credits or if they purchased savings bonds with the refund.

The Rodriguez family explain that they received a \$4,500 refund and that they deposited the refund into their checking account, which has a balance of \$10,000.

The Rodriguez family reports that they have actual income of \$100 from the checking account this year. The family owns no other assets.

In determining the total value of net family assets, the PHA subtracts \$4,500 from the total of \$10,000 of net family assets, for a total countable asset of \$5,500.

The full value of actual income is included as income because actual income is always included even on excluded assets.

f) Net Family Assts Examples.

In some cases, amounts that are excluded from net family assets may be included as annual income when disbursements are made to a family from an asset.

In other cases, amounts are excluded from annual income as a lump-sum addition to net family assets, but those funds are then considered a net family asset if held in an account or other investment that is considered part of net family assets.

These concepts are illustrated in the three examples below.

Example 1: Retirement Accounts

Background: The value of any account under a retirement plan recognized by the Internal Revenue Service, including IRAs, employer retirement plans, and retirement plans for self-employed individuals, is not considered in determining net family assets. Any income earned on the funds while stored in such a retirement account is not considered actual income from assets. However, any distribution of periodic payments from the retirement account is considered income at the time it is received by the family (§ 5.609(b)(26)).

Scenario

Prior quarter ending balance of 401(k) account: \$157,500.

Prior quarter yield: 5 percent (\$7,500)

Distributions made to family: \$12,000 in the prior year, same amount is anticipated to be received this year.

Result: In this example, the family's income reexamination will not include the 401(k), because the value of the 401(k) and the earnings will be considered neither net family assets nor income to the family; however, the family's income reexamination will include the \$12,000 in distributions (unearned income) which has been paid from the retirement account in increments of \$1,000 monthly to the family.

Example 2: Civil Rights Settlements

Background: A civil rights settlement, regardless of how the settlement is paid (lump sum or several distributions), is excluded from annual income; however, the amounts would be considered part of net family assets, if held in a savings account, revocable trust, or in some other asset that is not excluded from the definition of net family assets.

Scenario

Jessica received a civil rights settlement in the amount of \$20,000, because she was not provided with reasonable accommodation. Jessica deposits \$20,000 into her savings account, which already contains \$5,000, and earn

s 0.5 percent interest annually.

Total civil rights settlement received: \$20,000 (excluded from income under § 5.609(b)(25))

Value of savings account: \$25,000 (which includes the \$20,000 settlement)

Actual income earned from savings account: $\$25,000 \times 0.005 = \125 included in annual income

Result: In this example, the family's income reexamination will not include the amount received from the civil rights settlement, because the funds are not considered income under § 5.609(b)(25).

However, the value of the savings account where the settlement was deposited will be used in the calculation of net family assets, and the actual income earned from interest accrual (as self-certified by the family) will be included in the family's annual income.

Example 3: Life Insurance

Background: The cash value of life insurance policies that are available to the participant before death are included in net family assets (e.g., the surrender value of a whole life policy or a universal life policy). Net family assets will not include the value of term life insurance, which has no cash value to the individual before death.

Scenario A: The Johnson family has a whole life insurance policy with a face value of \$100,000 and a surrender value of \$30,000. Net family assets will include \$30,000 for the life insurance policy. The Johnson's family policy also pays an annual dividend of \$100. This will be included as actual income.

Scenario B: The Dexter family has a term life insurance policy with a face value of \$100,000 payable upon death. The total amount included in the family's net family assets for this insurance policy will be \$0.

6-V.C. Passbook Rate

Regulation: 24 CFR § 5.609(a)(2)

HUD will annually publish a passbook rate based on the Federal Deposit Insurance Corporation (FDIC) National Deposit Rate for savings accounts, which is an average of national savings rates published monthly. PHAs must use the HUD-published passbook rate when calculating imputed asset income for net family assets that exceed \$50,000 (a figure that is annually adjusted for inflation). The HUD-published passbook rate will be posted to a dataset on the HUD User Web site, alongside annual inflationary adjustments (See HUD's Notice 2023-27 dated February 2, 2024 - Attachment H or Exhibit 6-3). To determine the passbook rate for the next calendar year, HUD will average the most recent three months of FDIC updates to the National Deposit Rate for savings accounts, rounded to the nearest hundredth of 1 percent. To ensure updated passbook rates may be used for reexaminations with an effective date of January 1, HUD will calculate the update in July each year, using FDIC data from April, May, and June for publication on HUD User not later than September 1. For 2024, the passbook rate will be 0.40 percent. Below is an explanation of how the passbook rate was calculated for 2024. For reexaminations that occur after January 1, 2024, but before the date on which the PHA implements the new passbook rate, PHAs may continue to set their own passbook rates. PHAs may also choose to implement the 2024 HUD passbook rate before complying with HOTMA as they have the flexibility to set their own passbook rate.

Table of Calculation of Passbook Rate for 2024

FDIC Monthly Update, Date of Publication	National Deposit Rate, Savings Accounts
4/17/2023	0.39 percent
5/15/2023	0.40 percent
6/20/2023	0.42 percent
HUD Passbook Rate (average of 3 months of FDIC National Deposit Rates)	0.40 percent

PHA Discretion: None.

PHAs were previously permitted to set their own passbook rates within a HUD-published range; effective with the final rule, PHAs will be required to use the HUD-published passbook rate. The final rule supersedes Notice H 2016-01 (Passbook Saving Rate Effective February 1, 2016).

PHA Policy

The PHA will impute asset income using the HUD-published passbook rate as required above.

6-V.D. Actual and Imputed Income from Assets

Regulation: 24 CFR § 5.609(a)(2)

Actual income and imputed income are treated as described below.

a) Actual Income

Actual income from assets is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded by 24 CFR § 5.609(b).

Income or returns from assets are generally considered to be interest, dividend payments, and other actual income earned on the asset, and not the increase in market value of the asset.

The increase in market value is relevant to the cash value of the asset for the purpose of determining total net family assets and imputing income.

The following examples illustrate how to calculate actual income from assets:

Example 1: Actual Asset Income from an Asset Excluded from Net Family Assets

Background: Eugene Park owns a checking account with \$3,500 that earns 0 percent interest. He also has a savings account with a balance of \$10,000 for which he expects to earn \$300 in annual interest. Mr. Park has no other assets. Because those assets are classified as non-necessary personal property, and their combined value of \$13,500 does not exceed \$50,000, the combined value of all non-necessary personal property is excluded from the calculation of net family assets.

(refer to Necessary and Non-Necessary Personal Property of this chapter) . The total value of Eugene Park's net family assets is \$0, and \$300 is included in annual income.

Scenario

Total value of assets: $\$3,500 + \$10,000 = \$13,500$

Net family assets: \$0.00 (total value of assets is less than \$50,000, therefore the value is excluded from net family assets)

Result: Actual income from assets (must be included in the calculation of annual income for Eugene Park): \$300 (\$0 from checking account + \$300 from savings account)

**Example 2: Calculating Net Family Assets and Actual Asset Income when
Net Family Assets Exceed \$50,000 (As Adjusted)**

Background: Sherry McNeil received a federal tax refund of \$1,200 and deposited the refund into her checking account. At the time of her annual reexamination six months later, the account had a balance of \$10,000 and earns 0-percent interest. Sherry also owns a stock portfolio with a verified value of \$45,000. The stocks earned \$405 in cash dividends last year, which Sherry expects to earn again in the coming year.

Scenario

Total value of assets: \$55,000 (\$10,000 + \$45,000)

Net family assets: \$53,800 (\$55,000 – \$1,200) (tax refund received in the last 12 months is excluded from net family assets under § 5.603(b)(3)(xi).) Because the total value of Sherry's non-excluded assets exceeds \$50,000, this value (\$53,800) is included as net family assets and must be confirmed via third-party verification.

Actual Income from Checking Account: \$0 earned (\$10,000 x 0 percent)

Actual Income from Stock Portfolio: \$405 earned in dividends last year on \$45,000

Result: Total actual income from assets (must be included in the calculation of annual income for Sherry McNeil): \$405 (\$0 + \$405)

b) Imputed Income

Imputed income from assets is no longer determined based on the greater of actual or imputed income from the assets. Instead, imputed asset income must be calculated for specific assets when three conditions are met:

- The value of net family assets exceeds \$50,000 (as adjusted for inflation).
- The specific asset is included in net family assets; and
- Actual asset income cannot be calculated for the specific asset.

Imputed asset income is calculated by multiplying the net cash value of the asset, after deducting reasonable costs that would be incurred in disposing of the asset, by the HUD-published passbook rate (see Table above). If the actual income from assets can be computed for some assets but not all assets, then PHAs must add up the actual income from the assets, where actual income can be calculated, then calculate the imputed income for the assets where actual income could not be calculated.

After the PHA has calculated both the actual income and imputed income, the housing provider must combine both amounts to account for income on net family assets with a combined value of over \$50,000.

When the family's net family assets do not exceed \$50,000 (as adjusted for inflation), imputed income is not calculated. Imputed asset income is never calculated on assets that are excluded from net family assets.

When actual income for an asset — which can equal \$0 — can be calculated, imputed income is not calculated for that asset.

Example: Combining Actual and Imputed Asset Income

Background: The Jorgensen family owns a small piece of vacant land with a cash value of \$25,000. The family also owns a savings account with a verified balance of \$55,000, with an interest rate of 0 percent. The family's total net assets are \$80,000. The PHA can calculate the actual income of the savings account as \$0, as seen below. The PHA is unable to calculate the actual income earned for the property owned by the family, because the property neither generates any income for them nor could an income amount be computed as a matter of interest or dividend earnings. Therefore, imputed asset income for the real property must be calculated. The passbook savings rate in effect is 0.10 percent.

Scenario

Actual Income from savings account: $\$55,000 \times 0 \text{ percent} = \0 actual income of savings account

Imputed income from family's property: $\$25,000 \times 0.001 = \25 imputed income

Result: Total asset income (must be included in the calculation of annual income for the Jorgensen family): $\$25 (\$0 + \$25)$

PHAs should not conflate an asset with an actual return of \$0 (as in the example above), with an asset for which an actual return cannot be computed, such as could be the case for some non-financial assets that are items of non-necessary personal property.

If the asset is a financial asset and there is no income generated (for example, a bank account with a 0 percent interest rate or a stock that does not issue cash dividends), then the asset generates zero actual asset income, and imputed income is not calculated.

When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, and when no dividend is issued, the actual return is \$0. When the stock never issues dividends, the actual return is consistently \$0.

Example: Imputing Income when Actual Income Cannot Be Calculate

Background: The Conrad family owns a recreational boat with a Kelley Blue Book value of \$15,000. They also own a checking account with \$10,000 that earns 0 percent interest and a savings account with \$30,000 that earns 3 percent interest, putting their net family assets value at \$55,000. No actual returns on the boat can be computed, however actual income can be calculated for the savings account. The passbook savings rate in effect is 0.10 percent.

Scenario

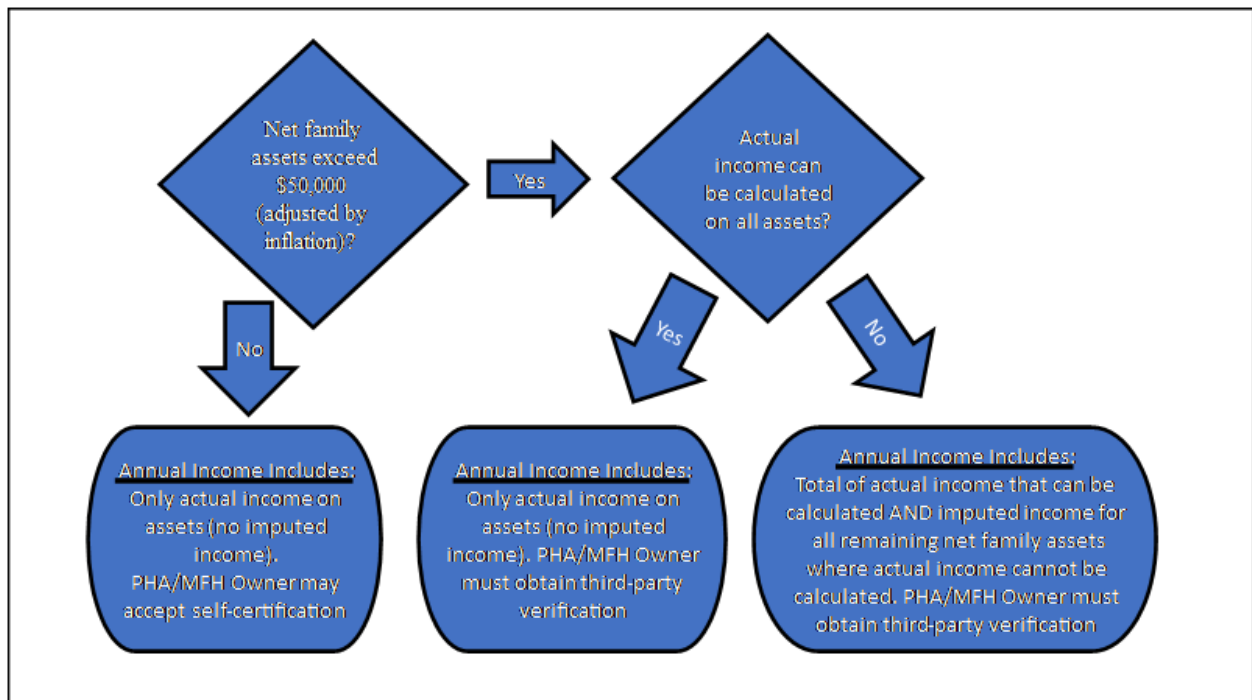
Actual income from assets: \$900 $((\$10,000 \times 0 \text{ percent}) + (\$30,000 \times 0.03))$

Imputed income from assets: \$15 $(\$15,000 \times 0.001)$

Result: Total income from assets (must be included in the calculation of annual income for the Conrad family): \$915 $(\$900 + \$15)$

The following chart illustrates different net family asset scenarios and whether to include actual and/or imputed assets in the family's annual income determination.

Decision Chart for Determining Income from Assets



PHA Discretion: None.

6-V.E. Self-Certification of Net Family Assets Equal to or Less Than \$50,000 (as adjusted for inflation)

Regulations: 24 CFR §§ 5.603; 5.609; 5.618; 5.659(e); 882.515(a); 882.808(i)(1); 891.105; 891.655; 960.259(c)(2); and 982.516(a)(3)

PHAs may determine net family assets based on a self-certification by the family that the family's total assets are equal to or less than \$50,000, adjusted annually for inflation, without taking additional steps to verify the accuracy of the declaration at admission and/or reexamination. PHAs are not required to obtain third-party verification of assets if they accept the family's self-certification of net family assets. **When PHAs accept self-certification of net family assets at reexamination, the PHA must fully verify the family's assets every three years.**

PHAs may follow a pattern of relying on self-certification for two years in a row and fully verifying assets in the third year. The family's self-certification must state the amount of income the family anticipates receiving from such assets. The actual income declared by the family must be included in the family's income, unless specifically excluded from income under 24 CFR § 5.609(b).

PHAs must clarify, during the self-certification process, which assets are included/excluded from net family assets.

PHAs may combine the self-certification of net family assets and questions inquiring about a family's present ownership interest in any real property into one form.

Example: Self-Certification of Net Family Assets

We know from Example above that the Cross-family's net family assets are \$0. In this case, the checking account earns 0.07 percent interest annually.

Cross Family's Personal Property

Item	Estimated Value	Type	Amount to be Considered as Non-Necessary Personal Property
Checking account	\$5,000	Non-necessary personal property	\$5,000
Ring (engagement ring)	\$3,000	Necessary personal property	\$0
Recreational boat	\$15,000	Non-necessary personal property	\$15,000
Total non-necessary personal property			\$20,000

Calculation of Cross Family's Total Net Assets

Asset	Total to be considered in Net Family Assets	Anticipated Income
Non-necessary Personal Property (Checking Account)	\$0	\$3.50
Real Property	N/A	N/A
Total:	\$0	\$3.50

The PHA may accept a self-certification of assets from the Cross family if the PHA has a policy to do so (see paragraph below this example for PHA Discretion on accepting self-certification). **The self-certification must include any anticipated income from assets.** In this example, if the PHA is accepting a self-certification of assets, then the calculations above would not need to be included on the self-certification form.

Only the total anticipated income from assets must be included on the form.

Note that in this instance, even though the checking account is excluded from the calculation of net family assets (because the combined value of non-necessary personal property does not exceed \$50,000), the family must report actual asset income from the checking account (in this case, \$3.50).

PHA Discretion: PHAs are not required to adopt a policy to allow for self-certification of net family assets for families with net family assets that are equal to or below \$50,000, adjusted annually for inflation.

PHAs who choose not to accept self-certifications of assets must verify all families' assets on an annual basis. Third-party verification of assets is required when net family assets exceed \$50,000, adjusted annually by HUD.

Accepting a family's self-certification at admission may reduce the initial burden on applicants and speed up the lease-up process. In deciding whether to accept a self-certification of assets at admission, PHAs are encouraged to consider the local needs and priorities in their communities along with the potential risks of accepting self-certification of net family assets, including the requirement to repay funds for participants/tenants who are later found to be ineligible for assistance.

PHAs must include in their ACOPs, and Administrative Plans, as applicable, whether and when they accept a self-certification of assets equal to or less than \$50,000, which amount will be adjusted annually by HUD. See Attachment H (Inflationary Adjustments) for more information.

PHA Policy

PHA opted to use self-certification of net family assets for families with net family assets that are equal to or below \$50,000, or as adjusted annually for inflation, without taking additional steps to verify the accuracy of the declaration at admission and at reexamination.

When PHA accepts self-certification of net family assets at reexamination, the PHA will fully verify the family's assets every three (3) years. PHA will follow a pattern of relying on self-certification for two years in a row and fully verifying assets in the third year.

The PHA will use HUD's example of Net Family Asset Self-Certification form. See Chapter 7 Exhibit.

PART VI: DEDUCTIONS AND EXPENSES

6-VI.A. Overview

This part covers policies related to mandatory deductions.

Regulations 24 CFR §§ 5.603; 5.611(a)(1); 5.611(a)(2); 5.611(a)(3); 5.611(a)(3)(ii); 5.611(b)(1); 5.611(b)(1)(i); 5.611(b)(1)(ii); 5.611(c)(1); 5.611(c)(1)(D); 5.611(c)(2); 5.611(d); 5.611(e); 5.611(e)(2); and 891.105

PHAs must consider mandatory deductions when determining a family's annual adjusted income. PHAs may also consider additional (permissive) deductions to a family's annual income if established by a written policy in the PHA's ACOP or Administrative Plan.

6-VI.B. Dependent Deduction

Regulation: 24 CFR § 5.611(a)(1):

Effective January 1, 2024, the dependent deduction amount is \$480. This amount will be adjusted annually (see Attachment H in **Exhibit 6-3**) and applies to a family's next annual or interim reexamination after the annual adjustment, whichever is sooner.

Not later than September 1 annually, HUD will publish the CPI-W adjusted dependent deduction to the HUD User Web site. PHAs must implement the adjusted dependent deduction for all income examinations that are effective on January 1 or later.

PHA Discretion: None.

PHA Policy

PHA will comply with requirements.

6-VI.C. Elderly/Disabled Family Deduction

Regulation: 24 CFR § 5.611(a)(2)

Effective January 1, 2024, the elderly/disabled family deduction increases from \$400 to \$525 and applies to a family's next interim or annual reexamination, whichever is sooner, after the date on which the PHA implements the new elderly/disabled family deduction.

The amount of the deduction will be adjusted annually (see Attachment H – **Exhibit 6-3**). Not later than September 1 annually, HUD will publish the CPI-W adjusted elderly/disabled family deduction to the HUD User Web site.

PHA Discretion: None

PHA Policy

The PHA will comply with requirements.

6-VI.D. Unreimbursed Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expenses Deduction

a) New Higher Threshold for Deducting Health and Medical Care Expenses and Unreimbursed Reasonable Attendant Care and Auxiliary Apparatus Expenses Regulation: 24 CFR § 5.611(a)(3)

The final rule establishes that the sum of unreimbursed health and medical care and reasonable attendant care and auxiliary expenses that exceed 10 percent of the family's annual income can be deducted from annual income. Prior to January 1, 2024, the threshold was 3 percent of the family's annual income.

b) New Definition of Unreimbursed Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expenses Deduction Regulation: 24 CFR § 5.603

Health and medical care expenses, as defined in 24 CFR § 5.603, include costs incurred for the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed. Medical insurance premiums continue to be eligible for health and medical care expenses. However, health and medical care expenses may be deducted from annual income only if they are eligible and not otherwise reimbursed and may only be deducted for elderly or disabled families.

Although HUD revised the definition of health and medical care expenses to reflect the Internal Revenue Service (IRS) general definition of medical expenses, HUD is not permitting PHAs to specifically align their policies with IRS Publication 502C2 for determining which expenses are included in HUD's mandatory deduction for health and medical care expenses. IRS Publication 502, in some instances, may instruct that certain expenses are not to be considered medical expenses that would otherwise be allowed under HUD's definition of health and medical care expenses. PHAs must review each expense to determine whether it is eligible in accordance with HUD's definition of health and medical care expenses.

PHA Discretion: None.

c) Unreimbursed Reasonable Attendant Care and Auxiliary Apparatus Expenses Regulation: 24 CFR § 5.611(a)(3)(ii)

Auxiliary apparatus items can include, for example, expenses for wheelchairs, ramps, adaptations to vehicles, guide dogs, assistance animals, or special equipment to enable a person who is blind or has low vision to read, or type or special equipment to assist a person who is deaf or hard of hearing. Some examples of attendant care

expenses can include teaching a person with disabilities how to perform day-to-day tasks independently like cleaning, bathing, doing laundry, and cooking. Attendant care can be 24-hour care, or care during sporadic periods throughout the day.

To claim the deduction for the cost of unreimbursed reasonable attendant care and auxiliary apparatus expenses, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed. If the unreimbursed reasonable attendant care and auxiliary apparatus expense exceeds the amount earned by the person who was enabled to work, the deduction will be capped at the amount earned by that individual.

PHA Discretion: None.

PHA Policy

The PHA will comply with the above requirements.

Families That Qualify for Both Medical and Disability Assistance Expenses

As required, this policy applies only to families in which the head, spouse, or cohead is 62 or older or is a person with disabilities. When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the PHA will consider them medical expenses unless the expenses are incurred exclusively to enable a person with disabilities to work. **The PHA will review each expense to determine whether it is eligible in accordance with HUD's definition of health and medical care expenses.**

Eligible Auxiliary Apparatus

Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost-of-service animals to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.

Eligible Attendant Care

The family is required to determine the type of attendant care that is appropriate for the person with disabilities. Attendant care will include, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities. Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. However, if the person enabled to work is a person with

disabilities, personal services necessary to enable the person with disabilities to work are eligible.

If the care attendant also provides other services to the family, the PHA will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work.

For example, if the care provider also cares for a child who is not a person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent on each activity and/or the number of persons under care.

The PHA will comply with all the above requirements. However, the family must identify the family members enabled to work because of the disability assistance expenses. In evaluating the family's request, the PHA will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work. When the PHA determines that the disability assistance expenses enable more than one family member to work, the disability assistance expenses will be capped by the sum of the family members' incomes.

Payments to Family Members

No disability expenses may be deducted for payments to a member of a tenant family [23 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the tenant family may be deducted if they are not reimbursed by an outside source.

Necessary and Reasonable Expenses

The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source. The PHA determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, the PHA will collect information from organizations that provide services and support to persons with disabilities. A family may present, and the PHA will consider, the family's justification for costs that exceed typical costs in the area.

PHA will consult IRS Publication 502 for some guidance on medical expenses, but as required by HUD, the PHA will not specifically align its policies with IRS Publication 502 for determining which expenses are included in HUD's mandatory deduction for health and medical care expenses. According to HUD regulation, the IRS Publication 502, in some instances, may instruct that certain expenses are not

to be considered medical expenses that would otherwise be allowed under HUD's definition of health and medical care expenses. Therefore, the PHAs will review each expense to determine whether it is eligible in accordance with HUD's definition of health and medical care expenses.

The PHA will accept as allowable unreimbursed medical expenses the following:

The costs of diagnosis, cure, mitigation, treatment, or prevention of disease, or payments for treatments affecting any structure or function of the body. These expenses include the costs of equipment, supplies, and diagnostic devices needed for these purposes.

Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed. Medical insurance premiums will continue to be eligible for health and medical care expenses.

Medical care expenses that are primarily to alleviate or prevent a physical or mental disability or illness such as:

- Services of doctors and health care professionals;
- Services of health care facilities;
- Medical insurance premiums;
- Prescription/non-prescription medicines (prescribed by a physician);
- Transportation to treatment (cab fare, bus fare, mileage);
- Dental expenses, eyeglasses, hearing aids, batteries;
- Live-in or periodic medical assistance (e.g., Braille or recorded books, home modifications to accommodate a person with a disability, additional expenses to assist individuals who are blind or have low vision or are deaf or hard of hearing); and
- Monthly payment on accumulated medical bills (regular monthly payments on a bill that was previously incurred). The allowance may include only the amount expected to be paid in the coming 12 months. PHA staff will make every effort to probe from the family the above information on allowable medical expenses.

Some of the following other items will not be considered for medical expense deductions, **unless** these items are recommended as treatment by a specific medical practitioner licensed in the locality where he/she is practicing, for example:

- Cosmetic surgery;
- Health club dues;
- Household help;
- Medical savings account (MSA); and
- Nutritional supplements (such as vitamins, herbal supplements, etc.) and nonprescription medicines.

For Reasonable Accommodation:

PHA will make exceptions to the policy on allowable medical expenses as a reasonable accommodation for applicant or program participant with disabilities.

Regarding a reasonable accommodation to modify a PHA's policy, the PHA will grant the reasonable accommodation request **if** there is a nexus between what is being requested and the person's disability **unless** the request poses an undue financial and administrative burden or a fundamental alteration to the program.¹⁰¹

If a qualifying family has medical expenses and no disability assistance expenses, the allowable medical expense is that portion of the total medical expenses that exceeds 10 percent of annual income.¹⁰²

For Upkeep and Care of Assistance Animal:

PHA will count as unreimbursed medical expense cost for upkeep and care of an assistance animal. **The** PHAs will determine on a case-by-case basis whether an animal is an assistance animal.

The IRS has stated that medical expenses include the costs for a "guide dog or other service animal to assist a visually impaired or hearing-impaired person, or a person with other physical disabilities" as medical expenses.

In addition, an Information Letter from the IRS states, "The costs of buying, training, and maintaining a service animal to assist an individual with mental disabilities may qualify as medical care if the taxpayer can establish that the taxpayer is using the service animal primarily for medical care to alleviate a mental defect or illness and that the taxpayer would not have paid the expenses but for the disease or illness."¹⁰³

The PHA will rely on both or either of these documents as reference in including the costs of an assistance animal for a household member with disabilities as medical expense costs if the family otherwise qualifies to deduct unreimbursed medical expenses. In addition, PHAs will provide reasonable accommodations to the policy, including policies regarding unreimbursed medical expenses, when they may be necessary for a person with a disability.

Anticipating Expenses

To be fair to the tenant, the PHA will use historical data not to exceed the prior 12 months to anticipate expenses. If a family has an accumulated debt for medical or disability assistance expenses, the PHA will include as an eligible expense the portion of the debt that the tenant paid within the prior 12 months of current interim or re-exam calculation. The PHA will require the tenant to provide documentation of payments made in the preceding year.

Estimating Qualifying Expenses

HUD has an Income Estimation Tool which may be used by the PHA and families to estimate at what amount of expenses a family would begin to receive a deduction for health and medical expenses. For Example, the family earns \$20,000 per year. The tool will show the qualified expenses over \$2000, which is 10% of the family's income, could be deducted in determining the family adjusted income.

Example of Calculating a Deduction for Childcare and Disability Assistance Expenses

HOH's earned income	\$15,000
Spouse's earned income +	<u>\$ 6,200</u>
Total income	\$21,200

The family has two children; a nine-year old daughter and a 16-year-old son who has a disability. The care provider cares for both children and charges \$200 per week. The care provider verifies that the cost for caring for the nine-year old daughter is \$125 per week and the cost for caring for the 16-year-old son is \$75 per week.

The child-care expense enables the spouse to work.

Child-care expense $\$125 \times 52 = \$6,500$ for the nine-year-old

Total disability assistance expense $\$75 \times 52 = \$3,900$ for the disability 16-year-old.

Total disability assistance expense (\$3,900) less 10% of annual income (\$390) = **\$3510**

Child-care deduction	\$6,200 (capped by earned income of spouse)
Disability assistance deduction +	<u>\$3,510</u>
Total deductions	\$9,710

Total deductions for child-care when compared to the spouse's earnings cannot exceed employment earnings of \$6,200. Assuming the disability assistance enables the HOH to work, the total deductions must not exceed \$15,000.

6-VI.E. Hardship Exemptions for Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expenses
Regulations: 24 CFR §§ 5.611(c)(1); 5.611(c)(1)(D); and 5.611(c)(2)

As stated, the threshold to deduct health and medical care expenses and reasonable attendant care and auxiliary apparatus expenses has been increased from an excess of 3 to an excess of 10 percent of annual income. Concurrently with this increase, the regulations provide financial hardship exemptions for unreimbursed health and medical care expenses, and for reasonable attendant care and auxiliary apparatus expenses for eligible families. A family will benefit from this hardship exemption only if the family has eligible expenses that can be deducted in excess of 5 percent of annual income.

To claim unreimbursed health and medical care expenses, the family must have a head, co-head, or spouse that is elderly or a person with a disability.

In order to claim **unreimbursed reasonable attendant care and auxiliary apparatus expenses**, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed.

To initiate, extend, or conclude a hardship exemption only, PHAs will process and submit a non-interim reexamination transaction as described in HUD Notice 2023-27 Attachment I (paragraph I.4) (Non-Interim Reexamination Transactions), or in chapter 9.

Families may be eligible for relief under one of two categories; phased-in relief or general relief, as defined below.

Note: A family receiving phased-in relief may request to receive general hardship relief instead; once a family chooses to obtain general relief, a family may no longer receive the phased-in relief.

a) Phased-In Relief

This section describes the phased-in relief for families affected by the statutory increase in the threshold to receive unreimbursed health and medical care and reasonable attendant care and auxiliary apparatus expense deductions from annual income. All families who received a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based on their most recent income review prior to January 1, 2024, will begin receiving the 24-month phased-in relief at their next annual reexamination or interim reexamination, whichever occurs first after the date on which the PHA implements the phased-in relief.

Families who receive phased-in relief will have eligible expenses deducted that exceed 5 percent of annual income for 12 months. Twelve months after the 5 percent phase-in began, families will have eligible expenses deducted that exceed 7.5 percent of annual income for the immediately following 12 months.

After the family has completed the 24 months phase-in at the lower thresholds, as described above, the family will remain at the 10 percent threshold, unless the family qualifies for relief under the general hardship relief provision.

When an eligible family's phased-in relief begins at an interim reexamination, the PHA will need to process another transaction one year later to move the family along to the next phase. The transaction can be either an interim reexamination if triggered, or a non-interim reexamination transaction.

The following table demonstrates when the phased-in relief will begin and increase every 12 months during the 24-month phase-in period.

Table: Phased-in Relief Timing

Phased-in Relief Timing	In Excess Threshold Percentage for Families Receiving the Health and Medical Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expense Deduction as of January 1, 2024.	Reexamination Type
First annual reexamination or interim reexamination, whichever occurs first on or after the date on which the PHA implements the phased-in relief.	5 percent	Annual or Interim Reexamination
Twelve months after the 5percent phase-in began	7.5 percent	Annual Reexamination or Interim Reexamination If no Interim Reexamination is triggered, then the PHA processes with a non-interim transaction.
Twelve months after the 7.5percent phase-in began	10 percent	Annual Reexamination or Interim Reexamination If no Interim Reexamination is triggered, then the PHA processes with a noninterim reexamination transaction.

Example: Phased-In Relief

(Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expenses)

Ms. Bell's annual reexamination is due on June 1, 2024. Her last annual reexamination was effective June 1, 2023, and she received a deduction for unreimbursed health and medical expenses. She did not have any interim reexaminations after her annual reexamination was completed.

Ms. Bell's unreimbursed health and medical expenses were 8 percent of her annual income. For her annual reexamination effective June 1, 2024, the PHA determines that Ms. Bell's annual income is \$10,000 and her unreimbursed health and medical expenses are \$800 (8 percent of her annual income).

Although Ms. Bell's unreimbursed health and medical care expenses are not in excess of the new 10percent threshold to receive the deduction, since she was receiving a deduction for unreimbursed health and medical expenses on January 1, 2024, Ms. Bell is automatically eligible for the deduction pursuant to the phased-in hardship exemption.

The PHA will apply the phased-in relief threshold to deduct the expenses that exceed 5 percent of her annual income which is \$300 (\$800 - \$500) for this reexamination.

Since her expenses are more than 7.5 percent of her annual income, Ms. Bell will receive the benefit of the unreimbursed health and medical expense deduction until her next annual reexamination on June 1, 2025, or interim reexamination (whichever occurs first), when the threshold will be increased to 7.5 percent. Assuming her medical expenses are still \$800, she will be able to deduct \$50 (\$800 - \$750).

PHAs **must** track the 24-month phase-period for each eligible family, even if a family's expenses go below the appropriate phase-in percentage, during the first or second 12-month phase-in period. The phase-in must continue for families who move to another Public Housing unit at the same PHA. The family must receive phased-in relief if they are determined to be eligible.

The table below describes the potential phased-in relief outcomes based on a family's status in PH Program:

Table: Phased-in Relief Outcomes According to Family's Status

Family's Status in Program	Is Family Receiving Phased-in Relief?	Outcome of Phased-in Relief	Required Documentation
Family's assistance is terminated in any program.	Yes	Phased-in relief ends upon termination. When readmitted, family's expense deduction will be calculated using the 10-percent threshold unless request for general relief is approved by the PHA.	N/A. No documentation of phased-in relief is needed.
Public Housing: Family transfers within the same PHA.	Yes	Families must continue to receive the phased-in relief. The family will receive the remaining calendar months of the percentage phase-in in their new unit.	The PHA will use the existing phase-in documentation to determine the remaining calendar months of the percentage phase-in

PHA Discretion: PHAs may establish a policy to continue the phased-in hardship relief for families who were eligible for relief as of PHAs' compliance date.

PHA Policy

For Phased-in Relief

PHA will track the 24-month phase-period for each eligible family, even if a family's expenses go below the appropriate phase-in percentage, during the first or second 12-month phase-in period. The phase-in will continue for families who move to another Public Housing unit at the same PHA. The family will receive phased-in relief if they are determined to be eligible as of PHAs' compliance date.

For Phased-in Hardship Relief

A family receiving phased-in relief may request to receive general hardship relief instead. However, once a family chooses to obtain general relief, the family will no longer receive the phased-in relief.

b) General Relief

This section describes when a family is eligible for general relief related to the health and medical care expense and reasonable attendant care and auxiliary apparatus expense deduction.

To receive general relief, a family must demonstrate that the family's unreimbursed health and medical care expenses or unreimbursed reasonable attendant care and auxiliary apparatus expenses increased, or the family's financial hardship is a result of a change in circumstances that would not otherwise trigger an interim reexamination.

Relief is available regardless of whether the family previously received an unreimbursed health and medical care expense deduction, unreimbursed reasonable attendant care and auxiliary apparatus expense deduction, are currently receiving phased-in hardship relief, or were previously eligible for either this general relief or the phased-in relief.

If a PHA determines that a family is eligible for general relief, the family will receive a deduction for the sum of the eligible expenses that exceed 5 percent of annual income.

The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever comes earlier.

However, PHAs may, pursuant to their own discretionary policy, extend the relief for one or more additional 90-day periods while the family's hardship condition continues.

Example: General Relief (Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expenses)

Mr. Beck's annual reexamination is due on August 1, 2024. In his last reexamination, he did not have any unreimbursed health and medical expenses and/or auxiliary and attendant care expenses. However, Mr. Beck has since been in a car accident, and he has increased eligible health and medical expenses equal to 6 percent of his annual income.

On February 15, 2024, Mr. Beck asks the PHA for a hardship exemption to allow him to receive a health and medical care expense deduction, which will help him cover his rent.

The PHA determines that the family is eligible for general relief and an Interim reexamination would not have otherwise been triggered, the PHA processes a non-interim change that applies a health and medical expense deduction for the eligible expenses that exceed 5 percent of annual income for 90 days.

The PHA may extend the relief for one or more additional 90-day periods while Mr. Beck's hardship condition continues and may extend the exemption beyond 90 days if a policy for extending hardship relief is included in the written policy for the PHA.

PHA Discretion: PHAs must establish written policies regarding the types of circumstances that will allow a family to qualify for financial hardship and when such deductions may be eligible for additional 90-day extensions.

PHAs must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

Examples of circumstances constituting a financial hardship may include the following situations:

- The family is awaiting an eligibility determination for a federal, state, or local assistance program, such as a determination for unemployment compensation or disability benefits.
- The family's income decreased because of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster; or other circumstances as determined by the PHA.

PHAs must not conduct an interim reexamination to add, remove, or to extend a hardship exemption, unless another change experienced by the family triggers an interim reexamination under the applicable regulation **or** in accordance with the PHA discretionary policies on conducting interim reexaminations for adjusted income decreases that are less than ten percent.

Instead, the PHA will process and submit a non-interim reexamination transaction as described in HUD's Notice PIH 2023-27 – Attachment I (Non-Interim Reexamination Transactions), or chapter 9 Reexaminations under (Non-Interim Reexamination Transactions).

PHA Policy

For General Hardship Relief

The PHA will require tenant to make their request in writing within 10 calendar days of occurrence and in a PHA format form named “Request for General Hardship Relief – For Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expense.”

The PHA will also require tenants to report in writing within 10 calendar days if the circumstances that made the tenant eligible for the hardship exemption are no longer applicable. Failure to do so, the PHA will process a rent retroactive charge that would cause the tenants to repay under charged rent. However, if a tenant needs a hardship relief to be extended, the tenant will be required to make their request in writing within 10 calendar days. The PHA will extend such hardship exemption for an additional 90-day period if the tenant can continue to demonstrate to the PHA that the tenant continues to be unable to pay their rent based on tenant circumstances. The PHA will also extend one more additional 90-day period if the tenant can continue to demonstrate to the PHA

that the tenant continues to be unable to pay their rent based on tenant on-going circumstances.

The general relief will be available regardless of whether the family previously received an unreimbursed health and medical care expense deduction, unreimbursed reasonable attendant care, and auxiliary apparatus expense deduction, or are currently receiving phased-in hardship relief, or were previously eligible for either this general relief or the phased-in relief.

If the PHA determines that a family is eligible for general relief, the family will receive a deduction for the sum of the eligible expenses that exceed 5 percent of annual income. The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever comes earlier.

To receive general relief, a family must demonstrate that the family's unreimbursed health and medical care expenses or unreimbursed reasonable attendant care and auxiliary apparatus expenses increased, or the family's financial hardship is a result of a change in circumstances that would not otherwise trigger an interim reexamination.

Since the PHA is required to establish policies on how it defines what constitutes a hardship (i.e., when a family is unable to pay rent), triggering eligibility for hardship exemption, the PHA has considered the following circumstances (factors) when determining financial hardship:

- The family is awaiting an eligibility determination for a federal, state, or local assistance program, such as a determination for unemployment compensation or disability benefits, or welfare benefits, and the family has experienced an unanticipated large medical bill or funeral expenses of an assisted family member in the household that exceed 5% of their family income and the family is obligated to make current payments that affects their ability to pay their portion of monthly rent.
- The family's income decreased because of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster that caused family to experience an unanticipated large medical bill or funeral expenses of an assisted family member in the household that exceed 5% of their family income and the family is obligated to make current payments that affects their ability to pay their portion of monthly rent.
- The family had an unexpected accident and has increased eligible health and medical expenses equal to 6 percent of their annual income.

The PHA will not conduct an interim reexamination to add, remove, or to extend a hardship exemption, **unless** another change experienced by the family triggers an interim reexamination under the applicable regulation or in accordance with the PHA policies on conducting interim reexaminations for adjusted income decreases that are less than 10 percent. **Instead**, the PHA will process and submit a non-interim reexamination transaction as described in chapter 9 – Reexaminations under (Non-Interim Reexamination Transactions).

To initiate, extend or conclude a hardship exemption, the PHA will submit a non-interim transaction code on form HUD–50058, **unless** there is an accompanying event that triggers an interim reexamination.

Notification to Tenant

When the PHA has determine that the tenant is eligible for the health and medical hardship expense exemption or a financial hardship expense exemption, the PHA will notify the tenant in writing of the change in the determination of adjusted income and the tenant’s rent resulting from the request of the hardship exemption.

The written notice will inform the tenant of the dates that the hardship exemption will begin and expire and the requirement for the tenant to report to the PHA if the circumstances that made the tenant eligible for relief are no longer applicable.

The notice will also state that the tenant’s adjusted income and rent will be recalculated upon expiration of the hardship exemption. The PHA will provide the tenant with 30 days’ notice of any increase in rent.

Hardship Exemption Denial

The PHA will promptly notify tenants in writing if they are denied either an initial hardship exemption or an additional 90-day extension of the exemption. The notification will specifically state the reason for the denial.

Hardship Exemption Termination

The PHA will notify the tenants if the hardship exemption is no longer necessary and will be terminated because the circumstances that made the tenant eligible for the exemption are no longer applicable. The notice will state the termination date and provide 30 days’ notice of the rent increase, if applicable. For example, if a tenant is currently receiving a hardship exemption, and the family member reports before the initial 90 days, or the additional 90 days that the tenant no long needs the hardship exemption, or the time has expired, the PHA will process a non-interim reexamination. The PHA will notify the tenant in writing that the hardship exemption terminated effective the date the tenant reported the current circumstances to the PHA and will provide the tenant with 30 days’ notice of any rent increase.

6-VI.F. Child-Care Expenses Deduction and Hardship Exemption to Continue Child-Care Expenses Deduction

Regulation: 24 CFR §§ 5.603 Child-Care Expenses and 5.611(d)

See also HUD's Notice PIH 2023-27 [Attachment I](#) (paragraph I.4) (Non-Interim Reexamination Transactions).

Under 24 CFR § 5.611(d), any reasonable child-care expenses necessary to enable a member of the family to be employed or to further their education are deducted from income. Reasonable child-care expenses are defined in 24 CFR § 5.603(a) and are expenses for the care of children (including foster children if the unreimbursed child-care expenses are paid from the family's annual income and not from another source, such as a stipend from the child welfare agency), age 12 and younger, when all the following statements are true:

- Care is necessary to enable a family member to be employed or to further his or her education (e.g., work, look for work, or further their education (academic or vocational)).
- The expense is not reimbursed by an agency or individual outside the household; and

The amount of childcare expenses deducted must not exceed the amount of employment income that is included in the annual income.

A family whose eligibility for the child-care expense deduction is ending may receive a hardship exemption to continue receiving a child-care expense deduction in certain circumstances when the family no longer has a member that is working, looking for work, or seeking to further their education, **and the deduction is necessary because the family is unable to pay their rent**. When a family requests a hardship exemption to continue receiving a child-care expense deduction that is ending, the PHA must recalculate the family's adjusted income and continue the child-care deduction **if the family demonstrates to the PHA's satisfaction that the family is unable to pay their rent** (refer to below Hardship Requirements – for Policy for Determination of the Family's Inability to Pay Rent) because of loss of the child-care expense deduction and the child-care expense is still necessary even though the family member is no longer working, looking for work, or furthering their education.

The hardship exemption and the resulting alternative adjusted income calculation must remain in place for a period of up to 90 days.

The PHA at their discretion, may extend such hardship exemptions for additional 90-day periods based on family circumstances.

To initiate, extend or conclude a hardship exemption, PHAs will submit a non-interim transaction code on form HUD-50058, **unless** there is an accompanying event that triggers an interim reexamination.

Example: Hardship Exemption to Continue Child-Care Expense Deduction

Ms. Branch had been paying \$250 per week for her child, Violet, to attend childcare, while she was employed at a local coffee shop. Ms. Branch became unemployed when the coffee shop permanently closed. Ms. Branch has plans to enroll in college in two months.

Although Ms. Branch has the availability to watch Violet, the child-care center has a long waiting list, and if Ms. Branch pulls Violet out temporarily, she would likely be without reliable childcare when she starts college.

Continuing to pay child-care expenses while not receiving earned income has made the family unable to pay their rent portion.

The PHA determined that Ms. Branch met the hardship exemption criteria, as established in the PHA's written policies, and is unable to pay rent.

The PHA will allow Ms. Branch to continue to receive the child-care expense deduction for 60 days as Ms. Branch is anticipated to enroll in college in the next two months.

PHA Discretion: PHAs must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. PHAs may extend hardship exemptions for additional 90-day periods based on family circumstances as stated in their written policies.

PHA Policy

For Childcare Expenses Deduction:

The tenant is responsible to report any childcare expenses to the office within 10 calendar days of occurrence. When the childcare expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period. When more than one family member works during a given period, the PHA will limit allowable childcare expenses to the earned income of the lowest-paid member. The PHA will not refuse to give a tenant the childcare expense deduction because there is an adult family member in the household that may be available to provide childcare.

Allowable Childcare Activities

The PHA will consider child-care expenses for the care of children (including foster children) age 12 and younger, if the unreimbursed child-care expenses are paid from the family's annual income and not from another source, such as a stipend from the child welfare agency), and when all the following statements are true:

The care is necessary to enable a family member to be employed or to further his or her education (e.g., work, look for work, or further their education (academic or vocational); The expense is not reimbursed by an agency or individual outside the household; and the amount of childcare expenses deducted must not exceed the amount of annual earned income as noted about.

For school-age children, costs attributable to public or private school activities during standard school hours are not considered.

Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of childcare.

The costs of general housekeeping and personal services are not eligible. Likewise, childcare expenses paid to a family member who lives in the family's unit are not eligible; however, payments for childcare to relatives who do not live in the unit are eligible.

If a childcare provider also renders other services to a family or childcare is used to enable a family member to conduct activities that are not eligible for consideration, the PHA will prorate the costs and allow only that portion of the expenses that is attributable to childcare for eligible activities.

For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated. Unless otherwise specified by the childcare provider, the calculation will be based on the number of hours spent on each activity and/or the number of persons under care.

Necessary and Reasonable Costs

Childcare expenses will be considered necessary if:

- (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further his or her education, and
- (2) the family certifies, and the childcare provider verifies, that the expenses are not paid or reimbursed by any other source.

Childcare expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For childcare that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

Determining Who Is Enabled to Pursue an Eligible Activity

The family must identify the family member(s) enabled to pursue an eligible activity. The term "eligible activity" in this section means any of the activities that may make the family eligible for a childcare deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family's request, the PHA will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

If the childcare expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member's job search efforts are not commensurate with the childcare expense being allowed by the PHA.

Furthering Education

If the childcare expense being claimed is to enable a family member to further his or her education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the childcare claimed.

Being Gainfully Employed

If the childcare expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that childcare is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

**PHA Policy
For General Childcare Hardship Exemption**

For a General Hardship Relief to be accepted for determination, the PHA will require the tenant to make their request in writing in a PHA format form named "Request for General Hardship Relief for Childcare Expense Hardship Exemption" and will also require tenant to report in writing within 10 calendar days if the circumstances that made the tenant eligible for the hardship exemption are no longer applicable.

The PHA will also extend such hardship exemption for one additional 90-day periods if the tenant can continue to demonstrate to the PHA that the tenant continues to be unable to pay their rent based on tenant's circumstances.

The PHA will only consider the following circumstances (factors) when determining childcare expense hardship exemption:

- The tenant member lost his/her job, but the childcare center has a long waiting list, and if the tenant member pulls out temporarily, the tenant member would most likely be without reliable childcare when the tenant member resumes employment status. Therefore, continuing to pay childcare expenses while not receiving earned income has made the tenant unable to pay their rent portion. In such a case, the tenant must provide verification from the Day Care Center.

- The tenant member who worked became unemployed and has plans to enroll in an educational facility in two months. However, the childcare center has a long waiting list and if the tenant member pulls out temporarily, the tenant member would most likely be without reliable childcare when the family member starts their education. Therefore, continuing to pay childcare expenses while not receiving earned income has made the tenant member unable to pay their rent portion. In such case, the PHA will allow the tenant to continue to receive the childcare expenses deduction for 60 days as the family member is anticipated to enroll in an education facility in the next two months being that an assisted tenant is also eligible for childcare deducted for furthering their education. Nevertheless, the tenant must provide verification from the Day Care Center and from the educational facility.

To initiate, extend or conclude a hardship exemption, PHAs will submit a non-interim transaction code on form HUD-50058, **unless** there is an accompanying event that triggers an interim reexamination. When the PHA has determined that a tenant is eligible for the childcare expense hardship exemption, the PHA will notify the tenant in writing of the change in the determination of adjusted income and the tenant's rent resulting from the request of the hardship exemption. The written notice will inform the tenant of the dates that the hardship exemption will begin and expire and the requirement for the tenant to report to the PHA if the circumstances that made the tenant eligible for relief are no longer applicable.

The notice will also state that the tenant's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption. The PHA will provide the tenants with 30 days' notice of any increase in rent.

Hardship Exemption Denial

The PHA will promptly notify tenants in writing if they are denied either an initial hardship exemption or an additional 90-day extension of the exemption. The notification will specifically state the reason for the denial.

Hardship Exemption Termination

The PHA will notify the tenant if the hardship exemption is no longer necessary and will be terminated because the circumstances that made the tenant eligible for the exemption are no longer applicable. The notice will state the termination date and provide 30 days' notice of the rent increase, if applicable. For example, if a tenant is currently receiving a hardship exemption for childcare expenses, and the tenant member returned to work before the initial 90 days, or the additional 90 days, the PHA will process an interim reexamination and restart the non-hardship childcare expense deduction. The PHA will notify the tenant in writing that the hardship exemption terminated effective the date the tenant member resumed employment and will provide the tenant with 30 days' notice of any rent increase.

6-VI.G. Hardship Policy Requirements

a) Policy for Determination of the Family's Inability to Pay Rent

Regulation: 24 CFR § 5.611(e)

PHAs must establish policies on how they define what constitutes a hardship (i.e., when a family is unable to pay rent, triggering eligibility for a hardship exemption).

PHA Discretion: PHAs have discretion to establish policies for the purpose of determining eligibility for general hardship relief for the health and medical care expense deduction and for the child-care expense hardship exemption. PHAs must describe these policies in their ACOPs, Administrative Plans, or Tenant Selection Plans, as applicable.

Some factors to consider when determining if the family is unable to pay rent may include determining that the rent, utility payment, and applicable expenses (childcare expenses or health and medical expenses) is more than 45 percent (for example) of the family's adjusted income, **or** verifying whether the family has experienced unanticipated expenses, such as large medical bills, that have affected their ability to pay their rent. PHA may use different percentage thresholds or methods for determining a family's inability to pay rent; the examples provided in this paragraph are for consideration purposes.

b) Family Notification of Hardship Exemption

Regulation: 24 CFR § 5.611(e)(2)

PHAs must promptly notify families in writing of the change in the determination of adjusted income and the family's rent resulting from the application of the hardship exemption. The written notice must also inform the family of the dates that the hardship exemption will begin and expire and the requirement for the family to report to the PHA if the circumstances that made the family eligible for relief are no longer applicable. The notice must also state that the family's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption. PHAs must provide families with 30 days' notice of any increase in rent.

PHAs are encouraged to communicate the availability of hardship exemptions and how to request hardship to all applicants and families prior to the date the PHAs begin to comply with HOTMA.

PHA Discretion: None.

c) Family Notification of Hardship Exemption Denial

PHAs must promptly notify families in writing if they are denied either an initial hardship exemption or an additional 90-day extension of the exemption. The notification must specifically state the reason for the denial.

d) Family Notification of Hardship Exemption Termination

PHAs must notify the family if the hardship exemption is no longer necessary and will be terminated because the circumstances that made the family eligible for the exemption are no longer applicable. The notice must state the termination date and provide 30 days' notice of the rent increase, if applicable.

Example: Termination of Hardship Exemption

The Olivera family is currently receiving a hardship exemption for child-care expenses. The family received an interim reexamination to decrease their earned income when an adult family member went on unpaid medical leave. The family is unable to pay rent during this time but still needs childcare while the adult family member is receiving physical therapy.

The family subsequently reports to the PHA that the adult family member will resume employment in 3 weeks on March 23, at which point the family will no longer need the child-care hardship exemption.

When the hardship exemption ends, the PHA will process an interim reexamination to add the family's earned income and restart the non-hardship child-care expense deduction.

The PHA has a policy to consider earned income increases following an interim reexamination due to a decrease in income (see HUD's Notice PIH 2023-27 Attachment I (paragraph I.2)).

The PHA must notify the family in writing that the hardship exemption will be terminated effective March 23 and provide the family with 30 days' notice of any rent increase.

The family's rent increase will be effective on May 1.

e) Extension of Hardship Exemption for Additional 90-Day Period(s)

PHAs may at their discretion extend hardship exemptions for additional 90-day periods if the hardship continues pursuant to the PHAs' hardship policies. This provision applies to families receiving hardship exemptions for the child-care expenses' deduction and general hardship relief for health and medical care expenses and reasonable attendant care and auxiliary apparatus expenses.

PHAs may extend the hardship relief for as many 90-day periods as the hardship continues to affect the family. Policies for extending hardship relief for an additional 90-day periods must be established in PHAs' Administrative Plans or ACOPs, and in Tenant Selection Plans.

PHAs must obtain third-party verification of the family's inability to pay rent or must document in the file the reason that third-party verification was not available. PHAs must attempt to obtain third-party verification prior to the end of the 90-day period.

PHA Policy

The PHA established required hardship policies. Refer to above section 6-VI.E. and 6-VI.F.

6-VI.H. Permissive Deductions

Regulation: 24 CFR § 5.611(b)(1)

A PHA may, but is not required to, establish an additional deduction or deductions from a family's annual income. These deductions are also known as "permissive deductions." Note that the public housing Operating Fund formula is not revised to account for any decrease in PHA revenue attributable to implementing permissive deductions. PHAs that adopt permissive deductions are required to incorporate these policies as part of the Administrative Plan or ACOP, as applicable.

Additional (Permissive) Deductions: Public Housing Only

Regulation: 24 CFR § 5.611(b)(1)(i)

PHAs may continue to adopt additional deductions from annual income in the Public Housing program. Permissive deductions may be used to incentivize or encourage self-sufficiency and economic mobility. A PHA that adopts such deductions will not be eligible for an increase in Capital Fund and Operating Fund formula grants based on the application of such deductions, so the financial impact of implementing permissive deductions must be carefully evaluated. PHAs may adopt permissive deductions for Public Housing only if they have established a written policy for such deductions. PHAs must put the total dollar amounts of any permissible deductions in column 8d and line 8e of the form HUD-50058.

PHA Discretion: PHAs are not required to adopt permissive deductions, but any PHA establishing permissive deductions in the Public Housing program must create written policies in the PHA's ACOP.

PHAs may use their discretion to establish permissive deductions pursuant to 24 CFR 5.611(b) related to foster children and foster adults – for example, to allow unreimbursed health and medical expenses (defined in § 5.603) of an elderly or disabled family related to their foster child or foster adult to be deducted from annual income, so long as the expenses are paid from the elderly or disabled family's annual income (and not another source, such as a stipend from a child welfare agency)

PHA Policy

50% Child Support Deduction:

The PHA has opted to use permissive deductions to allow 50% child support payments to another BHA tenant in a different household. The PHA will deduct 50% of child support payments made to another BHA tenant as follows.

- The payers must be a current BHA tenant with a court-support order from the support agency.

- The payers must be employed and must have paystubs showing the support being garnished from their earnings. A court order document is not sufficient proof because it does not show that the payer is paying the support amount.

Unreimbursed Health and Medical Expenses for Foster Adult and Foster Child:

The PHA opt to use permissive deductions to allow unreimbursed health and medical expenses of an elderly or disabled family related to their foster child or foster adult to be deducted from annual income, so long as the expenses are paid from the elderly or disabled family's annual income and not another source, such as a stipend from a child welfare agency, or any other source.

PART VII: ADJUSTED INCOME

Regulations

¹⁰⁹ The term “dependent” is defined under 24 CFR § 5.603.

¹¹⁰ 24 CFR § 5.611(a)

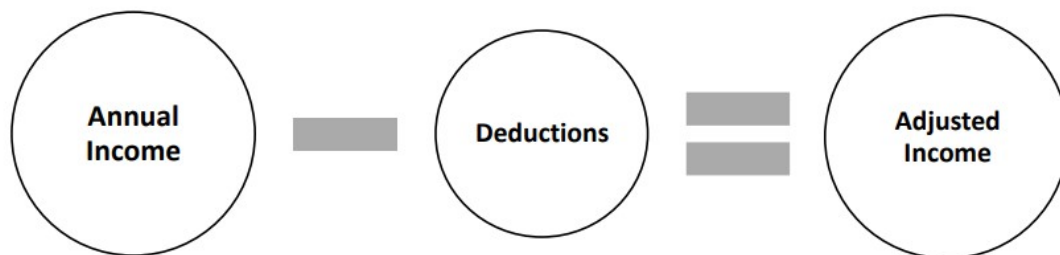
¹¹¹ 24 CFR § 5.611(b)(1)

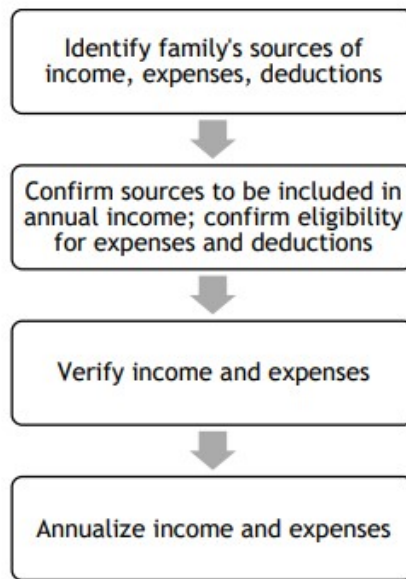
After determining the family’s annual income and deductions, the PHA can calculate the family’s adjusted income.

Adjusted income is the annual income of all family members residing in or intending to reside in the Public Housing unit after all mandatory deductions are applied:

- \$480 for each dependent;¹⁰⁹ Adjusted annually See Part IV. Exhibit 6-3.
- \$525 for any elderly family or disabled family; Adjusted annually See Part IV. Exhibit 6-3.
- Reasonable childcare expenses necessary to enable a family member to be employed to further their education;
- Unreimbursed medical expenses for each family member of an elderly or a disabled family to the extent the expenses total more than **10%** of the family’s annual income;
- Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each family member with a disability when necessary to enable any family member to be employed to the extent the expenses total more than **10%** of the family’s income. Note: This deduction cannot be more than the earned income received by family members who are 18 or older and working because of the attendant care or auxiliary apparatus; and
- Unreimbursed medical expenses or reasonable childcare expenses for families who have medical or childcare expenses that do not meet the requirements above, but who can demonstrate an inability to pay calculated rents because of financial hardship. ¹¹⁰

A PHA may establish additional deductions from annual income for its public housing program if the PHA has established a written policy for the additional deductions.¹¹¹





PART VIII: CALCULATING TOTAL TENANT PAYMENT

6-VIII.A. TOTAL TENANT PAYMENT FORMULA

The first step in calculating income-based rent is to determine each family's total tenant payment (TTP). Then, if the family is occupying a unit that has tenant-paid utilities, the utility allowance is subtracted from the TTP. The result of this calculation, if a positive number, is the tenant rent. If the TTP is less than the utility allowance, the result of this calculation is a negative number, and is called the utility reimbursement, which may be paid to the family or directly to the utility company by the PHA.

TTP Formula [24 CFR 5.628]

HUD regulations specify the formula for calculating the total tenant payment (TTP) for a tenant family. TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- The welfare rent (in as-paid states only)
- PHAs have the flexibility to establish a minimum rent of up to \$50 for the Public Housing Program.

The PHA has the authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6-VIII.B.

6-VIII.B. WELFARE RENT [24 CFR 5.628]

PHA Policy

Welfare rent does not apply in this locality.

6-VIII.C. MINIMUM RENT [24 CFR § 5.630 (a)]

(1) The PHA must charge a family no less than a minimum monthly rent established by the responsible entity, except as described in paragraph (b) of this section. (2) For the public housing program, the PHA may establish a minimum rent of up to \$50.

PHA Policy

The PHA has opted to change the minimum rent from \$50 to 0, to assist extremely low-income families due to increase inflation.

6-VIII.D. CEILING RENT **[24 CFR 960.253]**

In accordance with 42 U.S.C. 1437a(a)(2)(A)(ii), PHAs that established and were administering ceiling rents prior to October 1, 1999, are authorized to continue to administer ceiling rents in lieu of flat rents, provided such ceiling rents are set at the level required for flat rents as required by 24 CFR 960.253(d). Further, such PHAs must follow the requirements for calculating, adjusting, and reporting flat rents when calculating and adjusting ceiling rents. To improve transparency and accuracy of reporting, PHAs administering ceiling rents may no longer use line 10c (income-based ceiling rent) on the Form HUD-50058 to report ceiling rents for any household. Instead, PHAs must use line 10b (flat rent) to report the applicable maximum rental amount. Cross References: Ceiling Rent, Flat Rent, Rent References: **24 CFR 960.253(b); 24 CFR 960.253(d); Notice PIH 2017-23 (Section 3)**

PHA Policy

The PHA did not establish or administer ceiling rent prior to October 1, 1999, but has established Flat Rent requirement explained below.

6-VIII.E. FLAT RENTS AND FAMILY CHOICE IN RENTS **[24 CFR 960.253]**

Flat Rents [24 CFR 960.253(b)]

The flat rent is designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient. Changes in family income, expenses, or composition will not affect the flat rent amount because it is outside the income-based formula. Policies related to the reexamination of families paying flat rent are contained in Chapter 9, and policies related to the establishment and review of flat rents are contained in Chapter 16.

Family Choice in Rents [24 CFR 960.253(a) and (e)]

Once each year, the PHA must offer families the choice between a flat rent and an income-based rent. The family may not be offered this choice more than once a year. The PHA must document that flat rents were offered to families under the methods used to determine flat rents for the PHA.

PHA Policy

The annual PHA offer to a family of the choice between flat and income-based rent will be conducted upon admission and upon each subsequent annual reexamination.

The PHA will require families to submit their choice of flat or income-based rent in writing and will maintain such requests in the tenant file as part of the admission or annual reexamination process.

The PHA will provide sufficient information for families to make an informed choice. This information is included in the PHA's policy on switching from flat rent to income-based rent due to financial hardship and the dollar amount of the rent under each option. However, if the family chose the flat rent for the previous year the PHA will provide an income-based rent amount only in the year that a reexamination of income is conducted or if the family specifically requests it and submits updated income information.

**Switching from Flat Rent to Income-Based Rent Due to Hardship
[24 CFR 960.253(f)]**

A family can opt to switch from flat rent to income-based rent at any time if they are unable to pay the flat rent due to financial hardship. If the PHA determines that a financial hardship exists, the PHA must immediately allow the family to switch from flat rent to the income-based rent.

PHA Policy

Upon determination by the PHA that a financial hardship exists, the PHA will allow a family to switch from flat rent to income-based rent effective the first of the month following the family's request.

Reasons for financial hardship include:

- The family has experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings or other assistance.
- The family has experienced an increase in expenses, because of changed circumstances, for medical costs, childcare, transportation, education, or similar items.
- Such other situations determined by the PHA to be appropriate.

The PHA considers payment of flat rent to be a financial hardship whenever the switch to income-based rent would be lower than the flat rent.

Phasing In Flat Rents [Notice PIH 2017-23; 24 CFR 960.253(b)]

When new flat rent requirements were implemented in 2014, HUD limited the increase for existing residents paying flat rent at that time to no more than 35 percent of the current tenant rent per year. In some cases, this meant that some residents had or will have their flat rents phased in at the time of their annual recertification.

To do this, PHAs conduct a flat rent impact analysis to determine whether a phase-in is or was necessary. For families whose flat rent is being phased in, the PHA must multiply the family's current rent amount by 1.35 and compare the result to the flat rent under the PHA's policies. Families who have subsequently been admitted to the program or have subsequently selected flat rent will not experience a phase-in.

Notice PIH 2017-23 requires that flat rents must be phased in at the full 35 percent per year. PHAs do not have the option of phasing in flat rent increases at less than 35 percent per year.

Example: A family was paying a flat rent of \$500 per month. At their annual recertification, the PHA increased the flat rent for their unit size to comply with the new requirements to \$700. The PHA conducted a flat rent impact analysis as follows:

$$\$500 \times 1.35 = \$675$$

Since the PHA's increased flat rent of \$700 resulted in a rent increase of more than 35 percent, the PHA offered the family the choice to pay either \$675 per month or an income-based rent. The flat rent increase was phased in. At their next annual recertification in November 2015, the PHA will again multiply the family's current flat rent by 1.35 and compare the results to the PHA's current flat rent.

6-VIII.F. Rent Options for Over-Income Families (OI Families):

According to HUD Notice – PHI-2023-03 (HA), Families exceeding the over-income limit will be offered the option of paying an income-based rent or the PHA's flat rent throughout the 24-month grace period and prior to termination. For more information refer to Chapter 9 Reexamination Part V. Over-in Families, Chapter 13 - Lease Termination Part II - Over-Income Families for 24 Consecutive Months Requirement.

6-VIII.G. PRORATING ASSISTANCE FOR MIXED FAMILIES

24 CFR 5.520(d)

A mixed family is eligible for prorated assistance. “Prorated assistance” means the family will receive only a portion of the subsidy for which a fully eligible family would qualify. The prorated is calculated based on the number of members who are citizens or have eligible immigration status and the total number of family members.

The method of prorating assistance for Public Housing program is show below:

	Steps for Prorating Assistance for Mixed Families	Example
1	Determine the Total Tenant Payment (TTP) in accordance with 24 CFR 5.628. (Annual income includes income of all family members, including any family member who has not established eligible immigration status.)	TTP = \$300
2	Family maximum rent is equal to the applicable flat rent for the unit size to be occupied by the family.	Flat Rent = \$500
3	Subtract the TTP from the family maximum rent. The result is the maximum subsidy for which the family could qualify if all members were eligible (“Family Maximum Subsidy”).	$\$500 - \300 Family Maximum Subsidy = \$200
4	Divide the Family Maximum Subsidy by the number of persons in the family to determine the maximum subsidy per each family member who has citizenship or eligible immigration status (“Eligible Family Member”). The subsidy per eligible family member is the “Member Maximum Subsidy.”	$\$200 \text{ divided by } 4 =$ Member Maximum Subsidy = \$400
5	Multiply the Member Maximum Subsidy by the number of Eligible Family Members. The product of this calculation is the “Eligible Subsidy.”	$\$50 \times 3 =$ Eligible Subsidy = \$150
6	The Mixed Family TTP is the maximum rent minus the amount of the Eligible Subsidy.	$\$500 - \$150 =$ Mixed Family TTP = \$350
7	Subtract any applicable utility allowance (UA) from the Mixed Family TTP. The result of the calculation is the Mixed Family Tenant Rent.	UA = \$35 $\$350 - \$35 =$ Mixed Family Tenant Rent = \$315

6-VIII.H. UTILITY ALLOWANCES

[24 CFR 965, Subpart E]

Utility allowances are provided to families paying income-based rents when the cost of utilities is not included in the rent. When determining a family's income-based rent, the PHA must use the utility allowance applicable to the type of dwelling unit leased by the family. For policies on establishing and updating utility allowances, see Chapter 16.

Reasonable Accommodation [24 CFR 8]

On request from a family, PHAs must approve a utility allowance that is higher than the applicable amount for the dwelling unit if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family with a disability [PH Occ GB, p. 172].

Residents with disabilities may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability [PH Occ GB, p. 172]. See Chapter 2 for policies related to reasonable accommodations.

Utility Allowance Revisions [24 CFR 965.507]

The PHA must review its schedule of utility allowances each year. Between annual reviews, the PHA must revise the utility allowance schedule if there is a rate change that by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rate on which such allowances were based.

Adjustments to resident payments because of such changes must be retroactive to the first day of the month following the month in which the last rate change resulted in such revision becoming effective [PH Occ GB, p. 171].

The tenant rent calculations must reflect any changes in the PHA's utility allowance schedule [24 CFR 960.253(c)(3)].

Utility Reimbursement [24 CFR 960.253(c)(4)]

Utility reimbursement occurs when any applicable utility allowance for tenant-paid utilities exceeds the TTP. HUD permits the PHA to pay the reimbursement to the family or directly to the utility provider.

The PHA may make all utility reimbursement payments to qualifying families monthly or may make quarterly payments when the monthly reimbursement amount is \$14.00 or less. Reimbursements must be made once per calendar year quarter, either prospectively or retroactively, and must be prorated if the family leaves the program in advance of its next quarterly reimbursement.

The PHA must also adopt hardship policies for families for whom receiving quarterly reimbursement would create financial hardship. The PHA must issue reimbursements that exceed \$15.00 per month monthly.

PHA Policy

The PHA will review its utility allowances each year and revise the utility allowance schedule if there is a rate change that results in a change of 10 percent or more from the rate which such allowances were based. If the change results in an increase of the family's monthly rent, the PHA will give the tenant 30 days' notice of rent increase due to utility changes. If the change results in a decrease in rent, the PHA will make the rent decrease effective the month following the utility revision because effective.

If the tenant is in a negative rent status, the PHA will make utility reimbursements directly to the family. The PHA will issue all utility reimbursements that exceed \$15.00 monthly. When the utility reimbursements are less than \$15.00, the PHA will issue utility reimbursements quarterly, unless a tenant request a reasonable accommodation for a financial hardship that receiving their utility reimbursement quarterly would create a financial hardship due unexpected loss of income, or medical bill, or utility shut-off.

PART IX: EXHIBITS

EXHIBIT 6-1: Income Exclusions

HUD Notice PIH 2023-27 – HA 2023-10 Issued February 2, 2024 – Attachment G.

Income Exclusion

Regulations 24 CFR §§ 5.609(b)(4)–(5); 5.609(b)(7)–(10); 5.609(b)(14)–(15); 5.609(b)(17); 5.609(b)(19)–(24); 5.609(b)(24)(i)–(vii); 5.609(b)(25); 5.609(b)(27)–(28); 5.611; 891.105 and 891.655

The section below provides descriptions and clarifying information for new and updated income exclusions referenced in 24 CFR § 5.609(b). Please note that this section does not address all income exclusions listed in 24 CFR § 5.609(b) but only those that are newly added or updated by the final rule. PHAs must revise their interview guides and individual verification forms to ensure that adequate information will be collected to make appropriate income exclusion determinations.

PHA Policy

The PHA will continue to revise forms as needed.

1. Nonrecurring Income

Regulation: 24 CFR §§ 5.609(b)(24) and CFR 891.105

The nonrecurring income exclusion replaces the former exclusion for temporary, nonrecurring, and sporadic income (including gifts), but it provides a narrower definition of excluded income in contrast to the former broad exclusion of temporary, nonrecurring, or sporadic income.

Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income, and is excluded from annual income. However, income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under § 5.609(b)(24), even if the source, date, or amount of the income varies.

Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from a family's annual income as nonrecurring income. This does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended.

For example, an increasing number of cities and states are piloting guaranteed income 62 programs that have discrete beginning and end dates. This income can be excluded as nonrecurring in the final year of the pilot program. For example, for an annual

reexamination effective 2/1/2024, guaranteed income that will be repeated in the coming year but will end before the next reexamination on 2/1/2025 will be fully excluded from annual income. Income amounts excluded under this category may include, but are not limited to, nonrecurring payments made to the family or to a third party on behalf of the family to assist with utilities, eviction prevention, security deposits to secure housing, payments for participation in research studies depending on the duration, and general one-time payments received by or on behalf of the family.

The following list of exclusions is codified at 24 CFR § 5.609(b)(24) as nonrecurring income. Please note that the list is not exhaustive:

- Payments from the U.S. Census Bureau for employment lasting no longer than 180 days and not culminating in permanent employment;
- Direct federal or state economic stimulus payments;
- Amounts directly received by the family as a result of state refundable tax credits or state tax refunds at the time they are received;
- Amounts directly received by the family as a result of federal refundable tax credits or federal tax refunds at the time they are received;
- Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding, baby shower, or anniversary gifts);
- In-kind donations (e.g., food, clothing, or toiletries received from a food bank or similar organization); and
- Lump-sum additions to net family assets (e.g., lottery winnings, contest winnings, etc.).

PHAs may accept a self-certification from the family stating that the income will not be repeated in the coming year.

Example: Recurring and Nonrecurring Income

Scenario A: Non-recurring earned income excluded from annual income: Justin Clark worked for four months over the past year for a company that has since gone out of business. During the Clark family's reexamination interview, the PHA asks Justin whether he expects to work for the company again in the coming year. Justin provides proof that the company went out of business. The PHA must exclude Justin's earned income received from the company that went out of business from the family's annual income.

Scenario B: Recurring earned income included in annual income: Ana Johnson works as an independent information technology (IT) contractor during various times of the year, when her clients require additional IT contract support. Ana reasonably believes that she will be contracted again the following year based on discussions with her clients. The PHA must include the income that Ana earns as an IT contractor in the family's annual income.

Scenario C: Guaranteed Basic Income (GBI) excluded from annual income: Lucretia Jones reports at her upcoming annual reexamination effective on 5/1/24 that her GBI program will be ending on 1/31/25. The PHA excludes this income because the programs will stop before the next annual reexamination on 5/1/25. This income must be excluded, because there is a set term for the program,

and the payments will not be repeated beyond the coming year, which is the final year of a GBI program.

Scenario D: Research stipend included as annual income: Lillian Gonzalez reports at the annual reexamination that will be effective on 5/1/24 that she receives monthly payments for participation in a research project that is expected to last for 18 months and will end on 9/30/25. The PHA includes this as income because the amounts will be received through the next annual reexamination on 5/1/25. For the 5/1/25 annual reexamination, the family provides a letter stating that the income will end on 9/30/25, so the PHA will exclude the income received after the 5/1/25 annual reexamination.

PHA Discretion: None.

a) Nonrecurring Income: Temporary U.S. Census Bureau Employment

Regulation: 24 CFR § 5.609(b)(24)(i)

Payments from the U.S. Census Bureau for employment relating to the decennial census or the American Community Survey lasting no longer than 180 days and not culminating in permanent employment are excluded from annual income. However, it should be noted that any permanent employment with the U.S. Census Bureau should be considered in the annual income calculation.

PHA Discretion: None.

b) Nonrecurring Income: Economic Stimulus or Recovery Payments

Regulation: 24 CFR § 5.609(b)(24)(ii)

Direct federal or state payments intended for economic stimulus or recovery are excluded from annual income. HUD will continue to advise PHAs of which payments are considered economic stimulus or recovery payments for the purposes of income calculation.

PHA Discretion: None.

c) Nonrecurring Income: State Tax Refunds

Regulation: 24 CFR § 5.609(b)(24)(iii)

Amounts directly received by the family as a result of state refundable tax credits or state tax refunds at the time they are received are excluded from annual income.

PHA Discretion: None.

d) Nonrecurring Income: Federal Tax Refunds

Regulation 24 CFR § 5.609(b)(24)(iv)

Amounts directly received by the family as a result of federal refundable tax credits and federal tax refunds at the time they are received are excluded from annual income.

PHA Discretion: None.

e) Nonrecurring Income: Gifts

Regulation: 24 CFR § 5.609(b)(24)(v)

Gifts for holidays, birthdays, or other significant life events or milestones (e.g., weddings, baby showers, anniversaries) are excluded from annual income.

Example: Gifts for Holidays, Birthdays, or Other Significant Life Events/Milestones

Mariah Smith received a check for \$250 on her 25th birthday from her favorite aunt and \$30 from her cousin. These gifts are excluded from annual income.

PHA Discretion: None.

f) Nonrecurring Income: In-Kind Donations

Non-monetary in-kind donations, such as food or toiletries, received from a food bank or similar organization are excluded from annual income. When calculating annual income, PHAs are prohibited from assigning monetary value to non-monetary in-kind donations received by the family from a food bank or similar organization. Non-recurring, non-monetary in-kind donations from friends and family may be excluded as non-recurring income. See (24 CFR § 5.609(b)(24)).

Example: In-Kind Donations

Jonas Crandall receives a basket weekly from the local food bank that includes both food and toiletries. Because this is an in-kind donation from the local food bank, the PHA must not include the basket items in the calculation of annual income.

PHA Discretion: None.

2. Lump-Sum Additions to Net Family Assets

Regulation: 24 CFR § 5.609(b)(24)(vii)

Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings, are excluded from annual income. These amounts may count toward net family assets in accordance with 24 CFR § 5.603.

Example G4: Lump-Sum Additions to Net Family Assets

Scenario A: Trevor Lucky bought 10 lottery tickets and discovered that one of the tickets won Trevor \$1,000. Trevor reported his winnings as part of an interim reexamination. The PHA determined that the lottery winnings are a one-time, lump-sum addition to net family assets and should not be included in the annual income calculation.

Scenario B: Logan fundraises \$5,000 online to help pay for personal expenses (e.g., “Go Fund Me”). The PHA verified with Logan that this was a one-time solicitation for donations of cash and that Logan does not intend for this to be a recurring source of income. The \$5,000 is a one-time, lumpsum addition to net family assets and should not be included in the annual income calculation.

Scenario C: At the next annual reexamination, the PHA determines that Logan solicited for donations online a second time and raised an additional \$4,500. Again, Logan certified that he does not intend for this to be a recurring source of income, but, because the PHA can establish a pattern, the \$4,500 is **not** considered a lump-sum addition to net family assets and **should** be included in the annual income calculation.

PHA Discretion: None.

3. Income Earned on Amounts Placed in a Family’s Family Self Sufficiency (FSS) Account

Regulation: 24 CFR § 5.609(b)(27)

Income earned on amounts placed in a family's FSS account is excluded from the family's calculation of annual income.

PHA Discretion: None.

4. Income of Live-in Aides, Foster Children, and Foster Adults

Regulation: 24 CFR § 5.609(b)(8)

Income of a live-in aide, foster child, or foster adult as defined in 24 CFR §§ 5.403 and 5.603 is excluded from the family's calculation of annual income.

PHA Discretion: None.

5. Payments Received for the Care of Foster Children or Foster Adults or State or Tribal Kinship or Guardianship Care Payments

Regulation: 24 CFR § 5.609(b)(4)

Payments received for the care of foster children or foster adults, or state or Tribal kinship or guardianship care payments, are excluded from annual income.

This income exclusion also applies to Kinship Guardian Assistance Payments (KinGAP), kinship care payments, and other state-based kinship or guardianship payments that are alternatives to traditional foster care programs.

PHA Discretion: None

6. Insurance Payments or Settlements

Regulation: 24 CFR § 5.609(b)(5)

Insurance payments and settlements for personal or property losses, including but not limited to payments under health insurance, motor vehicle insurance, and workers' compensation, are excluded from annual income. Any workers' compensation is always excluded from annual income, regardless of the frequency or length of the payments.

Example: Insurance Payments or Settlements

Bethanne Williams received a settlement from her insurance company in the amount of \$2,500 because of a car accident. Bethanne's car accident settlement payment is excluded from annual income.

Example: Workers' Compensation Received In Lieu of Wages

Tobias Reynolds was injured in a work accident. He is receiving worker's compensation equal to his salary paid in biweekly installments for a period of less than one year. These amounts are excluded from annual income.

PHA Discretion: None.

7. Civil Action Recoveries or Settlements

Regulation: 24 CFR § 5.609(b)(7)

Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law that resulted in a member of the family becoming a person with disabilities are excluded from annual income. Any amounts recovered are excluded irrespective of whether they are received periodically or in a lump sum payment.

Example: Civil Action Recoveries or Settlements

Jacob Mitchell became a person with disabilities due to a construction site accident. He received \$60,000 from a civil negligence case. The \$60,000 received by Jacob is excluded from annual income.

PHA Discretion: None.

8. Earned Income of Dependent Full-Time students

Regulation: 24 CFR § 5.609(b)(14)

Earned income of dependent full-time students in excess of the amount of the deduction for a dependent in § 5.611 is excluded from annual income. Full-time students must be dependent family members for this exclusion to apply. This exclusion does not apply to the head of household, spouse, or co-head. This means that the first \$480 of the income earned by dependent full-time students will be included in the family's calculation of annual income. The dependent deduction will be adjusted annually in accordance with the (CPI-W). (See Exhibit 6-3). Full-time dependent students are eligible to receive both the \$480 (as adjusted for inflation) dependent deduction and the exclusion described in this paragraph.

PHA Discretion: None.

9. Adoption Assistance Payments

Regulation: 24 CFR § 5.609(b)(15)

Adoption assistance payments in excess of \$480 per adopted child are excluded from the family's calculation of annual income. This amount will be adjusted annually in accordance with the CPI-W. (See Exhibit 6-2).

All dependents, including adopted family members, are eligible to receive the \$480 (as adjusted for inflation) dependent deduction and the exclusion described in this paragraph.

PHA Discretion: None.

10. Veterans Regular Aid and Attendance

Regulation: 24 CFR § 5.609(b)(17)

Payments to veterans in need of regular aid and attendance are excluded from annual income under 38 U.S.C. 1521. This income exclusion applies only to veterans in need of regular aid and attendance and not to other beneficiaries of the payments, such as a surviving spouse.

Certain veterans are eligible for “aid and attendance” payments from the Veterans Affairs (VA) Administration. These payments are distinct from payments made to veterans under other VA programs, including the Veterans Pension program. PHAs should carefully review any income documentation provided by the family, because many types of VA income, including the Veterans Pension and the VA Survivors Pension, are included in annual income.

PHA Discretion: None.

11. Home-Based Care Payments for a Family Member(s) with a Disability(ies)

Regulation: 24 CFR § 5.609(b)(19)

Payments made by or authorized by a state Medicaid agency (including through a managed-care entity) or other state or federal agency to a family to enable a family member who has a disability to reside in the family’s assisted unit are excluded from the calculation of the family’s annual income. Authorized payments may include payments to a member of the assisted family through the state Medicaid agency (including through a managed-care entity) or other state or federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family’s assisted unit.

A family member with a disability qualifies for this income exclusion. Amounts received may be intended for items such as services, equipment, and compensation provided to a family member. The payments are excluded from income as long as the amounts are provided to enable a family member with a disability to remain in the family’s assisted unit.

Both the person providing the care and the person who has the disability must be family members (not household members) and must live in the same assisted household. The exclusion does not apply to income earned by the family for other caregiving services provided to individuals outside of the assisted household.

PHA Discretion: None.

12. Loan Proceeds

Regulation: 24 CFR § 5.609(b)(20)

Loan proceeds (the net amount disbursed by a lender to a borrower under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family to finance the purchase of a car) are excluded from annual income. The loan borrower or co-borrower must be a member of the family for this income exclusion to be applicable.

Loan proceeds may include, but are not limited to, personal loans (with a loan agreement) and student loans, regardless of whether the proceeds are received in the form of a refund to the student.

PHA Discretion: None.

13. Certain Payments Received by Tribal Members

Regulation: 24 CFR § 5.609(b)(21)

Payments received by Tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code (IRC) or other federal law, are excluded from annual income.

Generally, payments received by tribal members in excess of the first \$2,000 of per-capita shares are included in a family's annual income for purposes of determining eligibility. However, as explained below, payments made under the Cobell Settlement, and certain per-capita payments under the recent Tribal Trust Settlements, must be excluded from annual income in HUD programs that adopt the definitions of annual income in 24 CFR 5.609, the Census Long Form, and the IRS Form 1040, including the programs affected by this notice.

The following two subsections describe the circumstances when settlement payments paid to Tribal members are excluded from annual income through federal law or as required under the IRC.

a) Cobell Settlement

In *Elouise Cobell et al. v. Ken Salazar et al.*, a class of individual members of Indian tribes filed suit against the United States for its failure to adequately manage certain trust assets. The settlement was authorized pursuant to the Claims Resolution Act of 2010 (Pub. L. 111–291). In accordance with the Act, lump-sum or periodic payments received by an individual Indian under the Cobell Settlement are statutorily excluded from counting toward a family's annual income, or as a resource, for purposes of determining initial eligibility or level of HUD assistance, for a period of one year from the time of receipt of that payment.

This exclusion from income applies to all HUD programs and is included in the list of federally mandated exclusions from annual income that HUD periodically publishes in the *Federal Register*.

b) Tribal Trust Settlements

The United States has entered into settlements with a number of federally recognized Indian tribes, settling litigation in which the tribes alleged that the Department of the Interior and the Department of the Treasury mismanaged monetary assets and natural resources the United States holds in trust for the benefit of the tribes. In some circumstances, proceeds from these settlements have resulted in, or will result in, per-capita payments to Indian families by Indian tribes. To date, at least 70 Indian tribes have settled Tribal Trust cases.

24 CFR 5.609(b)(21) requires that certain payments received by Tribal members, to the extent that such payments are excluded from gross income under the IRC, must be excluded from family income. The Internal Revenue Service (IRS)

issued guidance in IRS Notice 2013–1, “Per Capita Payments from Proceeds of Settlements of Indian Tribal Trust Cases,” advising that per-capita payments made from the proceeds of the enumerated Tribal Trust Settlements are excluded from the gross income of the members of the tribe receiving the per-capita payments under 25 USC 117b(a) and 25 USC 1407. IRS Notice 2013–1 also clarifies, however, that per-capita payments that exceed the amount of the Tribal Trust Settlement proceeds and that are made from an Indian tribe’s private bank account in which the tribe has deposited the settlement proceeds are included in the gross income of the members of the tribe receiving the per-capita payments. For example, if an Indian tribe receives proceeds under a settlement agreement, invests the proceeds in a private bank account that earns interest, and subsequently distributes the entire amount of the bank account as per-capita payments, then a member of the tribe excludes from gross income that portion of the member’s per-capita payment attributable to the settlement proceeds under 25 USC 117b(a) and 25 USC 1407 and must include the remaining portion of the per-capita payment in gross income in accordance with the guidance provided in IRS Notice 2013-1. Per-capita payments not excluded from gross income in accordance with the IRC should be reviewed for potential exclusion as “nonrecurring income” (24 CFR § 5.609(b)(24)) or as “lump sum additions to net family assets” (24 CFR § 5.609(b)(24)(vii)). The IRS last updated the list of Indian tribes who have entered into Tribal Trust

Settlements with the United States in 2013, and for whom per-capita Tribal Trust payments are excluded from gross income. PHAs should ensure they are reviewing the current list of Tribal Trust Settlements when determining whether a family’s per-capita proceeds should be excluded from annual income.

Example: Tribal Trust Settlements

Scenario A: An Indian tribe received \$1.2 million from a Tribal Trust Settlement. The Indian tribe immediately distributed per-capita payments to its members. The Tribal Trust Settlement is treated in accordance with the guidance in IRS Notice 2013–1 and excluded from adjusted gross income under 25 USC 117b(a) and 25 USC 1407. Therefore, the per-capita payments to members are excluded from annual income.

Scenario B: An Indian tribe received \$10 million from a Tribal Trust Settlement. The Indian tribe invested the settlement funds at a private institution. After a year, the Indian tribe distributed the settlement funds plus earned interest to its members. IRS Notice 2013–1 provides guidance that per capita payments that exceed the amount of the Tribal Trust case settlement proceeds and that are made from an Indian tribe’s private bank account in which the tribe has deposited the settlement proceeds are not excluded from adjusted income under 25 USC 117b(a) and 25 USC 1407, so the interest payments to members are not excludable from annual income under 24 CFR 5.609(b)(21). The PHA must determine whether the per-capita interest payments to members should be included in the family’s income or excluded from income under a different regulatory provision such as 24 CFR 5.609(b)(24).

Please note that the first \$2,000 of per capita payments are also excluded from assets, except when these per capita payments are in excess of the settlement amount and are included (IRS Notice 20131, 25 USC 117b(a), and 25 USC 1407).

PHA Discretion: None.

14. Exclusions from Other Federal Statutes

Regulation: 24 CFR § 5.609(b)(22)

This exclusion applies to all amounts that HUD is required by federal statute to exclude from annual income. HUD will publish a notice in the *Federal Register* to identify the benefits that qualify for this exclusion. Updates will be published when necessary.

PHA Discretion: None.

15. Student Financial Assistance

Regulation: 24 CFR § 5.609(b)(9)

The treatment of student financial assistance depends on the HUD program, student/household characteristics, and the type of financial assistance received by the student. The student financial assistance rules apply to both full-time and part-time students.

The two types of student financial assistance applicable to MFH and PIH programs are described below.

a) Amounts Received Under Section 479B of the Higher Education Act (HEA) of 1965, as amended (20 U.S.C. 1087uu)

Section 479B provides that certain types of student financial assistance are to be excluded in determining eligibility for benefits made available through federal, state, or local programs financed with federal funds.

The types of financial assistance listed below are considered 479B student financial assistance programs; however, this list is not exhaustive, and 479B will be updated as of July 1, 2024.

- Federal Pell Grants;
- Teach Grants;
- Federal Work Study Programs;
- Federal Perkins Loans;
- Student financial assistance received under the Bureau of Indian Education;
- Higher Education Tribal Grant;
- Tribally Controlled Colleges or Universities Grant Program;
- Employment training program under section 134 of the Workforce Innovation and Opportunity Act (WIOA).

b) Other Student Financial Assistance

Other student financial assistance includes grants or scholarships received from the following sources:

- The Federal government;
- A state (including U.S. territories), Tribe, or local government;
- A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);
- A business entity (such as a corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or ☐ An institution of higher education.

Other student financial assistance does not include:

- Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded under section 479B of the Higher Education Act HEA); or ☐ Gifts, including gifts from family or friends.

Note: Other student financial assistance may be paid directly to the student or to the educational institution on the student's behalf.

The PHA must verify that the other student's financial assistance is for the student's actual covered costs.

The following sections describe the treatment of the two above-described types of student financial assistance by program type.

c) Non-Section 8 Programs Subject to this Notice

All assistance received under 479B of the HEA by students participating in Public Housing or non-Section programs administered by MFH 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 costs is not excluded from income. Prior to the final rule, the full amount of student financial assistance paid directly to the student or to the educational institution was excluded. 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 an assisted 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.

This formula is illustrated in chart 2, below.

Chart 1: Steps in Calculating Amount of Other Student Financial Assistance

Step 1: Subtract the **amount received under section 479B of the HEA** from the **actual covered costs** to arrive at the **amount of actual covered costs exceeding section 479B assistance**.

If the amount of assistance received under section 479B of the HEA exceeds the actual covered costs and the student did not receive any other student financial assistance, then step 2 is not necessary; none of the student financial assistance will be included in income, because the assistance received under section 479B of the HEA is excluded from income **for students participating in the Public Housing and non-Section 8 programs administered by MFH.**

Step 2: Subtract the actual covered costs exceeding section 479B assistance from the amount of other student financial assistance to arrive at the amount of student financial assistance included in income.

Step 2 requires the amount of other student financial assistance received by the student to be subtracted from the amount of actual covered costs paid by other means. If the resulting number in Step 2 is a positive amount, then that is the amount that should be included in the family's income. If the resulting number in Step 2 is zero or a negative amount, then there will be no student financial assistance included in income (i.e., all student financial assistance is excluded from annual income).

The following examples illustrate the treatment of student financial assistance for Public Housing and non-Section 8 programs:

**Example 1: Treatment of Student Financial Assistance in
Non-Section 8 Programs**

<p>Juan is a full-time student, and he received the following grants and scholarships to cover his first year of college: Federal Pell Grant: \$25,000; University Scholarship: \$15,000; Rotary Club Scholarship: \$3,000.</p>	
<p>Total assistance received under 479B of HEA: \$25,000 (Federal Pell Grant)</p> <p>Total other student financial assistance received: \$18,000</p>	<p>Juan's actual covered costs: \$28,000</p>
<p>Step 1: Determine amount of actual covered costs exceeding section 479B assistance.</p> <p>\$28,000 (actual covered costs) minus \$25,000 (total assistance received under 479B of HEA) equals \$3,000</p>	<p>Step 2: Determine the amount of student financial assistance to include in income.</p> <p>\$18,000 (other student financial assistance received) minus \$3,000 (actual covered costs exceeding section 479B assistance) equals \$15,000 (if negative, then use \$0)</p>
<p>Amount of student financial assistance included in Juan's income: \$15,000</p>	

**Example 2: Treatment of Student Financial Assistance
Non-Section 8 Programs**

<p>Sarah is a part-time student, and she received the following amounts to cover her first year of college: Federal Perkins Loan: \$2,000; Scholarship from Local Car Dealership: \$500; Gift from Aunt Lois: \$1,000. The \$1,000 is a gift from Aunt Lois, so it is not considered student financial assistance, and it is not considered in this calculation. Note: If Aunt Lois gives Sarah the \$1,000 gift as a one-time, lump-sum payment, it would be excluded from income under 24 CFR § 5.609(b)(24)(vii).</p>	
<p>Total assistance received under 479B of HEA: \$2,000 (Federal Perkins Loan)</p> <p>The total student financial assistance received: \$500.</p> <p>Total non-student financial assistance: \$1,000</p> <p>Total student financial assistance: \$2,500</p>	<p>Sarah's actual covered costs: \$3,000</p>

<p>Step 1: Determine amount of actual covered costs exceeding section 479B assistance.</p> <p>\$3,000 (actual covered costs) minus \$2,000 (total assistance received under 479B of HEA) equals \$1,000</p>	<p>Step 2: Determine amount of student financial assistance to include in income.</p> <p>\$500 (other student financial assistance received) minus \$1,000 (amount of actual covered costs exceeding section 479B assistance) equals – \$500 (if negative, then use \$0)</p>
<p>The amount of student financial assistance received by Sarah is less than her actual covered costs after deducting assistance received under 479B of the HEA and other student financial assistance received, therefore there is no student financial assistance to include in income.</p> <p>Amount of student financial assistance included in Sarah’s income: \$0</p>	

**Example 3: Treatment of Student Financial Assistance in
Non-Section 8 Programs**

<p>Dante is a full-time student, and he received the following amounts to cover his first year of college: Federal Pell Grant: \$9,000; Federal Perkins Loan: \$13,000; Local Library Scholarship: \$1,000.</p>	
<p>Total assistance received under 479B of HEA: \$22,000 (Federal Pell Grant plus Federal Perkins Loan)</p> <p>Total other student financial assistance received: \$1,000</p>	<p>Dante’s actual covered costs: \$16,000</p>
<p>Step 1: Determine amount of actual covered costs exceeding section 479B assistance.</p> <p>\$16,000 (actual covered costs) minus \$22,000 (total assistance received under 479B of HEA) equals \$–6,000</p>	<p>Step 2: Determine amount of student financial assistance to include in income.</p> <p>Not necessary because Step 1 resulted in a negative amount, so all other student financial assistance would be included in Dante’s income</p>
<p>Amount of student financial assistance included in Dante’s income: \$1,000</p>	

16. Achieving a Better Life Experience (ABLE) Accounts

Regulation: 24 CFR § 5.609(b)(22)

ABLE accounts are excluded from the definition of net family assets, and therefore income generated from such accounts is not considered when calculating income from assets. Distributions from these accounts are also excluded from income.

HUD developed specific guidance on ABLE accounts based on language included in the ABLE Act of 2014. Certain contributions deposited into ABLE accounts are excluded in addition to the above-mentioned exclusions. See *Treatment of ABLE Accounts in HUD Assisted Programs* (Notice H 2019–06/PIH 2019–09).

PHA Discretion: None.

17. Income and Distributions from Coverdell Education Savings Accounts, 529 Accounts and “Baby Bond” Accounts

Regulation: 24 CFR § 5.609(b)(10)

Income and distributions from any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and income earned by government contributions to, and distributions from, “baby bond” accounts created, authorized, or funded by Federal, State, or local government are excluded from income and net family assets.

PHA Discretion: None.

18. Gross Income from Self-Employment or Operation of a Business

Regulation: 24 CFR §§ 5.609(b)(24) and 5.609(b)(28)

The gross income received by a family through self-employment, or the operation of a business, is excluded from income. Gross income is all income amounts received into the business, prior to the deduction of business expenses. To determine the amount of business or self-employment income included in a family’s annual income, the net income of the business must first be determined.

Net income is the “gross income amount minus business expenses” that allows the business to operate.

The net income from self-employment or the operation of a business is considered income. Expenditures for business expansion or amortization of capital indebtedness are not deductible when determining the income from a business. An allowance for the depreciation of assets used in a business or profession may be deducted, based on a straight-line depreciation, as provided in IRS’s regulations. Any withdrawal of cash or assets from the operation of a business is income except to the extent that such withdrawal is to reimburse the family member for cash or assets that the family has invested in the operation of the business.

Example: Exclusion of Gross Income from Self-Employment or Operation of a Business

Bill Conrad is the sole owner of BC Lawn Service. BC Lawn Service grossed \$75,000 annually in 2024. BC Lawn Service also incurred a total of \$35,000 in business expenses, including lawn equipment, rakes, insurance, depreciation of a tractor, and wage payments. After subtracting the \$35,000 in business expenses from the \$75,000 gross income, the net income is \$40,000, which will be included in Bill's calculation of annual income.

PHA Discretion: None.

19. Elimination of the Earned Income Disregard (EID)

Regulation: 24 CFR § 5.611

The Earned Income Disregard (EID) will not apply to any family who is not eligible for and already participating in the disallowance as of December 31, 2023.

The EID allowed eligible families to have a portion of their earned income excluded from annual income for a maximum period of 24 consecutive months.

Although HOTMA eliminates the EID from HUD regulations, families who were receiving the EID benefit as of December 31, 2023, may continue to receive the full benefit until the remaining timeframe for an individual family's EID expires. Because the EID lasts up to 24 consecutive months, no family will still be receiving the EID benefit after December 31, 2025.

PHA Discretion: None.

20. Civil Rights Settlements or Judgments

Regulation: 24 CFR § 5.609(b)(25)

Civil rights settlements or judgments, including settlements or judgments for back pay, are excluded from the calculation of annual income.

Historically HUD has followed a practice of excluding from income civil rights settlements and judgments as lump-sum additions to assets, which would include amounts received as a result of litigation or other actions, such as conciliation agreements, voluntary compliance agreements, consent orders, other forms of settlement agreements, or administrative or judicial orders under nondiscrimination laws. However, this new exclusion clarifies that even where such payments are not lump-sum payments but instead may have a payment schedule, such payments are excluded. Additionally, this exclusion applies to back pay received by the family pursuant to a civil rights settlement or judgment.

PHA Discretion: None.

Additional Income Exclusions

The section above only provides descriptions and clarification information for new and updated income exclusions referenced in 24 CFR § 5.609(b). As stated, it does not address all income exclusions listed in 24 CFR § 5.609(b) but only those that are newly added or updated by the final rule. The following is an updated list from HUD's Public Housing Occupancy Guidebook dated June 2020:

1. Income from employment of children (including foster children) under the age of 18 years;
2. Payments received for the care of foster children or foster adults (usually individuals with disabilities unrelated to the tenant family who are unable to live alone); **Payments for Foster or Guardianship Care** Payments received by the family to care for foster children or foster adults are not counted as income.⁶⁰ This guidance applies only to payments made through the official foster care relationships with local social service agencies. Kinship Guardian Assistance Payments (Kin-GAP), kinship care payments, and other guardianship payments are like traditional foster care payments and are also excluded from annual income. These forms of care are alternatives to traditional foster care.⁶¹
3. Insurance payments and settlement for personal or property losses (but see No. 5 under Income Inclusions);
4. Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
5. Any amount recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to the family member arising out of law, that resulted in a member of the family being disabled;
6. Income of a live-in aide (as defined by regulation);
7. The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
8. Amounts received:
 - a. Under training programs funded by HUD;
 - b. By a person with disabilities 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. By a participant in other publicly assisted programs which 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. **A resident service stipend.** This 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;

- e. Incremental earnings and benefits resulting to any family member from participation in training programs funded by HUD or in a qualifying State or local employment training programs (including training programs 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.
9. 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;
10. Earned income for each dependent who is a full-time student up to the deduction provided for dependents;
11. Adoption assistance payments in excess of \$480 per adopted child; Note: **This amount will be adjusted annually. (See Exhibit 6-3).**
12. Deferred periodic payments of supplemental security income and social security benefits that are received in a lump-sum payment or in prospective monthly amounts;
13. Payments related to the aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance; **See above descriptions and clarifications for new and updated income exclusions.**
14. 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; **See above descriptions and clarifications for new and updated income exclusions.**
15. Payments provided 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 the member who has a developmental disability living at home; **See above descriptions and clarifications for new and updated income exclusions.**
16. Amounts that HUD is required by Federal statute to exclude from consideration as income for the purposes of determining eligibility or benefits under a category of assistance under any program to which the exclusions set forth in 24 CFR 5.609(b) apply. An updated notice will be published in the Federal Register and distributed to PHAs and housing owners identifying the benefits that qualify for this exclusion when necessary. As of May 20, 2014 (79 Fed. Reg. 97), such amounts include, but may not be limited to:
- a. The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017(b));
 - b. Payments to volunteers under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5044(f)(1), 5058);
 - c. Certain payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));
 - d. Income derived from certain sub marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);

- e. Payments or allowances made under the Department of Health and Human Services' Low Income Home Energy Assistance Program (42 U.S.C. 8624(f));
- f. Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, section 6);
- g. The first \$2000 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;
- h. Payments received from programs funded under title V of the Older Americans Act of 1965 (42 U.S.C. 3056g);
- i. Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund (Pub. L. 101-201) 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.);
- j. Payments received under the Maine Indian Claims Settlement Act of 1980 (Pub. L. 96-420, 25 U.S.C. 1728);
- k. 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 Childcare and Development Block Grant Act of 1990 (42 U.S.C. 9858q);
- l. Earned income tax credit (EITC) refund payments received on or after January 1, 1991, for programs administered under the United States Housing Act of 1937, title V of the Housing Act of 1949, section 101 of the Housing and Urban Development Act of 1965, and sections 221(d)(3), 235, and 236 of the National Housing Act (26 U.S.C. 32(l));
- m. Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433);
- n. Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));
- o. 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).
- p. 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));

- q. Any amount received under the Richard B. Russell School Lunch Act (42 U.S.C. 1760(e)) and the Child Nutrition Act of 1966 (42 U.S.C. 1780(b)), including reduced-price lunches and food under the Special Supplemental Food Program for Women, Infants, and Children (WIC);
- r. Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b));
- s. 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));
- t. 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); and
- u. 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));
- v. The entire value of an individual’s account established under the Achieving Better Life Experience (ABLE) Act (P.L. 113-295);
- w. Amounts of scholarships funded under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070), including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu);
- x. Allowances, earnings, and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931(a)(2));
- y. Compensation received by or on behalf of a veteran for service-connected disability, death, dependency, or indemnity compensation as provided by an amendment by the Indian Veterans Housing Opportunity Act of 2010 (Pub. L. 111–269; 25 U.S.C. 4103(9)) to the definition of income applicable to programs authorized under the Native American Housing Assistance and Self Determination Act (NAHASDA) (25 U.S.C. 4101 et seq.) and administered by the Office of Native American Programs;
- z. 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)); and
- aa. Major disaster and emergency assistance received by individuals and families under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Pub. L. 93–288, as amended) and comparable disaster assistance provided by States, local governments, and disaster assistance organizations (42 U.S.C. 5155(d)).

Exhibit 6-2 HUD Student Aid and Financial Assistance Resource Sheet
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HOTMA mandates the exclusion of earned income for full-time dependent students and the exclusion of certain financial aid for both full and part-time students.

Mandatory Deduction for Full-time Students 24 CFR 5.609(b)(14)

The earned income of dependent full-time students in excess of the amount of the deduction for a dependent is excluded from income. Since there is a mandatory \$480 deduction* for dependents, the result is that all earned income of dependent students will either be excluded or deducted from income. (*The deduction amount will be adjusted annually for inflation and rounded to the next lowest multiple of \$25.)

Educational Savings Account 24 CFR 5.609(b)(10)

Any amount in or from, or any benefits, income, or distributions from, any Coverdell educational savings account of or any qualified tuition program under IRS sections 529 and 530 shall be excluded from income.

Student Financial Assistance 24 CFR 5.609(b)(9)

The new rules create two categories of student financial aid. The first category, is any assistance that section 479B of the Higher Education Act of 1965, as amended, requires to be excluded from a family's income, referred to here as, "Title IV HEA Assistance." For public housing residents, all assistance in this category must be excluded from income. See the exception for some Housing Choice Voucher participants below in the final section. The second category is any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education. Exclusion in both categories applies equally to full and part-time students.

Title IV HEA Assistance 24 CFR 5.609(b)(9)(i)

Title IV HEA Assistance refers to any assistance that section 479B of the Higher Education Act of 1965, as amended (20 U.S.C. 1087uu), requires to be excluded from a family's income. This includes: • Bureau of Indian Affairs/ Education student assistance programs. Current examples include: » The Higher Education Tribal Grant, and » The Tribally Controlled Colleges or Universities Grant Program.

To access the full HOTMA Income and Assets Training Series, visit www.hudexchange.info.

- Student assistance received under Title IV of HEA currently includes but is not limited to:
 - » Federal Pell Grants
 - » Teach Grants
 - » Federal Work-Study Programs
 - » Federal Perkins Loans

Beginning January 1, 2024, PHAs shall exclude from income amounts received for the forms of assistance listed in the revised version of Section 479B of the HEA. This will expand the forms of excluded income to include:

- Income earned in employment and training programs under section 134 of the Workforce Innovation and Opportunity Act (WIOA), including: workforce investment activities for adults and workers dislocated because of permanent closure or mass layoff at a plant, facility, or enterprise, or a natural or other disaster that results in mass job dislocation, to assist such adults or workers in obtaining reemployment as soon as possible.

Section 479B of the HEA requires that all assistance under Title IV of the HEA as well as Bureau of Indian Affairs student financial assistance, even assistance provided to students in excess of tuition and required fees or charges, be excluded from HUD income calculations. (See the exception for some Housing Choice Voucher participants below.)

Other Student Financial Assistance 24 CFR 5.609(b)(9)(ii)

This category of excluded student financial assistance recognizes that student aid can take a variety of forms and come from a variety of sources. It seeks to cover student financial assistance, for both full and part-time students, that is not included under Title IV of the HEA or under Bureau of Indian Affairs student assistance programs.

To qualify as excluded student financial assistance under this category, the aid must be:

- Used for “actual covered costs”
- Expressly to assist a student with the costs of higher education; or
- Expressly to assist a student who is not the head of household or spouse, with the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit;
- **A grant or scholarship received from:**
 - » The federal government;
 - » A State, Tribe, or local government;
 - » A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);
 - » A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
 - » An institution of higher education.

The aid may be paid directly to the student or to the educational institution on the student's behalf. However, any student financial assistance paid to the student must be verified by the PHA as consistent with this section (24 CFR 5.609 (b)(9)(iii))

Student financial assistance, excluded here, does not include:

- Any assistance that is already excluded under Title IV of the HEA
- Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded as Title IV HEA Assistance).
- Gifts, including gifts from family or friends; or
- Any amount of the scholarship or grant that, either by itself or in combination with HEA assistance exceeds the actual covered costs of the student.

Calculating Exclusions from Both Categories

When the student is receiving assistance that is excluded under both categories, Title IV HEA Assistance must be applied first. Student Financial Assistance can then be applied to any remaining actual covered costs. Once actual costs are covered, any remaining Student Financial Assistance will be considered income.

Steps:

1. Calculate the "actual covered costs."
2. Apply the Title IV HEA Assistance.
3. Subtract the actual covered costs from the total amount of Title IV HEA Assistance.
 - a. If the amount of assistance excluded as Title IV HEA Assistance is equal to or exceeds the actual covered costs, none of the assistance included under "Student Financial Assistance" would be excluded from income. This is because this assistance would no longer be needed to cover actual costs and therefore would not meet the definition of Student Financial Assistance.
 - b. If the amount of Title IV HEA Assistance is less than the actual covered costs, go to the next step.
4. Exclude the amount of Student Financial Assistance up to the amount of the remaining actual covered costs (those not covered by Title IV HEA Assistance).

Example 1

Title IV HEA Assistance:	\$26,000
Other Student Financial Assistance:	\$5,000
Actual covered costs:	\$25,000
Excluded income:	\$26,000

Explanation: All assistance under Title IV HEA Assistance must be excluded from income. This exclusion must be taken first. Student Financial Assistance could then cover any remaining actual covered costs. However, since there were no remaining actual covered costs, this assistance would be counted as income.

Example 2

Title IV HEA Assistance:	\$15,000
Other Student Financial Assistance:	\$5,000
Actual covered costs:	\$22,000
Excluded income:	\$20,000

Explanation: All financial assistance (\$20,000) is still less than the student's actual covered costs (\$22,000). Therefore, all financial assistance should be applied.

Example 3

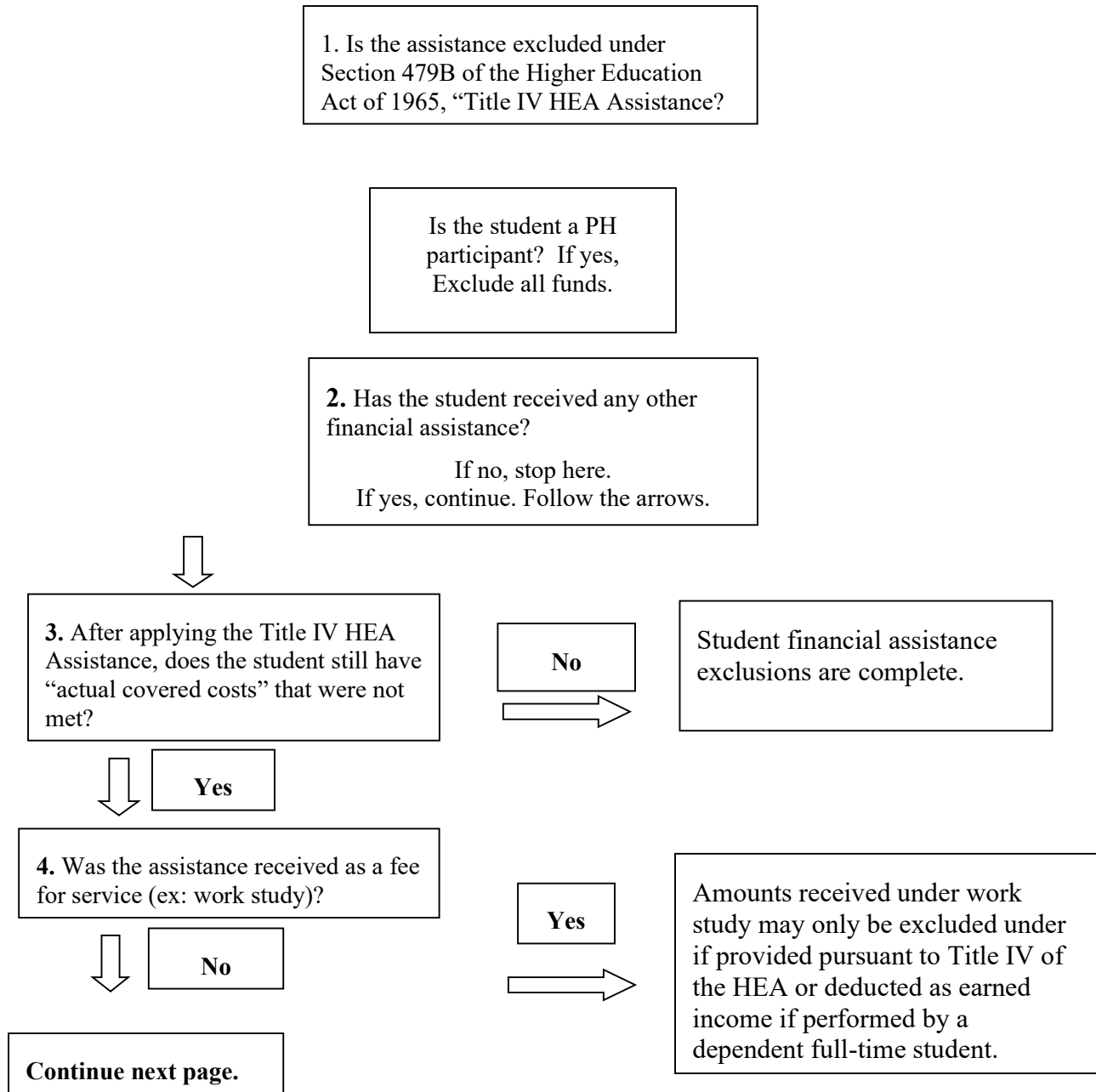
Title IV HEA Assistance:	\$15,000
Student Financial Assistance:	\$5,000
Actual covered costs:	\$18,000
Excluded income:	\$20,000

Explanation: In this case, the student's actual covered costs are only \$18,000. The amount of the scholarship that is considered Student Financial Assistance and excluded from income would be \$3,000. This is because \$3,000 is the amount by which actual covered costs exceed the assistance excluded as Title IV HEA assistance (\$18,000 - \$15,000). The amount of the scholarship that is in excess of the student's actual covered costs (\$2,000) is not student financial assistance and is not excluded under § 5.609(b)(9)(ii)

Student Financial Assistance Exclusion Decision Tree

Before going through the decision tree, determine:

1. Title IV HEA Assistance
2. Other Student Financial Assistance
3. Actual covered costs



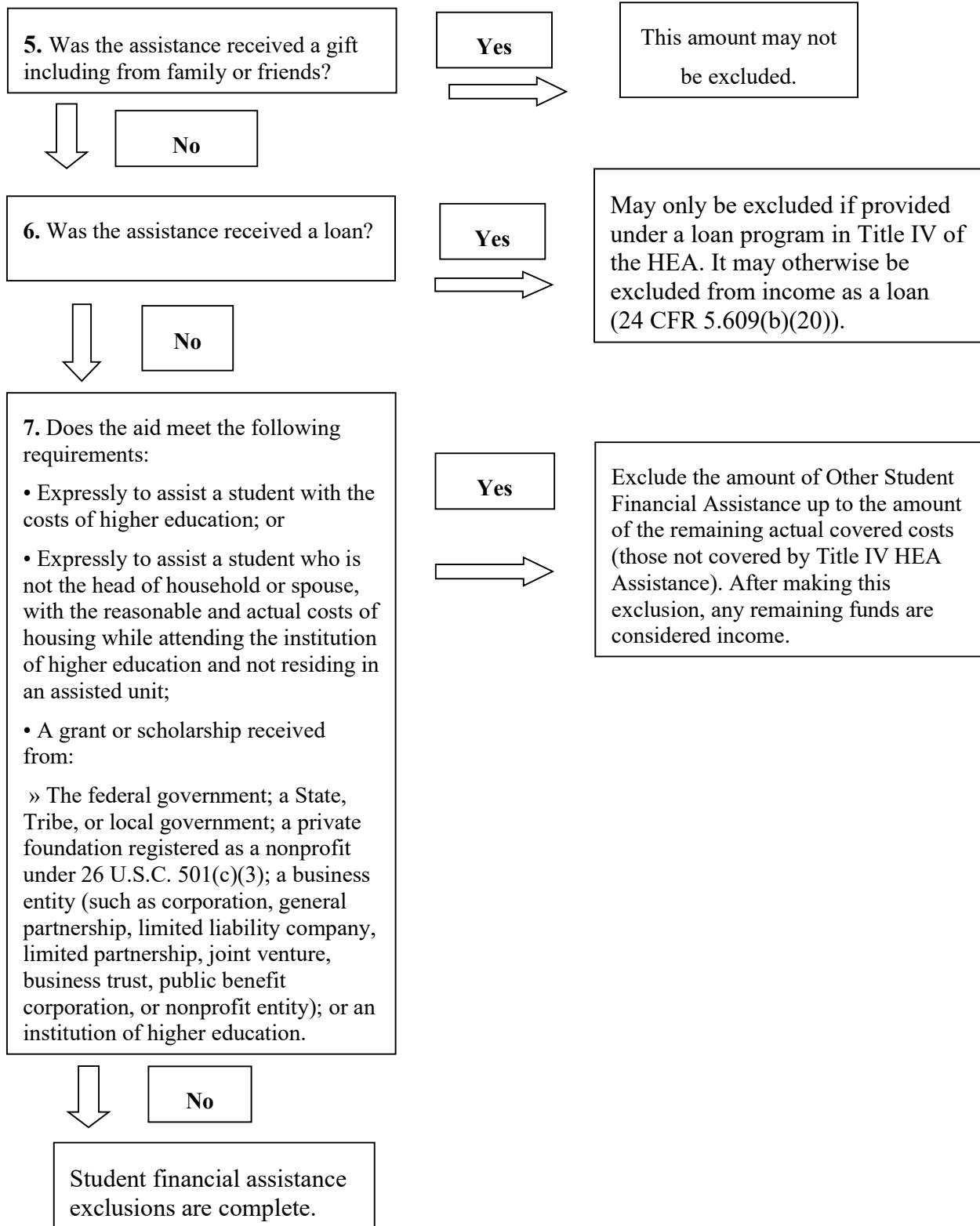


Exhibit 6-3 INFLATIONARY ADJUSTMENTS

HUD will annually publish the eight inflation-adjusted items in the table below no later than September 1, and the updated values will be shared online at the [HUD UserWeb site](#). The publication will apply to both PIH programs. The revised amounts will be effective on January 1 of the following year.

The first set of adjustments for inflation will be made effective January 1, 2025.

HUD plans to publish in the *Federal Register* a notice soliciting the public's comment on

HUD's methodology for recalculating inflationary adjusted items.

For attachment reviews you can refer to the HUD PIH 2023-27 – H 2023-10 Issued February 2, 2024 – Attachment H.

Table: Inflationary Adjustment Items

Adjusted Item	Regulatory Reference	Notice Section	Amount Effective on 1/1/2024 (subject to Annual Adjustment)	Rounding Methodology	Applicable Programs
Eligibility restriction on net family assets	24 CFR § 5.618(a)(1)(i)	Attachment A	\$100,000	Nearest dollar	Public Housing,
Threshold above which imputed returns must be calculated on net family assets	24 CFR §§ 5.609(a)(2) and (b)(1)	Attachment F	\$50,000	Nearest dollar	Public Housing,

Threshold above which the total value of non-necessary personal property is included in net family assets	24 CFR § 5.603(b) <i>Net family assets</i>	Attachment F	\$50,000	Nearest dollar	Public Housing
The amount of net assets for which the PHA may accept self-certification by the family	24 CFR § 5.618(b)(1) 24 CFR § 5.659(e) 24 CFR § 92.203(e)(1) 24 CFR § 93.151(e)(1) 24 CFR § 882.515(a) 24 CFR § 882.808(i)(1) 24 CFR § 960.259(c)(2) 24 CFR § 982.516(a)(3)	Attachment F	\$50,000	Nearest dollar	Public Housing
Mandatory deduction for elderly and disabled families	24 CFR § 5.611(a)(2)	Attachment C	\$525	Next lowest multiple of \$25	Public Housing,

Mandatory deduction for a dependent	24 CFR § 5.611(a)(1)	Attachment C	\$480	Next lowest multiple of \$25	Public Housing
Income exclusion for earned income of dependent full-time students	24 CFR § 5.609(b)(14)	Attachment G	\$480	Next lowest multiple of \$25	Public Housing
Income exclusion for adoption assistance payments	24 CFR § 5.609(b)(15)	Attachment G	\$480	Next lowest multiple of \$25	Public Housing,

HUD will annually publish the recalculated inflationary-adjusted items to HUD’s Policy Development and Research Web site, [HUDUser](#).

The new amounts will become effective January 1 of the following year.

PHAs must use the adjusted levels post to HUD User for income and asset calculations effective on or after January 1 of the following year.

Note that it will be particularly important for PHAs who begin reexaminations 90 to 120 days in advance of the effective date of the reexamination to update their documents in a timely manner, because several of these figures must be known from the outset of the reexamination.

For example, when a PHA issues a reexamination notice and requests documents from a family, they must be able to provide a form for the self-certification of assets that includes the updated threshold value of net family assets above which the family may not self-certify.

Chapter 7

VERIFICATION

OVERVIEW

Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. The PHA must not pass on the cost of verification to the family.

The PHA will follow the verification guidance provided by [HUD Notice PIH 2023-27 – HA 2023-10 dated February 2, 2024](#), and any subsequent guidance issued by HUD.

This chapter summarizes those requirements and provides supplementary PHA policies.

Part I: [Verification Requirements.](#)

Part II: [Verifying Income and Assets](#)

Part III: [Verifying Mandatory Deductions](#)

Part IV: [Verifying Family Information.](#)

Part V: Exhibits

7-1 Exhibit Declaration of Section 214 Citizenship Status

7-2 Exhibit Applicant Self-Certification of Net Family Assets and Real Property

7-3 Exhibit Tenant Self-Certification of Net Family Assets and Real Property

7-4 Exhibit Self-Certification for Self-Employment/Business Income and Expenses

7-5 Exhibit Applicant/Tenant Self-Certification of Income/Other

7-6 Exhibit Request for General Relief for Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expenses

7-7 Exhibit Request for General Relief for Childcare Expense Hardship Exemption

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies established by the PHA.

24 CFR § 5.611(b)(1) 24 CFR § 960.259(c)

To accurately calculate the family's adjusted income, the PHA must obtain and document verifications in the tenant file related to the tenant's annual income including:

- Reported family annual income;
- The cash value of assets and income derived from assets;
- Expenses related to deductions from annual income; and
- Any other factors that affect the calculation of adjusted income.

HUD does not explicitly require PHAs to have verification procedures under certain circumstances such as verifying assets, however, having written procedures is in the PHA's best interest for a variety of reasons as they:

- Ensure that tenants receive fair and consistent treatment;
- May protect the PHA in the case of an audit or legal inquiry; and
- Serve as a training tool for new staff.

The following steps demonstrate the general guideline for completing the income verification process and calculating annual income:

Step 1: Identify the family's sources of income, expenses, deductions.

Step 2. Confirm sources to be included in annual income.

Step 3. Confirm eligibility for expenses and deductions.

Step 4. Verify income and expenses.

Step 5: Annualize income and expenses.

PART I: Verification Requirements

OVERVIEW

24 CFR 960.259(a)(1)

The family must supply any information that the PHA or HUD determines is necessary to the administration of the program and must consent to PHA verification of that information.

HUD Notice PIH 2023-27 – HA 2023-10 issued February 2, 2024, supersedes PIH 2018-18 - Regulations - 24 CFR §§ 5.216(g)(1); 5.230; 5.230(c)(5)(iii); 5.232; 24 CFR 5.232(c); 5.233; 5.240(c); 5.609(c)(3); 5.659(d); 891.105; 891.410(b)-(c) and (g); 891.610(b)-(c) and (g); 960.259(c); and 982.516(a)(2)

The final rule updated verification of income requirements in 24 CFR §§ 5.230; 5.232; 5.233; 5.609; and 5.659.

7-I.A. AUTHORIZATION FOR THE RELEASE OF INFORMATION (Forms HUD-9886-A)

Regulations: 24 CFR §§ 5.230; 5.232; 891.105; 891.410(b)-(c); and 891.610(b)-(c)
In accordance with the final rule, all applicants must sign the consent form at admission, and participants must sign the consent form no later than their next interim or regularly scheduled income reexamination.

After an applicant or participant has signed and submitted a consent form either on or after January 1, 2024 (regardless of the PHA's compliance date), they do not need to sign and submit subsequent consent forms at the next interim or regularly scheduled income examination **except** under the following circumstances:

- When any person 18 years or older becomes a member of the family;
- When a member of the family turns 18 years of age; and
- As required by HUD or the PHA in administrative instructions.

These consent forms contain provisions authorizing HUD and the PHA to obtain necessary information for verification of an application or to maintain a family's assistance, including income information and tax return information. The executed consent forms will remain effective until the family is denied assistance, the assistance is terminated, or if the family provides written notification to the PHA to revoke consent.

If a family voluntarily leaves a HUD program, the family's assistance is considered to be terminated and the signed consent forms will no longer be in effect.

HUD will publish a **new form HUD-9886-A** to conform with the final rule. HUD will include language in the forms allowing PHAs to obtain financial records from financial institutions whenever the PHA determines that such a record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits.

PHA Discretion: PHAs have the discretion to establish policies around when family members must sign the consent forms when they turn 18 between reexaminations. PHAs must establish these policies in their ACOPs, Administrative Plans, and Tenant Selection Plans, if requiring family members to sign consent forms at intervals other than at reexamination.

Note: Any person, regardless of age, who subsequently becomes a family member as the head of household, co-head of household, or spouse, must sign the consent form, in accordance with 24 CFR §§ 5.230(a)

PHA Policy

The new HUD-9886-A was published 10/2023. The PHA staff started processing new consent form with March 1, 2023, annual reexamination.

After an applicant or participant has signed and submitted the new consent form either on or after January 1, 2024 (regardless of the PHA's compliance date), they do not need to sign and submit subsequent consent forms at the next interim or regularly scheduled income reexamination **except** under the following circumstances:

- When any person 18 years or older becomes a new member of the family; and
- As required by HUD or the PHA in administrative instructions.

When family members turn 18 between reexaminations, PHA will not require any family member to sign the consent form at intervals other than at annual reexamination, unless the member who turned 18 years old has a change of income.

7-I.B. REVOCATION OF CONSENT – PENALTIES FOR FAILING TO CONSENT

Regulations: 24 CFR §§ 5.230(c)(5)(iii); 24 CFR 5.232(c); 891.105; 891.410(g)(3)(ii); and 891.610(g)(3)(ii)

The executed consent forms will remain effective until the family is denied assistance, the assistance is terminated, or if the family provides written notification to the PHA to revoke consent. Revocation of consent or refusal to sign the consent forms prohibits the PHA from requesting and accessing income information and financial records, including pulling EIV reports and using the EIV data to verify income (although the data matches between HUD and other agencies will continue to occur automatically if the family is not terminated from the program).

PHAs will not be able to process interim or annual reexaminations of income, including when a family's income decreases and the family requests an interim reexamination to decrease tenant rent, without the family's executed consent form(s).

Families have the right to revoke consent by providing written notice to the PHA; however, revoking consent may result in termination of assistance or denial of admission, if the PHA has a policy that the revocation of consent will result in termination of assistance or denial of admission. When PHAs do not establish such a policy, the family is required to sign a new consent form by the next reexamination, whichever occurs first, in order to avoid termination of assistance or be reviewed for eligibility for admission. PHAs must explain to families the consequences, if any, of revoking their consent.

PHAs must notify their local HUD office of a family's revocation of consent.

PHA Discretion: PHAs may decide whether revocation of a family's consent will result in termination of assistance or denial of admission. Such a policy must be included in the PHA's Administrative Plan, ACOP, as applicable.

PHA Policy

To revoke the consent, the families must provide written notice to the PHA; however, revoking consent will result in termination of assistance or denial of admission. The PHA will explain to families the consequences of revoking their consent.

7-I.C. MANDATED AND DISCRETIONARY USE OF HUD's ENTERPRISE INCOME (EIV) SYSTEM

Regulation: 24 CFR § 5.233

The regulation clarifies that PHAs must use EIV to verify tenant employment and income information at annual and streamlined reexaminations of family composition and income. **However, PHAs are no longer required to use EIV to verify tenant employment and income information during an interim reexamination of family composition and income.**

PHAs are still required to use EIV in its entirety, including using all the required reports, such as the Existing Tenant Search and Income Reports, to verify tenant employment and income information at all other times.

Note: HUD intends to update the discrepancy logic for the Public Housing Income Discrepancy Reports and the Income Verification Tools (IVTs) to conform to the requirements of the final rule. PHAs are not required to investigate discrepancies resulting from the Public Housing Income Discrepancy Reports and the IVT Tools until HUD updates the discrepancy logic. HUD will notify PHAs when the new reports are ready for use.

The table below provides guidance on the frequency with which individual EIV reports must be utilized by a PHA.

Table: Mandatory and Discretionary Use of EIV by PHAs

Report Title	Report Description	Frequency of Use	PHAs
Debts Owed to PHAs & Terminations	Allows users to access information concerning former tenants who left owing a debt to a PHA or who had their voucher terminated for cause.	At the time of processing an applicant family for admission, and to enter debt information or terminations for families who have ended program participation.	PHAs only
Deceased Tenants Report	Identifies tenants reported by Social Security Administration (SSA) as being deceased.	At least quarterly	PHAs
Existing Tenant Search	Identifies applicants who may be receiving assistance at another Multifamily project or PIH location.	At the time of processing an applicant family for admission	PHAs

Failed EIV Prescreening Report	Identifies tenants who have missing or invalid personal identifiers (last name, date of birth, SSN) in HIP/TRACS. These tenants will not be sent to SSA from EIV for the SSA identity test.	Monthly	PHAs
Failed Verification Report (Failed SSA Identity Test)	Identifies tenants whose personal identifiers (last name, date of birth, SSN) do not match the SSA database.	Monthly	PHAs
SSA Identity Test	*PHAs that admit families using a self-certification of SSN must review the Failed SSN Verification Report monthly to identify and follow up on new issues.		
Identity Verification Report	Identifies tenants that failed SSA verification, and failed EIV pre-screening.	Monthly	PHAs
Income Information for PIH Programs	<p>Provides employment and income reported by HHS and SSA for each household member that passes the SSA identity test.</p> <p>Identifies tenants who:</p> <ul style="list-style-type: none"> • May not have reported complete and accurate income information; and/or • May be receiving multiple subsidies. 	<p>Must be used at annual reexamination; not required at interim reexaminations. PHAs may use, if desired. PHAs are not required to use at annual reexamination if they use Safe Harbor verification to determine the family's income.</p> <p>New Admission: Review new admissions within 120 days after the move-in information is transmitted to HUD to confirm/validate the income reported by the household.</p>	PHAs

Income Validation Tool Report for PIH Programs	Provides projections of discrepant income for wages, unemployment compensation, and SSA benefits pursuant to HUD's data sharing agreements with the Department of Health and Human Services (HHS) using the National Directory of New Hires (NDNH) database, and the SSA.	<p>PHAs are required to obtain an EIV Income and Income Validation Tool Report for each family any time the PHA conducts an annual reexamination of family income and composition.</p> <p>PHAs may use the report at other intervals, in accordance with the PHA's ACOP or Administrative Plan.</p> <p>PHAs are not required to use the report at annual reexamination if they used Safe Harbor verification to determine the family's income at the last reexamination.</p>	PHAs
	Note: PHA must rely on other documents (e.g., pay stubs, benefit aware letters, etc. to verify families' income eligibility before admission.		
Multiple Subsidy Report	Identifies tenants who may be receiving rental assistance at more than one location.	At least quarterly	PHAs/MFH Owners

New Hires Report	Identifies tenants who have new employment within the last six months. Report is updated monthly.	PHAs must review this information at annual reexamination except when the PHA uses Safe Harbor verification to determine the family's income. PHAs that do not require families to undergo interim reexaminations (IRs) for income increases after an IR decrease do not need to review this report at all between a family's annual reexamination. If the PHA policy is to require an IR for increases in income after an IR decrease, then the PHA must review the report quarterly after the family's IR decrease.	PHAs
No Income Reported by HHS or SSA	Identifies tenants who passed the SSA identity test but where no income was reported by HHS or SSA. This scenario does not mean that the tenant does not have any income. PHAs must	As identified in a PHA's ACOP or Administrative Plan or a MFH Owner's written EIV policies and procedures.	PHAs
	obtain written, third-party verification of any income reported by the tenant.		

PHA Discretion: PHAs may choose to use EIV to verify tenant employment and income information at interim reexaminations of family composition and income. PHAs that choose to use EIV to verify income information at interim reexaminations must include this information in the PHA's ACOP and/or Administrative Plan. Any policy adopted by a PHA must be applied consistently to all households.

PHA Policy

As required, the PHA will use the HUD's EIV system in its entirety at annual reexaminations.

The PHA opted to use EIV at interim reexamination of family composition and income, only when necessary, such as suspected misrepresentation of income or to verified hired date if needed, and any information that the assisted family is unable to provide such as changes in SSA benefits, etc.

The PHA will use the HUD's EIV system in its entirety as required on the above Table of Mandatory and Discretionary Use of EIV that provides guidance on the frequency with which individual EIV reports must be utilized by the PHA.

The PHA will retain EIV income reports in the tenants' files with the applicable reexaminations.

7-I.D. DETERMINATION OF INCOME USING OTHER MEANS TESTED PUBLIC ASSISTANCE (i.e., “Safe Harbor”)

Regulation: 24 CFR §§ 5.609(c)(3) and 891.105; 891.410(b)-(c) and (g); and 891.610(b)-(c) and (g)

PHAs may determine a family’s annual income, including income from assets, prior to the application of any deductions based on income determinations made within the previous 12-month period, using income determinations from the following types of means-tested federal public assistance programs:

- The Temporary Assistance for Needy Families block grant (42 U.S.C. 601, et seq.).
- Medicaid (42 U.S.C. 1396 et seq.).
- The Supplemental Nutrition Assistance Program (42 U.S.C. 2011 et seq.).
- The Earned Income Tax Credit (26 U.S.C. 32).
- The Low-Income Housing Tax Credit (26 U.S.C. 42).
- The Special Supplemental Nutrition Program for Woman, Infants, and Children (42 U.S.C. 1786).
- Supplemental Security Income (42 U.S.C. 1381 et seq.).
- Other programs administered by the Secretary.
- Other means-tested forms of federal public assistance for which HUD has established a memorandum of understanding.
- Other federal benefit determinations made by other means-tested federal programs that the Secretary determines to have comparable reliability and announces through a *Federal Register* notice.

If a PHA elects to use the annual income determination from one of the above-listed forms of means-tested federal public assistance, then they must obtain the income information by means of a third-party verification. The third-party verification must state the family size, must be for the entire family (i.e., the family members listed in the documentation must match the family’s composition in the assisted unit, except for household members), and must state the amount of the family’s annual income. The annual income need not be broken down by family member or income type. Annual income includes income earned from assets, therefore when using Safe Harbor to verify a family’s income, PHAs will neither further inquire about a family’s net family assets, nor about the income earned from those assets, except with respect to whether or not the family owns assets that exceed the asset limitation in 24 CFR § 5.618.

The Safe Harbor verification may be in the form of an award letter from the relevant federal program and must show that the family’s income determination was made in the previous 12 months.

HUD clarifies in this notice that the verification will be considered acceptable if the documentation meets the criteria that the income determination was made within the 12 months prior to the receipt of the verification by the PHA. This satisfies all verification date requirements for Safe Harbor income determinations.

The Safe Harbor documentation will be considered acceptable if any of the following dates fall into the 12-month period prior to the receipt of the documentation by the PHA:

- Income determination effective date;
- Program administrator's signature date;
- Family's signature date;
- Report effective date; or
- Other report-specific dates that verify the income determination date.

The only information that PHA are permitted to use to determine income under this Safe Harbor is the total income determination made by the federal means-test program administrator. Other federal programs may provide additional information about income inclusions and exclusions in their award letters; however, these determinations and any other information **must not** be considered by the PHA for purposes of the HOTMA Safe Harbor provision.

PHAs are not permitted to mix and match Safe Harbor income determinations and other income verifications.

The amounts of unreimbursed reasonable attendant care expenses and child-care expenses deducted from a family's annual income, except for when a family is approved for a child-care expense hardship exemption, must still be capped by the amount earned by any family member who is enabled to work as a result of the expense. PHAs are therefore required to obtain third-party verification of the applicable employment income and cap the respective expense deductions accordingly.

It is anticipated that in many cases tenants will provide the PHA with the Safe Harbor third-party verification for the purpose of reexamination, rather than the PHA mailing a verification form to the third party to complete. If the PHA does not accept Safe Harbor documentation, is unable to obtain Safe Harbor documentation, or if the family disputes the other program's income determination, the PHA must calculate the family's annual income using the methods established in § 5.609(c)(1) and (2).

If the PHA uses a Safe Harbor determination to determine the family's income for an income, then the family is obligated to report changes in income that meet the reporting requirement and occur after the effective date of the PHA's transaction. This might mean that a certain source of income was not considered in the family's income, because the other program does not consider the source to be income. For example, if the family begins receiving a new source of income on 2/1/2024 and the PHA completed an annual

reexamination effective 3/1/2024 using a Safe Harbor income determination, then the family does not need to report that change in income. If the family has a change in adjusted income in accordance with HUD's rules that occurs after 3/1/2024, when the Annual Reexamination was effective, then the family must report the change to the PHA.

Example: Acceptable Verification of Safe Harbor

Background: A PHA decides to implement the Safe Harbor provision, and their policy states that they will accept income determinations from the Supplemental Nutrition Assistance Program (SNAP). At the Smith family's annual reexamination interview, the Smiths provide the reexamination specialist an original print-out from the agency that administers SNAP benefits. The printout reflects the Smith's correct family size of 4, and current household composition, and it states the total amount of the family's earned income. The annual income is \$19,500 (\$812.50 x 24 semi-monthly pay periods). The print-out was dated 30 days prior to the PHA request, and the income was determined six months ago.

SNAP Budget Calculation (from State Department of Social Services)

Report Date: 05/17/2024

Head of Household: Smith, Hunter Home

Address: 123 Main Street, USA Household

members:

<u>Last Name</u>	<u>First Name</u>	<u>Date of Birth</u>	<u>Relationship</u>
Smith	Hunter	01/01/1974	Head of Household
Smith	Annabelle	06/18/1976	Spouse
Smith	Lola	05/17/2019	Daughter
Smith	Eric	05/17/2019	Son

Budget Calculation

Monthly Earned Income: \$1,625

Total Unearned Income: \$0

Standard Deduction: \$112.50

Monthly child care/dependent care: \$50

Allowable medical deductions: \$0

Result: The PHA may use this printout to determine the Smith's annual income for their annual reexamination. The PHA lists \$19,500 as the annual income for the family's reexamination (\$1,625 monthly earned income + \$0 unearned income x 12 months). The PHA **does not** need to take any additional steps to verify or calculate gross annual income, including comparing the income determination to EIV data. The PHA would then verify and apply applicable deductions to calculate the family's annual adjusted income.

PHA Discretion: PHAs are not required to accept or use determinations of income from other federal means-tested forms of assistance.

PHAs must establish in policy whether and when they will accept Safe Harbor income determinations (e.g., at reexamination only or at admission and reexamination), including which programs from which they will accept income determinations. PHAs must also create policies that outline the course of action when families present multiple verifications from the same or different acceptable Safe Harbor programs (e.g., to accept the most recent income determination). These policies must be included in the PHA's ACOP, Administrative Plan, or Tenant Selection Plan, as applicable.

PHA Policy

PHAs opted not to accept or use determinations (verification) of income from other federal means-tested forms of assistance (i.e., Safe Harbor). PHA opted to use HUD's verification hierarchy.

7-I.E. VERIFICATION HIERACHY

HUD's Notice PIH-2023-27 – HA 2023-10 Issued February 2, 2024

Regulation: 24 CFR §§ 5.240(c); 5.659(d); 891.105; 891.410(b)-(c) and (g); 891.610(b)(c) and (g); 960.259(c); 982.201(e); and 982.516(a)(2)

PHAs are responsible for obtaining third-party verification of reported family annual income, the value of assets, expenses related to deductions from annual income, and other factors that affect the determination of adjusted income. Third-party verification is a process by which PHAs gather information (e.g., about the family's annual income, value of assets, etc.) independently from the source of the income, assets, expenses, or other factors that affect the determination of adjusted income.

Third-party verification may be obtained directly from the third party or through the family. PHAs must document in the tenant file the reason why third-party verification was not available unless HUD's regulations specifically permit families to self-certify a particular component of adjusted income.

HUD developed a hierarchy (see table below) that describes verification documentation from most acceptable to least acceptable.

The PHA must demonstrate efforts to obtain third party verification prior to accepting self-certification **except** instances when self-certification is explicitly allowed (e.g., net family assets that do not exceed \$50,000).

A description of each verification technique and additional guidance follows Table.

Table: Verification Hierarchy

Level	Verification Technique	Ranking/Order of Acceptability
6	Upfront Income Verification (UIV), using HUD's Enterprise Income Verification (EIV) system	<p>Highest</p> <p>PHAs must pull the EIV Income Report for each family at every Annual Reexamination, unless using Safe Harbor documentation to verify the family's income.</p> <p>EIV may be used as the sole verification of Social Security income.</p> <p>EIV income information may be used to calculate other types of annual income when family agrees. See Level 4 for more information.</p>
5	Upfront Income Verification (UIV) using non-EIV system (e.g., The Work Number, web-based state benefits systems, etc.)	<p>Highest</p>
4	<p>Written, third-party verification from the source, also known as "tenant-provided verification."</p> <p>OR</p> <p>EIV + Self-Certification</p> <p>PHAs can choose either option when both are available to verify income. PHAs must use written, third-party verification when the income type is not available in EIV (e.g., self-employment, Go Fund Me accounts, general public assistance, Veterans Administration benefits, etc.)</p>	<p>High</p> <ul style="list-style-type: none"> Written, third-party verification is used when tenant disputes EIV-reported employment and income information. The EIV Income Report may be used to verify and calculate income if the family self-certifies that the amount is accurate and representative of current income. The family must be provided with the information from EIV.
3	Written, Third-Party Verification Form	<p>Medium</p> <ul style="list-style-type: none"> Use if Level 5 or Level 4 verification is not available or is rejected by the PHA and when the applicant or tenant is unable to provide acceptable documentation. May substitute Level 2 for written, third-party verification form, only completing one of the two forms of verification before moving to self-certification.

2	Oral Third-Party Verification	Medium
1	Self-Certification (not third-party verification)	<p>Low</p> <ul style="list-style-type: none"> • Use as a last resort when unable to obtain any type of third-party verification or if specifically permitted, such as to determine actual income from assets when the family certifies that net family assets do not exceed \$50,000. • May be used as highest form of verification when the family reports zero income.

E.a. Third-Party Verification Descriptions and Guidance

Upfront Income Verification (UIV) (Level 6/5):

The verification of income before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for a number of individuals. It should be noted that the EIV system is available to all PHAs as a UIV technique and that all PHAs are required to use EIV in its entirety (see below Mandated and Discretionary Use of EIV). PHAs are encouraged to continue using other non-HUD UIV tools, such as The Work Number (an automated verification system) and state government databases, to verify tenant-reported income.

Written, Third-Party Verification (Level 4):

An original or authentic document generated by a third-party source dated within 120 days of the date received by the PHA. For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation.

Such documentation may be in the possession of the tenant (or applicant) and is commonly referred to as tenant-provided documents. PHAs may obtain any tenant-provided documents and follow up directly with the third-party source to obtain necessary verification of information, when necessary.

Examples of acceptable tenant-provided documentation (generated by a third-party source) include but are not limited to the following:

pay stubs, payroll summary report, employer notice/letter of hire/termination, SSA benefit verification letter, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices.

PHAs are required to obtain a minimum of two current and consecutive pay stubs for determining annual income from wages when they are relying on pay stubs for Level 4 documentation. For new income sources or when two pay stubs are not available, the PHA should determine income based on the information from a traditional written, third-party verification form or the best available information.

Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.) are an acceptable form of written, third-party verification.

When verification of assets is required, PHAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

EIV may be used as Level 4 verification and may be used to calculate income as long as the family agrees with the information in EIV; this practice is known as "EIV + Self-Certification." The PHA may use their discretion to determine which method of calculation is reasonable: the last 4 quarters combined or an average of any number of

quarters. The EIV Income report must be pulled within 120 days prior to the reexamination effective date.

Written, Third-Party Verification Form (Level 3):

This practice is also known as “traditional third-party verification.” This type of verification is a form developed by the PHA and used uniformly for all families when needed to collect information from a third-party source. The form is completed by the third party by hand (in writing or typeset). PHAs send the form directly to the third-party source by mail, fax, or email.

The PHA may skip this level of verification before attempting Level 2, which means they will have only completed Level 3 or Level 2 verification before moving to Self-Certification.

Oral Third-Party Verification (Level 2):

Independent verification of information by contacting the individual income/expense source(s), as identified through the UIV technique, or identified by the family, via telephone or in-person visit. PHA staff must document in the tenant file the date and time of the telephone call (or visit to the third party) and the name of the person contacted and their telephone number, along with the confirmed information.

This verification method is commonly used when the independent source does not respond to the PHA’s faxed, mailed, or e-mailed request for information in a reasonable time frame (e.g., 10 business days).

The PHA may skip this level of verification if they attempted Level 3, which means they will have only completed Level 3 or Level 2 verification before moving to Self-Certification.

Non-Third-Party Verification Technique: Self-Certification (Level 1):

The tenant submits a signed statement of reported income and/or expenses to the PHA. This verification method **should be used as a last resort** when the PHA has not been successful in obtaining information via all other required verification techniques. When the PHA relies on self-certification to verify income or expenses, the PHA must document in the tenant file why third-party verification was not available.

HUD does not require that a self-certification be notarized; however, HUD recommends including language on any self-certification to ensure the certifier understands the consequences of knowingly providing false information.

Sample language: “I/We, the undersigned, certify under penalty of perjury that the information provided here is true and correct, to the best of my knowledge and recollection. WARNING: Anyone who knowingly submits a false claim or knowingly makes a false statement is subject to criminal and/or civil penalties, including confinement for up to 5 years, fines, and civil and administrative penalties. (18 U.S.C. 287, 1001, 1010, 1012; 31 U.S.C. 3279, 3802)”

PHA Policy

PHA opted to use and follow the required HUD's Third-Party Verification Descriptions and Guidance/Verification Hierarchy from Level 6 through 1.

Up-front income verification (UIV) refers to the PHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. UIV will be used to the extent that these systems are available to the PHA. There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until the PHA has independently verified the UIV information and the family has been granted the opportunity to contest any adverse findings through the PHA's informal review/hearing processes.

Any documents used for verification must be the original (not photocopies) and generally must be dated **within 120 days of the date received by the PHA**. The documents must not be damaged, altered or in any way illegible. The PHA will accept documents dated up to **120 days** before the effective date of the family's reexamination if the document represents the most recent scheduled report from a source. For example, if the holder of a pension annuity provides semi-annual reports, the PHA would accept the most recent report. PHA will accept printouts from web pages which may be considered original documents. The PHA staff member who views the original document will make a photocopy, write their initials and date on the photocopy received.

When Tenant Provides Late Third-Party Verification:

When tenant provides late third-party verification as requested by the PHA, and the timeframes for submission have exceeded 10 days, the PHA will use the old verification or information from documents on a provisional basis to conduct an estimated reexamination. If the PHA later receives third-party verification that differs from the amounts used in income and rent determinations and it is past the deadline for processing the reexamination, the PHA will conduct an interim reexamination to adjust the figures used, regardless of the PHA's interim reexamination policy. If PHA is unable to verify tenant's income, assets, and deductions, and tenant fails to provide or cooperate with the required verifications, or reexamination process, **the PHA will perform an estimated reexamination and serve the tenant with a lease termination notice noting the lease violations.**

For Self-Certification of Income and/or Expenses:

Tenant self-certification will be used as the last resort. When information cannot be verified by tenant-provided third-party verification and the PHA's traditional third-party verification, family members will be required to use PHA's self-certification form attesting to the accuracy of the information they have provided to the PHA.

When the PHA relies on self-certification to verify income or expenses, the PHA will document in the Tenant Self-Certification form why tenant could not provide tenant-provided third-party verification and why traditional third-party verification was not available and attached any proof such as copies of the traditional third-party verification attempts made to obtain verification, and why oral third-party verification was not available.

Note: When adult members report zero income, the PHA will require the head of household and adult family members to sign a BHA format Zero Income Statement that will be used as the highest form of verification.

Refer to Part V – Exhibits on Self-Certifications.

FILE DOCUMENTATION

The PHA will document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that the PHA has followed all the verification policies set forth in this ACOP.

The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

PHA Policy

The PHA will document, in the family file the following:

Reported family annual income, value of assets, and deductions will be documented on the applicants' applications and/or tenants' annual and interim reexamination questionnaire forms. The figures used in income and rent calculation will be noted on each verification received to support the HUD50058 calculation entries and to enable a staff member or HUD reviewer to understand the process followed and the conclusion reached.

For annual reexamination, the PHA will document verification process on the PHA's PH Reexamination Checklist for Documentation form.

Failure to Provide Verification:

Applicants' and assisted families' failure to supply in a timely manner any certification, release, information, or documentation on family income, assets, or composition needed to process admission, annual reexamination, or interim reexamination, will be grounds for denial of housing assistance and termination of tenancy from housing assistance programs.

7-I.F. Self-Certification of Net Family Assets Equal to or Less Than \$50,000 (as adjusted for inflation)

Regulations: 24 CFR §§ 5.603; 5.609; 5.618; 5.659(e); 882.515(a); 882.808(i)(1); 891.105; 960.259(c)(2); and 982.516(a)(3)

PHAs may determine net family assets based on a self-certification by the family that the family's total **assets are equal to or less than \$50,000**, adjusted annually for inflation, without taking additional steps to verify the accuracy of the declaration at admission and/or reexamination.

PHAs are not required to obtain third-party verification of assets if they accept the family's self-certification of net family assets. When PHAs accept self-certification of net family assets at reexamination, the PHA **must** fully verify the family's assets every three years.

PHAs may follow a pattern of relying on self-certification for two years in a row and fully verifying assets in the third year. The family's self-certification must state the amount of income the family anticipates receiving from such assets.

The actual income declared by the family must be included in the family's income, unless specifically excluded from income under 24 CFR § 5.609(b).

PHAs must clarify, during the self-certification process, which assets are included/excluded from net family assets.

PHAs may combine the self-certification of net family assets and questions inquiring about a family's present ownership interest in any real property into one form.

Example: Self-Certification of Net Family Assets

We know from Example above that the Cross-family's net family assets are \$0. In this case, the checking account earns 0.07 percent interest annually.

Cross Family's Personal Property

Item	Estimated Value	Type	Amount to be Considered as Non-Necessary Personal Property
Checking account	\$5,000	Non-necessary personal property	\$5,000
Ring (engagement ring)	\$3,000	Necessary personal property	\$0
Recreational boat	\$15,000	Non-necessary personal property	\$15,000
Total Non-necessary personal property			\$20,000

Calculation of Cross Family's Total Net Assets

Asset	Total to be considered in Net Family Assets	Anticipated Income
Non-necessary Personal Property (Checking Account)	\$0	\$3.50
Real Property	N/A	N/A
Total:	\$0	\$3.50

The PHA may accept a self-certification of assets from the Cross family if the PHA has a policy to do so (see paragraph below this example for PHA Discretion on accepting self-certification). **The self-certification must include any anticipated income from assets.** In this example, if the PHA is accepting a self-certification of assets, then the calculations above would not need to be included on the self-certification form. Only the total anticipated income from assets must be included on the form.

Note that in this instance, even though the checking account is excluded from the calculation of net family assets (because the combined value of non-necessary personal property does not exceed \$50,000), the family must report actual asset income from the checking account (in this case, \$3.50).

PHA Discretion: PHAs are not required to adopt a policy to allow for self-certification of net family assets for families with net family assets that are equal to or below \$50,000, adjusted annually for inflation. PHAs who choose not to accept self-certifications of assets must verify all families' assets on an annual basis.

Third-party verification of assets is required when net family assets exceed \$50,000, adjusted annually by HUD.

Accepting a family's self-certification at admission may reduce the initial burden on applicants and speed up the lease-up process. In deciding whether to accept a self-certification of assets at admission, PHAs are encouraged to consider the local needs and priorities in their communities along with the potential risks of accepting self-certification of net family assets, including the requirement to repay funds for participants/tenants who are later found to be ineligible for assistance. PHAs must include in their ACOPs, Administrative Plans, or Tenant Selection Plans, as applicable, whether and when they accept a self-certification of assets equal to or less than \$50,000, which amount will be adjusted annually by HUD.

PHA Policy

PHA opted to use self-certification of net family assets for families with net family assets that are equal to or less than \$50,000, or as adjusted annually for inflation, without taking additional steps to verify the accuracy of the declaration at admission and at reexamination.

When the PHA accepts self-certification of net family assets at reexamination, the PHA will fully verify the family's assets every three (3) years. PHA will follow a pattern of relying on self-certification for two years in a row and fully verifying assets in the third year.

The family's self-certification will state the amount of income the family anticipates receiving from such assets. The actual income declared by the family will be included in the family's income, unless specifically excluded from income under 24 CFR § 5.609(b). PHA will clarify, during the self-certification process, which assets are included/excluded from net family assets. PHAs will combine the self-certification of net family assets and questions inquiring about a family's present ownership interest in any real property into one form.

For Property Ownership at Admission:

The PHA will accept self-certification that the family does not have any present ownership interest in any real property. All adults 18 and older must sign the PHA's self-certification at admission and reexamination and must report any changes.

For admission, the PHA will use the Applicant Self-certification form noted in Part V – Exhibit 7-2 that ask about ownership, and the elements of the restrictions (such as a legal right to reside in, and the effective legal authority to sell the property, as well as follow-

up questions related to other elements noted on PHA's self-certification. If the family declare a property and asks for an exemption because of a family member is a victim or domestic violence, dating violence, sexual assault, or stalking, the PHA will accept self-certification of the family member, apply the 24 CFR 5.2007 confidential rules and restrictions on documents request, and use Form HUD 5380 Notice of Occupancy Rights under VAWA and Form HUD 5382 Certification of Domestic Violence, Dating Violence, Sexual Assault, and Documentation.

7-I.G. VERIFICATION OF EXCLUDED INCOME

To reduce administrative burdens on PHAs, HUD is providing guidance and clarification on the requirements for verifying excluded income. For income sources where the entire amount qualifies to be excluded from the annual income determination in accordance with 24 CFR § 5.609(b) and any *Federal Register* notice on mandatory exclusions issued by HUD, the PHA is not required to:

- Verify the income using third-party verification.
- Document in the tenant file as to why the third-party verification was not available as required by 24 CFR §§ 5.659(d), 960.259(c)(i), and 24 CFR 982.516(a)(2); 891.105; 891.410(b)-(c) and (g); 891.610(b)-(c) and (g); or
- Report the income on forms HUD-50058.

PHAs may accept an applicant or participant's self-certification as verification of excluded income. The PHA application and reexamination questionnaire documentation may serve as self-certification of excluded income. PHAs have the option of verifying the income using third-party verification, if necessary, to determine if a source of income qualifies for exclusion. Examples of excluded income categories that are verifiable through applicant or participant self-certification include:

- Supplemental Nutrition Assistance Program (SNAP) benefits, formerly known as food stamps.
- **Income of a live-in aide.** For a complete list of income exclusions, see 24 CFR § 5.609(b).

An income source that is partially excluded, for example, earnings in excess of \$480 for full-time students 18 years of age or older (24 CFR § 5.609(b)(14)), must be third-party verified and reported on forms HUD-50058.

PHA Policy

Unless necessary, PHA opted not to verify or report on form HUD-50058 income sources where the entire amount qualifies to be excluded from the annual income determination in accordance with 24 CFR § 5.609(b) and any *Federal Register* notice on mandatory exclusions issued by HUD. As indicated, the PHA is no longer required to: verify the income using third-party verification, document in the tenant file as to why the third-party verification was not available or report the income on forms HUD-50058. The PHA will only verify income using third-party verification if necessary to determine if a source of income qualifies for exclusion.

For applicants or participants, the PHA application and reexamination questionnaire documentation will serve as self-certification of excluded income reported. For a complete list of income exclusions, see 24 CFR § 5.609(b). Note: A detailed discussion of excluded income is provided in Chapter 6.

7-I.H. ZERO INCOME REVIEWS

A “zero income review” is an assessment, sometimes periodic, performed by the PHA of the income of a family who claims that they do not receive income from any source, including from assets.

During such reviews, it is common for PHAs to request that families complete and sign a worksheet explaining how they pay for the household’s expenses.

HUD does not require PHAs to conduct periodic zero income reviews.

In calculating annual income, PHAs must not assign monetary value to non-monetary in-kind donations from a food bank or similar organization received by the family (24 CFR § 5.609(b)(24)(vi)).

PHAs perform an interim reexamination only due to an increase in the family’s adjusted income (24 CFR §§ 5.657(c)(3); 882.515(b)(3); 891.410(g)(2); 891.610(g)(2); 960.257(b)(3); and 982.516(c)(3)).

PHAs that will continue to perform zero income reviews must update local discretionary policies, procedures, and forms to comply with the final rule requirements. For example, families who begin receiving income which does not trigger an interim reexamination should no longer be considered zero income even though the family’s income is not reflected on the form HUD–50058.

PHA Policy

PHA opted not to conduct periodic zero income reviews.

PHA will only verify income status reported by applicants or tenants such as employment termination, laid-off, or no longer receiving a specific income reported such as alimony, child support, Soc. Sec., or SSI benefits from SSA, etc.

PHA will continue to use and follow the required HUD’s Third-Party Verification Descriptions and Guidance/Verification Hierarchy from Level 6 through 1.

Tenants will be charged retroactive rent if they fail to report any changes of income that are deemed a reexamination in accordance with the PHA’s policies noted in Chapter 6 and Chapter 9.

PART II: VERIFYING INCOME AND ASSETS

Chapter 6 of this ACOP describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the family must be verified. This part provides PHA policies that supplement the general verification procedures specified in Part I of this chapter.

7-II.A. EARNED INCOME

PHA Policy

PHA will follow the required HUD's Third-Party Verification Descriptions and Guidance concerning verification hierarchy.

For wages other than tips, PHA will accept originals of the two most current, consecutive pay stubs. PHA will calculate the current and consecutive gross amounts shown on the paystubs according to weekly, biweekly, semi-monthly, or monthly pay. If the paystubs indicate a partial pay due to first pay on a new job, or first pay after returning to work, then the PHA will require a minimum of three current and consecutive paystubs to determine a fair average anticipated gross annual income from wages based on the second and third paystubs, or traditional written third-party verification. If tenants report a decrease in income, tenants must provide two most current and consecutive paystubs for biweekly pay or semi-month pay, four most current and consecutive paystubs for weekly pays, and one for monthly pay, or a letter from employer indicating that hours being decreased.

Unless tip income is included in a family member's paystubs, traditional third-party, or W-2 verification, family members who work in the industries where tips are standard will be required to sign a self-certification certifying estimate of tips received for the prior year and tips anticipated to be received in the coming year.

For family members who regularly receive bonuses or commissions, the PHA will verify, and then average amounts received for one-year preceding and add it as a one-time payment annual income payment. If a new employee has not yet received any bonuses or commissions, the PHA will count only the amount estimated by the employer. The file will be documented appropriately. Self-certification will be used as a last resort.

7-II.B. SELF EMPLOYMENT OR BUSINESS INCOME

To determine the amount of business or self-employment income included in a family's annual income, the net income of the business must first be determined according to verifications provided by the family. The net income is the "gross income amount minus business expenses" that allows the business to operate.

The net income from self-employment or the operation of a business is considered income. Expenditures for business expansion or amortization of capital indebtedness are not deductible when determining the income from a business. An allowance for the depreciation of assets used in a business or profession may be deducted, based on a straight-line depreciation, as provided in IRS's regulations. Any withdrawal of cash or assets from the operation of a business is income except to the extent that such withdrawal is to reimburse the family member for cash or assets that the family has invested in the operation of the business.

Example: Exclusion of Gross Income from Self-Employment or Operation of a Business

Bill Conrad is the sole owner of BC Lawn Service. BC Lawn Service grossed \$75,000 annually in 2024. BC Lawn Service also incurred a total of \$35,000 in business expenses, including lawn equipment, rakes, insurance, depreciation of a tractor, and wage payments. After subtracting the \$35,000 in business expenses from the \$75,000 gross income, the net income is \$40,000, which will be included in Bill's calculation of annual income.

PHA Policy

To verify net income of a self-employed person or business owner, PHA will require the applicant or assisted family member to provide any of the following tenant-provided verification:

- Copies of Tax Return with all schedules completed for filing federal and local taxes in the preceding year show all gross income and business expenses.
- If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.
- An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted, and the business owner or self-employed person must certify its accuracy.
- The PHA will accept the family member's self-certification estimate of income and expenses upon reporting. If a family member is self-employed and is not required to file taxes due to the IRS minimum income requirement for filing a tax return, (Publication 501), the PHA will accept the family member's self-certification estimate of income and expenses.

- Family will be required to use PHA's format form for self-certification of self-employment/business. See Part V. Exhibit 7-.

PHA will project income and expenses based on acceptable verification received.

Asset owned by business entity:

If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one-third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant). Refer to Chapter 6 Part V. Assets.

For joined business, applicant or tenant must provide verification of the percentage of ownership of their business.

7-II.C. SOCIAL SECURITY ADMINISTRATION BENEFITS

PHA Policy

To verify the benefits of applicants: The PHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member who receives social security benefits. If a family member is unable to provide the document(s), the PHA will help the applicant request a benefit verification letter from SSA's Web site at www.socialsecurity.gov or ask the family to request one by calling SSA at 1-800-772-1213. Once the family has received the benefit verification letter, it will be required to provide the letter to the PHA.

To verify the benefits residents: The PHA will obtain information about benefits through HUD's EIV system and confirm with the resident(s) that the current listed benefit amount is correct. If the resident disputes the EIV-reported benefit amount, or if benefit information is not available in HUD systems, the PHA will request a current SSA benefit verification letter from each family member that receives benefits. If a family member is unable to provide the document, the PHA will help the resident request a benefit verification letter from SSA's Web site at www.socialsecurity.gov or ask the family to request one by calling SSA at 1-800-772-1213. Once the family has received the benefit verification letter, it will be required to provide the letter to the PHA.

7-II.D. ALIMONY OR CHILD SUPPORT

PHAs must count as income alimony and child support amounts received, such as part of divorce or separation agreement. HUD strongly encourages PHAs to determine in their policies what documents is required to show what the family receives. For example, if the household has filed with the local support enforcement agency, printouts from the agency may indicate the frequency and amount of payments actually received.

PHA Policy

The methods the PHA will use to verify alimony and child support payments differ depending on payments made. The underlying goal is to anticipate what income will be received over the next 12 months.

For alimony, the PHA will accept as verification court-ordered documents of divorce or separation showing frequency and amount of payment to anticipate annual income for the next 12 months, including any court printout of payment.

For child support, if the household has filed with the local support enforcement agency, printouts from the agency showing frequency and amounts of payments received will be accepted as verification to anticipate annual income for the next 12 months. Families are not required to undertake independent enforcement action.

If a family reports not receiving support payments, and the support printout shows that no payments have been made in the past 30 days, the PHA will not include child support in annual income.

If a family reports that they are receiving support payments and the printout shows that payments have been made in the last 3 months, regular or irregular payments, the PHA will take the total amount paid in the past 3 months and annualize by multiplying by 4 to get the anticipated annual income.

Any lump-sum payment over \$1000 in the past 3 months will be removed prior to annualizing, then added back to the annualized amount.

When determining the last 3 months of payments, the PHA will look at the date the printout was printed to determine a fair average of 3 full months of payments. For example, if the printout is dated May 25, the PHA will not use any payments made in the month of May, rather it will use the months of April, March, and February. Nevertheless, since child support can be one of the most difficult types of income to calculate, the PHA will use any current available information from the local support enforcement agency printout, or court ordered.

For voluntary support, the family must provide the name, address, and phone number of the parent paying for the voluntary support. Once required information is received, the PHA will send a PHA format Voluntary Support Verification. If efforts to verify by mail, email, or phone call have failed, then the family is to provide a self-certification to anticipate annual income or to remove voluntary support from family annual income. See Part V. Exhibit 7-5.

7-II.E. ASSETS AND INCOME FROM ASSETS

Documentation of Assets – 24 CFR 5.618 (b)

For documentation of net family assets **under** \$50,000, the PHA may accept self-certification from the family that assets are under that amount.

- Certification must include any expected income from assets. (actual returns only).
- No further documentation is required by the PHA for the net family asset restriction.
- Assets must be verified every three (3) years.

PHA Policy:

At admission and re-examination, PHA will accept signed self-certification from the family that assets are under \$50,000 and will verify assets every three (3) years unless there is a discrepancy or suspected misrepresentation of assets.

For families with assets that exceed \$50,000, the applicant or tenant must provide current third-party verification of all assets as requested by the PHA. The PHA will require a minimum of **one** statement that reflects the current balance of the banking/financial account. Verification must not be more than 120 days from the date received by the PHA. PHA will follow the required HUD Third-Party Description and Guidance.

For Property Ownership:

For Admission: The PHA will accept the Applicant Self-certification to determine whether a family has present ownership in real property for the purposes of determining whether the family is compliant with the asset limitation provision.

If a family declares present ownership in real property, PHA will seek third-party verification of the following, as applicable: whether the family has the legal right to reside in the property; and whether the family has the effective legal authority to sell the property; and whether the property is suitable for occupancy by the family as a residence.

PHA has established its self-certification Statement of Assets form with the statutory self-certification question that asks about any ownership of property as well as the follow-up questions related to other elements. See Part V. 7-2 Exhibits.

If the family declares a property and asks for an exemption because a family member is a victim of domestic violence, dating violence, sexual assault, or stalking:

- The PHA will accept self-certification of the family member and apply 24 CFR 5.2007: Confidentiality rules and restrictions on documents requests, Form HUD 5380 Notice of Occupancy Rights under VAWA and Form HUD 5382 Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation.

For Tenants: The PHA will accept self-certification that the “family does not have any present ownership interest in any real property.” See Part V. 7-3 Exhibits. If the family has present ownership interest in any real property, the family will be required to provide verification as requested by the PHA.

For Assets Disposed of for Less than Fair Market Value – 24 CFR §§100 and 5.603

In determining the value of net family assets, the PHA will include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, more than the consideration received.

For example, if a family gave away a home with a net value of \$80,000, the value of the home will be included in the calculation of net family assets for two years following the transfer of property.

If a family sold a home for less than fair market value, the difference between the value and the amount for which they sold it would be included in net family assets for two years following the transfer of property.

For example, if a family sold a property with a fair market value of \$80,000 to a friend for \$20,000, then the difference in value (\$60,000) minus the cost to dispose of the property (\$10,000), which in this example totals \$50,000, would be counted in net family assets for two years from the date of the property’s transfer to the other party.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms.

The PHA will require the applicant or assisted families to certify whether any assets have been disposed of for less than fair market value in the preceding two years.

The PHA will verify only those certifications that warrant documentation.

The PHA will verify the value of assets disposed of only if:

- The PHA does not already have a reasonable estimation of its value from previously collected information, or
- The amount reported by the family appears obviously in error.

7-II.F. RETIREMENT ACCOUNTS

Retirement Plan 24 CFR 5.609(b)(26)

Income received from any account under an IRS-recognized retirement plan (example(s) IRA, 401(k), and retirement plans for self-employed individuals are excluded. However, any distribution of periodic payments from these accounts shall be income at the time they are received by the family. Retirement accounts include individual retirement arrangements (IRAs), employer retirement plan, and retirement plan for self-employed individual.

PHA Policy

To determine any distribution of periodic payments for these accounts, the PHA will follow the requirement of the HUD's Third-Party Descriptions and Guidance. The PHA will accept written third-party documents supplied by the family as evidence of the status of retirement accounts, or PHA's traditional third-party documents.

7-II.G. OTHER INCOME, SUCH AS WELAFRE, UNEMPLOYMENT BENEFITS, PENSIONS, ETC.

PHA Policy

The PHA will follow the requirement of the HUD's Third-Party Descriptions and Guidance. The PHA will accept written third-party documents supplied by the family as verification of income, or the PHA's traditional third-party documents.

PART III: VERIFYING MANDATORY DEDUCTIONS

7-III.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

The dependent and elderly/disabled family deductions require only that the PHA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

Dependent Deduction

See Chapter 6 (**Part II.**) for a full discussion of this deduction.

PHA Policy

The PHA will verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse or cohead of the family and is not a foster child.
- Any person aged 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide and is a person with a disability or a full-time student.

Elderly/Disabled Family Deduction

See the Eligibility chapter for a definition of elderly and disabled families and Chapter 6 (**Part II.**) for a discussion of the deduction.

PHA Policy

The PHA will verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

7-III.B. UNREIMBURSED HEALTH AND MEDICAL EXPENSE DEDUCTION

Policies related to medical expenses are found in chapter 6 **Part VI**.

Health and medical care expenses, as defined in 24 CFR § 5.603, include costs incurred for the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body.

Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed.

Medical insurance premiums continue to be eligible for health and medical care expenses. However, health and medical care expenses may be deducted from annual income only if they are eligible and not otherwise reimbursed and may only be deducted for elderly or disabled families.

PHA Policy

Unreimbursed Health and Medical expense deduction will only be permitted for households in which the head, spouse, or cohead is at least 62 or a person with disabilities.

The PHA will verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter.

The amount of the deduction will be verified following the standard verification procedures described in Part I.

The PHA will verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.

Applicants and tenants are responsible for providing their **unreimbursed health and** medical expenses.

To calculate anticipated **unreimbursed health and** medical expenses for the upcoming 12 months, the PHA will accept the following verifications.

- In Written third-party documents provided by the family, such as pharmacy printouts, printouts from hospital and medical professionals showing expenses actual paid in the prior 12 months.
- Applicant and tenant's personal checks clearly showing the name of hospital or medical professionals names.

- Applicant and tenant's third-party medical insurance premiums **or long-term care premiums that are paid or anticipated during the period for which annual income is computed.**

7-III.C. UNREIMBURSED REASONABLE ATTENDANT CARE AND AUXILIARY APPARATUS

Policies related to unreimbursed reasonable attendant care and auxiliary apparatus expense found in Chapter 6 **(Part VI)**.

Regulation: 24 CFR § 5.611(a)(3)(ii) C2 Publication 502 explains the itemized deduction for medical and dental expenses used for tax purposes, including what expenses, and whose expenses, can and cannot be included in figuring the deduction.

Auxiliary apparatus items can include, for example, expenses for wheelchairs, ramps, adaptations to vehicles, guide dogs, assistance animals, or special equipment to enable a person who is blind or has low vision to read, or type or special equipment to assist a person who is deaf or hard of hearing.

Some examples of attendant care expenses can include teaching a person with disabilities how to perform day-to-day tasks independently like cleaning, bathing, doing laundry, and cooking. Attendant care can be 24-hour care, or care during sporadic periods throughout the day.

To claim the deduction for the cost of unreimbursed reasonable attendant care and auxiliary apparatus expenses, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed.

If the unreimbursed reasonable attendant care and auxiliary apparatus expense exceeds the amount earned by the person who was enabled to work, the deduction will be capped at the amount earned by that individual.

PHA Policy

To be eligible for the expenses' deduction, the costs must not be reimbursed by another source.

The amount of the deduction will be verified following the standard verification procedures described in Part I.

Attendant Care

Expenses for attendant care will be verified through:

- **Written third-party documents provided by the family, such as receipts or cancelled checks, payment printouts.**

- **Traditional** Third-party verification form signed by the provider if family-provided documents are not available.

Auxiliary Apparatus

Expenses for auxiliary apparatus will be verified through:

- Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.
- **Traditional** Third-party verification form signed by the provider if family-provided documents are not available.

The PHA will verify that:

- The family member for whom the expense is incurred is a person with disabilities.
- The expense permits a family member, or members, to work.

Family Member(s) Permitted to Work

The PHA will verify that the expenses claimed enable a family member, or members, (including the person with disabilities) to work.

The PHA will **request** third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work. These documentations may be provided by the family.

If third-party verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

Verification for General Hardship Relief for Unreimbursed Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expense:

Tenants must demonstrate that the family's unreimbursed health and medical care expenses or unreimbursed reasonable attendant care and auxiliary apparatus expenses increased, **or** the family's financial hardship is a result of a change in circumstances that would not otherwise trigger an interim reexamination. Third-party verification will be required as follows:

- Tenants must provide third-party verification that they are awaiting an eligibility determination for a federal, state, or local assistance program, such as a determination for unemployment compensation or disability benefits, or welfare benefits. In addition, tenants must provide third-party verification of their

unanticipated large medical bill or funeral expenses that exceed 5% of their family income.

- Tenants must provide third-party verification of the family's income decrease because of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster that caused family to experience an unanticipated large medical bill or funeral expenses of an assisted family member in the household that exceed 5% of their family income and the family is obligated to make current payments.
- Tenants must provide third-party verification of an unexpected accident. In addition, third-party verification of increased eligible health and medical expenses equal to 6 percent of family annual income.

7-III.D. UNREIMBURSED CHILDCARE EXPENSES

Policies related to **unreimbursed** childcare expenses are found in Chapter 6 (**Part VI**).

The amount of the deduction will be verified following the standard verification procedures described in Part I.

PHA Policy

The PHA will verify that:

- The child is eligible for care (12 or younger).
- The costs enable a family member to work, actively seek work, or further their education.
- The costs are for an allowable type of childcare.
- The costs are reasonable.

If needed, the family and the care provider will be required to certify that the childcare expenses are not paid by or reimbursed to the family from any source.

Pursuing an Eligible Activity

The PHA will verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are pursuing those activities.

Information to be Gathered:

The PHA will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

Whenever possible the PHA will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases the PHA will request family-provided verification from the agency of the member's job seeking efforts to date and require the family to submit to the PHA any reports provided to the other agency.

In the event third-party verification is not available, the PHA will provide the family with a form on which the family member must record job search efforts. The PHA will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

The PHA will request third-party documentation to verify that the person permitted to further his or her education by the childcare is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.

Gainful Employment

The PHA will seek third-party verification of the work schedule of the person who is permitted to work by the childcare. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.

Allowable Type of Childcare

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

The PHA will verify that the type of childcare selected by the family is allowable, as described in Chapter 6 **Part 6-VI**).

The PHA will verify that the fees paid to the childcare provider cover only childcare costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The PHA will verify that the childcare provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

Reasonableness of Expenses

Only reasonable childcare costs can be deducted. The actual costs the family incurs will be compared with the PHA's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

For General Childcare Hardship Exemption

The PHA allows the tenants to continue to receive the childcare expenses deduction as required if the tenant continues to pay childcare expenses while not receiving earned income as described in Chapter 6 **Part VI**.

Tenants must demonstrate to the PHA that they are unable to pay their rent based on their circumstances. They must provide verification for childcare hardship exemption as follows:

- Tenant must provide third-party verification from the childcare center stating that they have a long waiting list, and if the tenant member pulls out temporarily, the tenant member would most likely be without reliable childcare when the tenant

member resumes employment status. Also, that the tenant continues to pay childcare expenses while not receiving earned income.

The PHA will allow the tenant to continue to receive the childcare expenses deduction for 60 days as the family member is anticipated to enroll in an education facility in the next two months being that an assisted tenant is also eligible for childcare deducted for furthering their education.

- The tenant must provide third-party verification from the Educational Facility stating that the tenant plans to enroll in an educational facility in two months.
- In addition, the tenant must provide third-party verification from the childcare center stating that they have a long waiting list and if the tenant member pulls out temporarily, the tenant member would most likely be without reliable childcare when the family member starts their education. Also, that the tenant continues to pay childcare expenses while not receiving earned income.

PART IV: VERIFYING FAMILY INFORMATION

7-IV.A. VERIFICATION OF LEGAL IDENTITY

PHA Policy

The PHA will require families to furnish verification of legal identity for each household member.

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
Certificate of birth, naturalization papers The church issued a baptismal certificate. Current, valid driver's license or Department of Motor Vehicle identification card U.S. military discharge (DD 214) Current U.S. passport Current employer identification card	Certificate of birth Adoption papers Custody agreement Health and Human Services ID Certified school records

If a document submitted by a family is illegible for any reason or otherwise questionable, more than one of these documents may be required.

If none of these documents can be provided and at the PHA's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to the PHA and be signed in the presence of a PHA representative.

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where the PHA has reason to doubt the identity of a person representing him or herself to be a tenant or a member of a tenant family.

Primary Documents

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

7-IV.B. VERIFICATION OF SOCIAL SECURITY NUMBER (SSN)

Regulation: 24 CFR § 5.216(g)(1) 891.105; 891.410(b)-(c) and (g); 891.610(b)-(c) and (g)

It has become increasingly difficult for applicants to meet HUD's SSN disclosure requirements, particularly for those individuals' experiencing homelessness. To help protect individuals' privacy, many federal, state, and local agencies no longer print an individual's SSN on official documentation. Individuals may be required to visit their local Social Security office and provide original identity documentation to obtain a replacement Social Security card. HUD is adjusting what the Department considers acceptable documentation of SSN under 24 CFR § 5.216(g)(1) to make it easier for applicants to access programs even if they do not have access to their Social Security card or other documentation acceptable to HUD.

PHAs must still attempt to gather third-party verification of SSN prior to admission; however, they will also have the option of accepting a self-certification and a third-party document with the applicant's name printed on it to satisfy the SSN disclosure requirement if the PHA has exhausted all other attempts to obtain the required documentation. HUD has provided similar flexibility to PHAs through the CARES Act waivers and for Emergency Housing Vouchers.

HUD prescribes, through this notice and in accordance with 24 CFR 5.216(g)(1)(iii), that the following evidence of SSN is acceptable only after the PHA has attempted to first obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name of the individual and the SSN of the individual, along with other identifying information of the individual:

Self-certification of SSN *and* at least one third-party document, such as a bank statement, utility or cell phone bill, benefit letter, etc., that contains the name of the individual. If verifying an individual's SSN using this method, the PHA must document why the other SSN documentation was not available.

If the tenant's SSN becomes verified in EIV, then no further verification is required.

If the tenant's SSN fails the SSA identity match, then the PHA must obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name of the individual and the SSN of the individual, along with other identifying information of the individual. The tenant's assistance must be terminated if they fail to provide the required documentation.

PHA Policy

PHA will continue to attempt to gather third-party verification of SSN prior to admission. PHA opted not to use the option of accepting a self-certification. However, PHA will accept tenant-provided third-party documents with the applicant's name and social

security number printed on it to satisfy the SSN disclosure requirement if the PHA has exhausted all other attempts to obtain the required documentation.

SOCIAL SECURITY NUMBERS - 24 CFR 5.216

The family must provide documentation of a valid social security number (SSN) for each member of the household, except for individuals who do not contend eligible immigration status. Exemptions also include existing residents who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

The PHA must accept the following documentation as acceptable evidence of the social security number:

- An original SSN card issued by the Social Security Administration (SSA)
- An original SSA-issued document, which contains the name and SSN of the individual.
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual.

The PHA may only reject documentation of an SSN provided by an applicant or resident if the document is not an original document, if the original document has been altered, mutilated, is illegible, or if the document appears to be forged.

PHA Policy

The PHA will apply the above requirement and will explain to the applicant or resident the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to the PHA within 90 days.

If an applicant family includes a child under 6 years of age who joined the household within the 6 months prior to the date of program admission, and otherwise eligible family may be admitted and must provide documentation of the child's SSN within 90 days. A 90-day extension will be granted if the PHA determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control. The PHA will grant one additional 90-day extension if needed for reasons beyond the applicant's control, such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

When a resident requests to add a new household member who is under the age of 6 and has an SSN assigned, the resident must provide the complete and accurate SSN assigned. The PHA may not add the new household member until such documentation is provided. When a resident requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the resident must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if the PHA determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the

resident's control. During the period the PHA is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

The PHA will verify each disclosed SSN by obtaining documentation from applicants and residents that is acceptable as evidence of social security numbers. Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder.

Social security numbers will be verified only once during continuously assisted occupancy.

7-IV.C. DOCUMENTATION OF AGE

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

PHA Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, the PHA will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded).

Age must be verified only once during continuously assisted occupancy.

7-IV.D. FAMILY RELATIONSHIPS

Applicants and tenants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

PHA Policy

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

For Marriage:

Certification by the head of household is normally sufficient verification. If the PHA has reasonable doubts about a marital relationship, the PHA will require the family to document the marriage with a marriage certificate.

In the case of a common law marriage, Pennsylvania does not recognize common law marriages, but these living situations were considered legal at one point. The law was abolished on January 2, 2005, and so, anyone that entered a common law marriage prior to that date is still considered common marriage today.

Separation or Divorce

Certification by the head of household is normally sufficient verification. If the PHA has reasonable doubts about a divorce or separation, the PHA will require the family to provide documentation of the divorce or separation with a certified copy of a divorce decree, signed by a court officer; a copy of a court-ordered maintenance or other court record; or other documentation that shows a couple is divorced or separated.

Absence of Adult Member

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as lease or utility bill, income source letter showing current address and a current state ID, last resort is a self-certification).

Foster Children and Foster Adults

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

7-IV.E. VERIFICATION OF STUDENT STATUS

PHA Policy

The PHA requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if the family claims full-time student status for an adult other than the head, spouse, or cohead.

7-IV.F. VERIFICATION OF DISABILITY

The PHA must verify the existence of a disability to allow certain income deductions from income. The PHA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)].

The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA will not place this information in the tenant file. Under no circumstances will the PHA request a resident's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' Web site at www.os.dhhs.gov. Verification of receipt of disability benefits from the Social Security Administration (SSA) is sufficient for verification of disability for the purpose of qualification for waiting list preferences or certain income disallowances and deductions [VG, p. 23].

PHA Policy

PHA will verify the existence of a disability to allow certain income deductions from income but will not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA will not place this information in the applicant or tenant file. For family members claiming disability who receive disability payments from the SSA, the PHA will not require verification of disability. However, most often the information is provided through HUD's Enterprise Income Verification (EIV) system. Individual who received SS Disability or SSI benefits through the Social Security Administration are considered disabled. Therefore, this is no need to verify disability.

Family Members Not Receiving SSA Disability Benefits

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.403, necessary to qualify for waiting list preferences or certain income disallowances and deductions.

PHA Policy

For family members claiming disability who do not receive SSI or other disability payments from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. A knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

7-IV.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible people. See the Eligibility chapter for detailed discussion of eligibility requirements.

HUD and PHA verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member.

Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously assisted occupancy [24 CFR 5.508(g)(5)]

U.S. Citizens and Nationals

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

The PHA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

PHA Policy

PHA will comply with the requirement and have a declaration signed personally by any family member 18 or older and by the guardian.

PHA will request verification of the declaration as noted on the Declaration of Section 214 Citizenship status form. See Part V. 7-1 Exhibit.

7-IV.H. VERIFICATION OF PREFERENCE STATUS

The PHA must verify any preferences claimed by an applicant that determined his or her placement on the waiting list.

PHA Policy

The PHA offers a preference for working families, described in Section 4-III.B.

The PHA may verify that the family qualifies for the working family preference based on the family's submission of the working member's most recent paycheck stub indicating that the working member works at least 20 hours per week. The paycheck stub must have been issued to the working member within the last thirty days.

The PHA may also seek third party verification from the employer of the head, spouse, cohead or sole member of a family requesting a preference as a working family.

The PHA also offers a preference for victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking as described in Section 4-III.B. To verify that applicants qualify for the preference, the PHA will follow documentation requirements outlined in Section 16-VII.D.

PHA Policy

The PHA will use the following local preferences, by date and time of application being entered on the waiting list.

Local preferences will be numerically ranked, with number 0 being the highest preference, in the following order:

0. Hurricanes or other Federally Declared Disaster victims.
1. Families who live or work in Bethlehem Housing Authority's jurisdiction; or single persons aged 50 through 61 who live or work in Bethlehem Housing Authority's jurisdiction.

Residency Preference

To verify that an applicant is a local resident, the PHA will require: a lease if one is in effect, a notarized statement from the property owner if there is no lease in effect, or a completed, Residency Verification Form.

Additionally, employer records, school records, driver's license, voter's registration records, or financial documents.

Those applicants claiming a local preference based on employment will be required to provide a statement from the employer on their letterhead and recent paystubs.

If the family presents a justification for costs that exceed typical costs in the area, the PHA will request additional documentation, as required, to support a determination that the higher cost is appropriate.

PART V: EXHIBITS

7-1 Exhibit Declaration of Section 214 Citizenship Status

DECLARATION OF SECTION 214 CITIZENSHIP STATUS
Rev. 10/2021

Government housing regulations state that financial assistance is contingent upon the submission and verification, as appropriate, of original evidence of citizenship or eligible immigration status. Please review choices and list all family members.

- ☐ 1 I certify that I am a U.S. citizen.
☐ 2 I state that I am a noncitizen claiming eligible immigration status (see reverse side).
☐ 3 I state that I am a noncitizen student.
☐ 4 The family member does not state their eligible immigration status.

Print Head of Household Name Date of Birth Social Security #

I am aware that housing assistance will be prorated, denied, or terminated, as appropriate, upon a final determination of ineligibility after all appeals have been exhausted. I am also aware that failure to submit the requested information may result in the termination of my housing assistance.

I verify that the above statement is true, and I am aware that the penalty for submitting false information is punishable under federal law.

Date	Status #	HOH Signature
_____	<input type="checkbox"/>	_____
Family Member Name	Date of Birth	Status #
		Member Signature (Guardian signs for minors)
_____	_____	<input type="checkbox"/>
_____	_____	<input type="checkbox"/>
_____	_____	<input type="checkbox"/>
_____	_____	<input type="checkbox"/>
_____	_____	<input type="checkbox"/>

The immigration status information contained on this form may be released by HUD to the U.S. Citizenship and Immigration Services (USCIS) for purposes of establishing eligibility for financial assistance and not for any other purpose. HUD is not responsible for the future use or transmission of the evidence or other information by the USCIS.

EVIDENCE REQUIRED TO VERIFY ELIGIBLE IMMIGRATION STATUS:

1. For noncitizens 62 years of age or older or who will be 62 years of age or older and receiving assistance under a covered program on June 19, 1995, the evidence consists of:
 - (A) A signed declaration of eligible immigration status;
 - and
 - (B) Proof of age document.
2. For all other noncitizens, the evidence consists of:
 - (A) A signed declaration of eligible immigration status;
 - (B) The USCIS documents as follows:
 - (1) Form I-551, Alien Registration Receipt Card
(For permanent resident aliens);
 - (2) Form I-94, Arrival-Departure Record with one of the following annotations:
 - (a) "Admitted as Refugee Pursuant to Section 207"
 - (b) "Section 208" or "Asylum";
 - (c) "Section 243(h)" or "Deportation Stayed by Attorney General";
 - (d) "Paroled Pursuant to Section 212(d)(5) of the INA";
 - (3) If form I-94, Arrival-Departure Record, is not annotated, then accompanied by one of the following documents:
 - (a) A final court decision granting asylum (but only if no appeal is taken);
 - (b) A letter from an USCIS asylum officer granting asylum (if application is filed on or after October 1, 1990) from an USCIS district director granting asylum (if application filed before October 1, 1990);
 - (c) A court decision granting withholding of deportation; or
 - (d) A letter from an USCIS asylum officer granting withholding of deportation.
(if application filed on or after October 1, 1990).
 - (4) Form I-688, Temporary Resident Card, which must be annotated "Section 245A" or "Section 210";
 - (5) Form I-766, Employment Authorization Card. Form I-730, an approved following-to-join case: should be followed-up with an I-765 application leading to an I-766 EAC;
 - (6) A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above-listed categories has been made and the applicant's entitlement to the document has been verified.

7-2 Exhibit Applicant Self-Certification of Net Family Assets and Real Property

BHA
Rev. 01/2025

Assets Statement **Applicant Self-Certification of Net Family Assets and Real Property** **For each adult family member**

This form will help determine your eligibility for the program under the asset limitation. Bethlehem Housing Authority may also use this form to help determine your income from assets if your total net family assets do not exceed \$50,000 (adjusted annually for inflation). Third-party verification is required when net family assets exceed \$50,000, and every three years.

Real Property (for example: land, house, condominium, commercial building, etc.).

1. Do you or any member of your assisted family have an ownership interest in any real property?

☐ Yes ☐ No **If the answer to question #1 is No, skip to question #6.**

2. If yes, please check off if any of the following statements are true about the property:

___ The property does not meet the disability-related needs for all members of the family (for example, physical accessibility requirements, accessible common areas, disability-related need for additional bedrooms, or closeness to accessible transportation/medical facilities/other supportive services.

___ The property is not sufficient for the size of the family.

___ The property is in an area that is a hardship (for instance, far from a family member's place of work or school.

___ The property is not safe to live in because of physical condition; or

___ The property is not a property where a family can live based on the State or local laws where the property is located.

If you checked off any of the above statements, you would need to provide additional documentation to demonstrate that the statement is true.

3. If you did not check off any of the statements in question 2, do you or any member of your assisted family have the legal authority to sell the property? ☐ Yes ☐ No

4. There is an exemption from the limitation on assistance for families that have an ownership interest in real property for victims of domestic violence, dating violence, sexual assault, and stalking. If you or any member of the assisted family is a victim, you can claim this exemption from the real property limitation. **Please check this box if you think you may be eligible for this exemption.**

☐ I believe I may be eligible for this exemption, and I would like more information from the BHA's management office. (If you do not understand this exemption or how to exercise your rights, you can speak to your management office for more information.)

5. What is the estimated cash value of the property (market value minus mortgage/other loans and costs to sell. Enter \$0 if market value of property is less than outstanding debt (i.e., mortgage is upside down/underwater)?

\$

Other Assets (for example: accounts, luxury items that are not necessary)

6. How much income do you expect your family to earn from your total family assets in the next year? This includes interest, dividends, and other earnings, e.g., anything for which you receive Form 1099 tax documents. Actual income (interest, dividends, etc.) from excluded assets is included as income.

\$

7. Do you or any member of your assisted family have other assets (including checking accounts, savings accounts, certificates of deposits (CDs), stocks, bonds, luxury items, recreational vehicles, etc.) **that total more than \$50,000** (adjusted annually for inflation)? If yes, provide proof. It must be verified.

☐ Yes ☐ No

Assets to consider	Assets always excluded
<ul style="list-style-type: none">• Checking and savings accounts• Stocks, bonds, mutual funds• Luxury items or items that are not necessary, e.g., recreational boats, vehicles not used for regular transportation.• Assets disposed of for less than fair market value; for example, if you gave away a house to someone out outside of the assisted family within the past two years, the value of the house would be considered an asset (except as determined by certain divorce or separation settlements)	<ul style="list-style-type: none">• Retirement accounts (e.g., IRAs, 401k, 403b)• Educational savings accounts (Section 529, Section 530, Coverdell ESA, etc.)• ABLE accounts• Non-revocable trusts• Necessary items of personal property (items essential for the maintenance, use, and occupancy of a home or necessary for employment, education, cultural expression, or health and wellness)• Federal tax refunds (must be subtracted from total net family assets)

I/We, the undersigned, certify that the information provided here is true and correct to the best of my knowledge and recollection. Anyone who knowingly submits a false claim or knowingly makes a false statement is subject to criminal and/or civil penalties, including confinement for up to 5 years, fines, and civil and administrative penalties. (18 U.S.C. 287, 1001, 1010, 1012; 31 U.S.C. 3279, 3802)

Head of Household Signature

Address

Date

Family Member Signature

Date

PHA Policy

The PHA has opted to use HUD's form of Self-Certification of Net Family Assets and Real Property at admission and reexaminations. The PHA will also use this form to help determine applicants and assisted families' income from assets if total net family assets do not exceed \$50,000 (or as adjusted annually). However, Third-Party verification will be required every three years.

Third-party verification will be required when net family assets exceed \$50,000.

7-3 Exhibit Tenant Self-Certification of Net Family Assets and Real Property

BHA
Rev. 01/2025

Assets Statement **Tenant Self-Certification of Net Family Assets and Real Property** **For each adult family member**

Bethlehem Housing Authority will use this form to help determine your income from assets if your total net family assets do not exceed \$50,000 (or adjusted annually for inflation). Third-party verification is required when net family assets exceed \$50,000, and every three years.

Real Property (for example: land, house, condominium, commercial building, etc.)

1. Do you or any member of your assisted family have an ownership interest in any real property?

☐ Yes ☐ No

Property Value: \$_____ Monthly Rent Received: \$_____ Expenses \$_____

Address: _____

2. What is the estimated cash value of the property (market value minus mortgage/other loans and costs to sell? Note: Enter \$0 if market value of property is less than outstanding debt (i.e., mortgage is upside down/underwater)? Must provide current proof.

\$ _____

Other Assets (for example: accounts, luxury items that are not necessary)

3. How much income do you expect your family to earn from your total family assets in the next year? This includes interest, dividends, and other earnings, e.g., anything for which you receive Form 1099 tax documents. Actual income (interest, dividends, etc.) from excluded assets is included as income.

\$ _____

4. Do you or any member of your assisted family have other assets (including checking accounts, savings accounts, certificates of deposits (CDs), stocks, bonds, luxury items, recreational vehicles, etc.) **that total more than \$50,000** (adjusted annually for inflation)? If yes, provide proof. It must be verified.

☐ Yes ☐ No

Assets to consider	Assets always excluded
<ul style="list-style-type: none">• Checking and savings accounts• Stocks, bonds, mutual funds• Luxury items or items that are not necessary, e.g., recreational boats, vehicles not used for regular transportation.• Assets disposed of for less than fair market value; for example, if you gave away a house to someone out outside of the assisted family within the past two years, the value of the house would be considered an asset (except as determined by certain divorce or separation settlements)	<ul style="list-style-type: none">• Retirement accounts (e.g., IRAs, 401k, 403b)• Educational savings accounts (Section 529, Section 530, Coverdell ESA, etc.)• ABLE accounts• Non-revocable trusts• Necessary items of personal property (items essential for the maintenance, use, and occupancy of a home or necessary for employment, education, cultural expression, or health and wellness)• Federal tax refunds (must be subtracted from total net family assets)

I/We, the undersigned, certify that the information provided here is true and correct to the best of my knowledge and recollection. Anyone who knowingly submits a false claim or knowingly makes a false statement is subject to criminal and/or civil penalties, including confinement for up to 5 years, fines, and civil and administrative penalties. (18 U.S.C. 287, 1001, 1010, 1012; 31 U.S.C. 3279, 3802)

Head of Household Signature

Address

Date

Family Member Signature

Date

PHA Policy

The PHA will use the above Tenant Self-Certification of Net Family Assets and Real Property at reexaminations. The PHA will use this form to help determine assisted families' income from assets if total net family assets do not exceed \$50,000 (or as adjusted annually). However, Third-Party verification will be required every three years.

Third-party verification will be required when net family assets exceed \$50,000. (or as adjusted annually) However, if a family owns property, they must provide proof of current cash value and expenses.

7-4 Exhibit Self-Certification for Self-Employment/Business Income and Expenses

BHA

Rev.01/2025

Applicant/Tenant Self-Certification Self-Employment/Business Income and Expenses

Applicant/Tenant Name: _____

Address: _____ **Self-Employment/Business Started Date:** _____

I hereby certify that I earned a gross income of \$_____ in the past 12 months. I also certify that I had business expenses in the total amount of \$_____. Please list the business expenses items such as insurance, equipment, depreciation, etc., and provide proof:

<u>Item(s)</u>	<u>Amount</u>	<u>Any Withdrawal of Cash or Assets</u>
_____	\$ _____	\$_____ (Was this amount to reimburse you for
_____	\$ _____	cash/assets that you invested in the operation of the
_____	\$ _____	business? No: __ Yes: __ If yes, provide proof.

Note: Expenditures for business expansion or amortization of capital indebtedness are not deductible when determining the income from a business. However, an allowance for the depreciation of assets used in a business or profession may be deducted based on a straight-line depreciation, as provided in IRS's regulations. Any withdrawal of cash or assets from the operation of a business is income except to the extent that such withdrawal is to reimburse the family member for cash or assets that the family has invested in the operation of the business.

For New Self-Employment/Business:

In the 12-month period from _____ to _____, I anticipate earning of \$_____. My earnings will come from performance of the following work:

I certify that the above information is accurate and complete to the best of my knowledge, and I understand that providing false information or statements is punishable under Federal and State law as was explained in the Certification that I have signed as part of my application/program participation. I also understand that false information or statements are grounds for denial of housing assistance and termination of tenancy from housing assistance programs. **WARNING:** Section 1001 of Title 18 of the U.S. Code makes it a criminal offense to make willful false statements or misrepresentation to any Department or Agency of the United States as to any matter within its jurisdiction.

Signature of Self-Employed Adult Household Member

Date

BHA Representative

Date

7-5 Exhibit Applicant/Tenant Self-Certification of Income/Other

BHA

Rev. 01/2025

Applicant/Tenant Self-Certification of Income/Other

I, _____, of legal age, and presently residing at:

Hereby declare that:

“I/We, the undersigned, certify under penalty of perjury that the information provided here is true and correct, to the best of my knowledge and recollection. WARNING: Anyone who knowingly submits a false claim or knowingly makes a false statement is subject to criminal and/or civil penalties, including confinement for up to 5 years, fines, and civil and administrative penalties. (18 U.S.C. 287, 1001, 1010, 1012; 31 U.S.C. 3279, 3802).” I certify that the above information is accurate and complete to the best of my knowledge, and I understand that providing false information or statements is punishable under Federal and State law as was explained in the Certification that I have signed as part of my application/program participation. I also understand that false information or statements are grounds for denial of housing assistance and termination of tenancy from housing assistance programs.

Signature/Date

Witnessed by BHA Representative /Date

BHA Official Use Only

This verification method should be used as a last resort. HUD does not require that the self-certification be notarized. However, staff must document why third-party was not available and show proof of attempts.

Staff Signature/Date

**7-6 Exhibit Request for General Relief for Health and Medical Care Expenses
and Reasonable Attendant Care and Auxiliary Apparatus Expenses**

BHA

01/2025

**Request for General Relief
For Health and Medical Care Expenses and
Reasonable Attendant Care
and Auxiliary Apparatus Expenses**

Head of Household: _____ **Date:** _____

Address: _____ **Phone:** _____

Since the PHA is required to establish policies on how they define what constitutes a hardship (i.e., when a family is unable to pay rent), triggering eligibility for hardship exemption, the PHA has considered the following circumstances (factors) when determining financial hardship: **Please indicate which of the two you are claiming and provide verification:**

_____ The family is awaiting an eligibility determination for a federal, state, or local assistance program, such as a determination for unemployment compensation or disability benefits, or welfare benefits, and the family has experienced an unanticipated large medical bill or funeral **expenses** of an assisted family member in the household **that exceed 5%** of their family income and the family is obligated to make current payments that affects their ability to pay their portion of monthly rent.

_____ The family's income decreased because of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster that caused family to experience an unanticipated large medical bill or funeral **expenses** of an assisted family member in the household that **exceed 5%** of their family income and the family is obligated to make current payments that affects their ability to pay their portion of monthly rent.

I certify that I was informed that if BHA determines that my family is eligible for general relief, we will receive a deduction for the sum of the eligible expenses that exceed 5 percent of my family annual income. I also certify that my family's hardship relief will end when the circumstances that made my family eligible for the relief are no longer applicable or after 90 days, whichever comes earlier. Therefore, I understand that if approved, I am required to report in writing within ten (10) calendar days if the circumstances that made my family eligible for the hardship exemption are no longer applicable.

Signature of Head of Household/ Date

BHA Representative/Date

Tenant Reporting Responsibility

___ Tenant Reported End Date of Hardship Relief: _____ Initial of Head of HH/Date: _____

___ Request for One Additional 90-Day General Hardship Relief Extension. Verification Provided: **Yes or No**

Signature of Head of HH / Date: _____

BHA Official Only

___ Request Approved: Exemption Start Date: _____ End Date: _____.

___ Request Denied: Reason: _____

Manager's Signature/Date: _____

___Additional 90 days Approval: Start Date: _____End Date: _____.

___ Request Denial: Reason: _____

Manager's Signature/Date: _____

7-7 Exhibit Request for General Relief for Childcare Expense Hardship Exemption

BHA

01/2025

Request for General Relief For Childcare Expense Hardship Exemption

Head of Household: _____ **Date:** _____

Address: _____ **Phone:** _____

Since the PHA is required to establish policies on how they define what constitutes a hardship (i.e., when a family is unable to pay rent), triggering eligibility for hardship exemption, the PHA has considered the following circumstances (factors) when determining financial hardship: **Please indicate which of the two you are claiming and provide verification:**

_____ The family member lost his/her job, but the childcare center has a long waiting list, and if the family member pulls out temporarily, the family member would most likely be without reliable childcare when the family member resumes employment status. Therefore, continuing to pay childcare expenses while not receiving earned income has made the family unable to pay their rent portion. In such case, the family must provide verification from the Day Care Center.

_____ The family member who worked became unemployed and has plans to enroll in an educational facility in two months. However, the childcare center has a long waiting list and if the family member pulls out temporarily, the family member would most likely be without reliable childcare when the family member starts their education. Therefore, continuing to pay childcare expenses while not receiving earned income has made the family member unable to pay their rent portion. In such case, the PHA will allow the family to continue to receive the childcare expenses deduction for 60 days as the family member is anticipated to enroll in an education facility in the next two months being that an assisted family are also eligible for childcare deducted for furthering their education. Nevertheless, the family must provide verification from the Day Care Center and from the educational facility.

I certify that I was informed that if BHA determines that my family is eligible for general relief and my circumstances that made my family eligible for the relief are no longer applicable, I am required to report this in writing within 10 calendar days of occurrence. Failure to do so, I will be charged for any underpaid rent. I also understand that I could apply for one additional 90 days extension.

Signature of Head of Household/ Date

BHA Representative/Date

Tenant Reporting Responsibility

___ Tenant Reported End Date of Hardship Relief: _____ Initial of Head of HH/Date: _____

___ Request for One Additional 90-Day General Hardship Relief Extension. Verification Provided: **Yes or No**

Signature of Head of HH/Date: _____

BHA Official Only

___ Request Approved: Exemption Start Date: _____ End Date: _____

___ Request Denied: Reason: _____

Manager's Signature/Date: _____

___ Additional 90 days Approval: Start Date: _____ End Date: _____

Denied: Reason: _____

Manager's Signature/Date: _____

Chapter 8

LEASING AND INSPECTIONS

[24 CFR 5, Subpart G; 24 CFR 966, Subpart A]

INTRODUCTION

Public housing leases are the **contractual** basis of the legal relationship between the PHA and the tenant. All units must be occupied pursuant to a dwelling lease agreement that complies with HUD regulations.

HUD regulations require the PHA to inspect each dwelling unit prior to move-in, at move-out, and annually during the period of occupancy.

In addition, the PHA may conduct additional inspections in accordance with PHA policy. This chapter is divided into two parts as follows:

Part I: Leasing: This part describes pre-leasing activities and the PHA's policies pertaining to lease execution, lease modification, and payments under the lease.

Part II: Inspections: This part describes the PHA's policies for inspecting dwelling units.

Part III: Guests: This part describes the PHA's policies for guests.

Part IV: No Smoking Policy: This part describes the PHA's policies for no smoking.

PART I: LEASING

8-I.A. OVERVIEW

An eligible family may occupy a public housing dwelling unit under the terms of a lease. The lease must meet all regulatory requirements and must also comply with applicable state and local laws and codes.

The term of the initial lease must be for a period of 12 months. Then the lease will be renewed on a month-to-month basis. The PHA may not renew the lease if the family has violated the community service requirement and if the family is determined to be over income for 24 consecutive months [24 CFR 966.4(a)(2)].

PHAs must adopt smoke-free policies, which HUD required to be implemented no later than July 30, 2018. The policy is attached as Exhibit 8-1.

PHAs must include in the ACOP residential minimum heating standards policies [Notice PIH 2018-19]. The policy is included in Part I of this chapter.

Part I of this chapter contains regulatory information on leasing, where applicable, as well as the PHA's leasing policies.

For policies on lease requirements for families whose incomes have exceeded the over-income limit for 24 consecutive months, see 13-III.C., Over-Income Families.

8-I.B. LEASE ORIENTATION

PHA Policy

After unit acceptance but prior to occupancy, a PHA representative will conduct a lease orientation with the family. The head of household and co-head are required to attend.

Orientation Agenda

When families attend the lease orientation, they will be provided with:

- A copy of the lease

- A copy of the PHA's grievance procedure

- A copy of the house rules

- A copy of the PHA's schedule of maintenance charges

- A copy of "Is Fraud Worth It?" (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse.

- A copy of "What You Should Know about EIV," a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12

- A copy of the form HUD-5380, VAWA Notice of Occupancy Rights

- A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

- A copy of the PHA's smoke free policy

- A notice that includes the procedures for requesting relief and the PHA's criteria for granting requests for relief for excess utility surcharges

Topics to be discussed and explained to all families include:

- Applicable deposits and all other charges

- Review and explanation of lease provisions

- Unit maintenance requests and work orders

- The PHA's interim reporting requirements

- Review and explanation of occupancy forms

- Community service requirements

- Family choice of rent

- VAWA protections

- Smoke-free policies

8-I.C. EXECUTION OF LEASE

The lease must be executed by the tenant and the PHA, except for automatic renewals of a lease [24 CFR 966.4(a)(3)].

A lease is executed at the time of admission for all new residents. A new lease is also executed at the time of transfer from one PHA unit to another.

The lease must state the composition of the household as approved by the PHA (family members and any PHA-approved live-in aide) [24 CFR 966.4(a)(1)(v)]. See Section 8-I.D. for policies regarding changes in family composition during the lease term.

PHA Policy

The head of household and co-head will be required to sign the public housing lease prior to admission **or transfer**.

An appointment will be scheduled for the parties to execute the lease. The head of the household will be provided a copy of the executed lease and the PHA will retain a copy in the resident's file.

Files for households that include a live-in aide will contain file documentation signed by the live-in aide, that the live-in aide is not a party to the lease and is not entitled to PHA assistance.

The live-in aide is only approved to live in the unit while serving as the care attendant for the family member who requires the care.

8-I.D. MODIFICATIONS TO THE LEASE

The lease may be modified at any time by written agreement of the tenant and the PHA [24 CFR 966.4(a)(3)].

Modifications to the Lease Form

The PHA may modify its lease from time to time. However, the PHA must give residents at least thirty (30) days advance notice of the proposed changes and an opportunity to comment on the changes.

The PHA must also consider any comments before formally adopting a new lease [24 CFR 966.3].

After proposed changes have been incorporated into the lease and approved by the Board, each family must be notified at least 30 days in advance of the effective date of the new lease or lease revision.

A resident's refusal to accept permissible and reasonable lease modifications that are made in accordance with HUD requirements, or are required by HUD, is grounds for termination of tenancy [24 CFR 966.4(l)(2)(iii)(E)].

PHA Policy

The family will have 30 days to accept the revised lease. If the family does not accept the offer of the revised lease within that 30-day timeframe, the family's tenancy will be terminated for other good cause in accordance with the policies in Chapter 13.

Schedules of Special Charges:

Schedules of special charges and rules and regulations are subject to modification or revision. Because these schedules are incorporated into the lease by reference, residents and resident organizations must be provided at least thirty days written notice of the reason(s) for any proposed modifications or revisions and must be given an opportunity to present written comments.

The notice must be delivered directly or mailed to each tenant; or posted in at least three conspicuous places within each structure or building in which the affected dwelling units are located, as well as in a conspicuous place at the project office, if any, or if none, a similar central business location within the project. Comments must be taken into consideration before any proposed modifications or revisions become effective [24 CFR 966.5].

After the proposed revisions become effective, they must be publicly posted in a conspicuous manner in the project office and must be furnished to applicants and tenants on request [24 CFR 966.5].

PHA Policy

When the PHA proposes to modify or revise schedules of special charges or rules and regulations, the PHA will post a copy of the notice in the central office, and High-Rise Operations office and will mail a copy of the notice to each resident family. Documentation of proper notice will be included in each resident file.

Other Modifications**PHA Policy**

The lease will be amended to reflect all changes in family composition. If, for any reason, there is a deletion or addition to the household, a new lease will be executed.

Policies governing when and how changes in family composition must be reported are contained in Chapter 9, Reexaminations.

8-I.E. SECURITY DEPOSITS [24 CFR 966.4(b)(5)]

At the option of the PHA, the lease may require security deposits. The amount of the security deposit cannot exceed one month's rent or a reasonable fixed amount as determined by the PHA. The PHA may allow for gradual accumulation of the security deposit by the family, or the family may be required to pay the security deposit in full prior to occupancy. Subject to applicable laws, interest earned on security deposits may be refunded to the tenant after vacating the unit or used for tenant services or activities.

PHA Policy

Residents must pay a security deposit to the PHA at the time of admission. The amount of the security deposit will be equal to the family's total tenant payment at the time of move-in and must be paid in full prior to occupancy. It would be **\$50.00** for the elderly or disabled.

The PHA will hold the security deposit for the period the family occupies the unit. The PHA will not use the security deposit for rent or other charges while the resident is living in the unit.

Within 30 days of move-out, the PHA will refund to the resident the amount of the security deposit, less any amount needed to pay the cost of unpaid rent, damages listed on the move-out inspection report that exceed normal wear and tear, and other charges due under the lease.

The PHA will provide the resident with a written list of any charges against the security deposit within 30 calendar days of the move-out inspection. If the resident disagrees with the amount charged, the PHA will provide a meeting to discuss the charges.

If the resident transfers to another unit, the PHA will transfer the security deposit to the new unit. The tenant will be billed for any maintenance or other charges due for the "old" unit.

8-I.F. PAYMENTS UNDER THE LEASE

Rent Payments [24 CFR 966.4(b)(1)]

Families must pay the amount of the monthly tenant rent determined by the PHA in accordance with HUD regulations and other requirements. The amount of the tenant rent is subject to change in accordance with HUD requirements.

The lease must specify the initial amount of the tenant rent at the beginning of the initial lease term, and the PHA must give written notice stating any change in the amount of tenant rent and when the change is effective.

PHA Policy

The tenant rent is due and payable at the PHA-designated location on the first of every month. If the first falls on a weekend or holiday, the rent is due and payable on the first business day thereafter.

If a family's tenant rent changes, the PHA will notify the family of the new amount and the effective date by sending a "Notice of Rent Adjustment" which will become an attachment to the lease.

Late Fees and Nonpayment

At the option of the PHA, the lease may provide for payment of penalties when the family is late in paying tenant rent [24 CFR 966.4(b)(3)].

The lease must provide that late payment fees are not due and collectible until two weeks after the PHA gives written notice of the charges. The written notice is considered an adverse action and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right for a hearing under the PHA grievance procedures. The PHA must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

PHA Policy

If the family fails to pay their rent by the fifth day of the month, and the PHA has not agreed to accept payment at a later date, a 14-day Notice to Vacate will be issued to the resident for failure to pay rent, demanding payment in full or the surrender of the premises.

In addition, if the resident fails to make payment by the end of office hours on the fifth day of the month, a late fee of \$20.00 will be charged. Notices of late fees will be in accordance with requirements regarding notices of adverse action. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within

the required timeframe, the PHA may not **act** for nonpayment of the fee until the conclusion of the grievance process. If the resident can document financial hardship, the late fee may be waived on a case-by-case basis.

When a check is returned for insufficient funds or is written on a closed account, the rent will be considered unpaid and a returned check fee of \$25.00 will be charged to the family. The fee will be due and payable 14 calendar days after billing.

Excess Utility Charges

If the PHA charges the tenant for consumption of excess utilities, the lease must state the basis for the determination of such charges. The imposition of charges for consumption of excess utilities is permissible only if the charges are determined by an individual check meter servicing the leased unit or result from the use of major tenant-supplied appliances [24 CFR 966.4(b)(2)].

Schedules of special charges for utilities that are required to be incorporated in the lease by reference must be publicly posted in a conspicuous manner in the development office and must be furnished to applicants and tenants on request [24 CFR 966.5].

The lease must provide that charges for excess utility consumption are not due and collectible until two weeks after the PHA gives written notice of the charges. The written notice is considered an adverse action and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right to a hearing under the PHA grievance procedures. The PHA must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

PHA Policy

When applicable, families will be charged for excess utility usage according to the PHA's current posted schedule. Notices of excess utility charges will be mailed monthly and will be in accordance with requirements regarding notices of adverse actions. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, the PHA may not take action for nonpayment of the charges until the conclusion of the grievance process.

Nonpayment of excess utility charges is a violation of the lease and is grounds for eviction.

The PHA may grant requests for relief from surcharges from excess utility consumption of PHA-furnished utilities as a reasonable accommodation where the PHA deems an exception is appropriate to meet the needs of elderly, ill, or disabled residents.

In determining whether to grant this request, the PHA will consider special factors affecting utility usage that are not within the control of the resident, such as the need for medical equipment. Residents may request relief in accordance with Section 2-II.C. of this ACOP. The PHA will process such requests in accordance with Section 2-II.E. of this ACOP.

Notice of the availability of procedures for requesting relief (including the PHA representative with whom initial contact may be made by the resident) and the PHA's criteria for granting requests, will be included in each notice to residents of changes in utility allowances or surcharges as well as to new residents as part of the lease orientation.

Maintenance and Damage Charges

If the PHA charges the tenant for maintenance and repair beyond normal wear and tear, the lease must state the basis for the determination of such charges [24 CFR 966.4(b)(2)]. Schedules of special charges for services and repairs which are required to be incorporated in the lease by reference must be publicly posted in a conspicuous manner in the development office and must be furnished to applicants and tenants on request [24 CFR 966.5].

The lease must provide that charges for maintenance and repair beyond normal wear and tear are not due and collectible until two weeks after the PHA gives written notice of the charges. The written notice is considered an adverse action and must meet the requirements governing a notice of adverse action [24 CFR 966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right for a hearing under the PHA grievance procedures. The PHA must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR 966.4(e)(8)].

PHA Policy

When applicable, families will be charged for maintenance and/or damages according to the PHA's current schedule. Work that is not covered in the schedule will be charged based on the actual cost of labor and materials to make needed repairs (including overtime, if applicable).

Notices of maintenance and damage charges will be mailed monthly and will be in accordance with requirements regarding notices of adverse actions. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, the PHA may not take action for nonpayment of the charges until the conclusion of the grievance process.

Nonpayment of maintenance and damage charges is a violation of the lease and is grounds for eviction.

8-I.G. MINIMUM HEATING STANDARDS [Notice PIH 2018-19]

PHAs in states, territories, or localities with existing minimum heating standards must use their respective local standards for public housing dwelling units.

For PHAs where state or local minimum heating standards do not exist, PHAs must use the HUD-prescribed heating standards specified in Notice PIH 2018-19.

PHA Policy

The PHA is in an area where state or local residential heating standards exist and will utilize those standards for public housing units. Therefore, the PHA's minimum heating standards are as follows:

Minimum temperature:

If the PHA controls the temperature, the minimum temperature in each unit must be at least 65 Degrees. If the resident controls the temperature, the heating equipment must have the capability of heating to at least 72 degrees Fahrenheit.

Minimum temperature capability:

Provide heat between October 1st and May 15th at a minimum of 65° between 6:30 AM and 10:30 PM; 60° during the night and when the temperature is below 0°

Measurement:

Temperature measurements must be taken according to the following methodology: Local Weather forecast Lehigh Valley International Airport, PA.

PART II: INSPECTIONS

8-II.A. OVERVIEW

HUD regulations require the PHA to inspect each dwelling unit prior to move-in, at move-out, and annually during occupancy. In addition, the PHA may require additional inspections, in accordance with PHA Policy.

This part contains the PHA's policies governing inspections, notification of unit entry, and inspection results.

8-II.B. TYPES OF INSPECTIONS

Move-In Inspections [24 CFR 966.4(i)]

The lease must require the PHA and the family to inspect the dwelling unit prior to occupancy in order to determine the condition of the unit and equipment in the unit. A copy of the initial inspection, signed by the PHA and the tenant, must be provided to the tenant and retained in the resident file.

PHA Policy

Any adult family member may attend the initial inspection and sign the inspection form for the head of household.

Move-Out Inspections [24 CFR 966.4(i)]

The PHA must inspect the unit at the time the resident vacates the unit and must allow the resident to participate in the inspection if he or she wishes unless the tenant vacates without notice to the PHA. The PHA must provide to the tenant a statement of any charges to be made for maintenance and damage beyond normal wear and tear.

The difference between the condition of the unit at move-in and move-out establishes the basis for any charges against the security deposit so long as the work needed exceeds that for normal wear and tear.

PHA Policy

When applicable, the PHA will provide the tenant with a statement of charges to be made for maintenance and damage beyond normal wear and tear, within 30 calendar days of conducting the move-out inspection.

Annual Inspections [24 CFR 5.705]

Section 6(f)(3) of the United States Housing Act of 1937 requires that PHAs inspect each public housing project annually to ensure that the project's units are maintained in decent, safe, and sanitary condition.

The PHA shall continue using the Uniform Physical Condition Standards (UPCS) in 24 CFR 5, Subpart G, Physical Condition Standards and Inspection Requirements, to

conduct annual project inspections. These standards address the inspection of the site area, building systems and components, and dwelling units.

PHA Policy

The PHA will inspect all occupied units annually using HUD's Uniform Physical Condition Standards (UPCS).

Quality Control Inspections

The purpose of quality control inspections is to assure that all defects were identified in the original inspection, and that repairs were completed at an acceptable level of craftsmanship and within an acceptable time frame.

PHA Policy

Supervisory quality control inspections will be conducted in accordance with the PHA's maintenance plan.

Special Inspections

PHA Policy

PHA staff may conduct a special inspection for any of the following reasons:

- Housekeeping
- Unit condition
- Suspected lease violation
- Preventive maintenance
- Routine maintenance
- There is reasonable cause to believe an emergency exists.

Other Inspections

PHA Policy

Building exteriors, grounds, common areas and systems will be inspected according to the PHA's maintenance plan.

8-II.C. NOTICE AND SCHEDULING OF INSPECTIONS

Notice of Entry

Non-emergency Entries [24 CFR 966.4(j)(1)]

The PHA may enter the unit, with reasonable advance notification to perform routine inspections and maintenance, make improvements and repairs, or to show the unit for re-leasing. A written statement specifying the purpose of the PHA entry delivered to the dwelling unit at least two days before such entry is considered reasonable advance notification.

PHA Policy

The PHA will notify the resident in writing at least 48 hours prior to any non-emergency inspection.

For regular annual inspections, the family will receive at least 2 weeks written notice of the inspection to allow the family to prepare the unit for the inspection.

Entry for repairs requested by the family will not require prior notice. Resident-requested repairs presume permission for the PHA to enter the unit.

Emergency Entries [24 CFR 966.4(j)(2)]

The PHA may enter the dwelling unit at any time without advance notice when there is reasonable cause to believe that an emergency exists. If no adult household member is present at the time of an emergency entry, the PHA must leave a written statement showing the date, time, and purpose of the entry prior to leaving the dwelling unit.

Scheduling of Inspections

PHA Policy

Inspections will be conducted during business hours. If a family needs to reschedule an inspection, they must notify the PHA at least 24 hours prior to the scheduled inspection. The PHA will reschedule the inspection no more than once unless the resident has a verifiable good cause to delay the inspection. The PHA may request verification of such cause.

Attendance at Inspections

Residents are required to be present for move-in inspections [24 CFR 966.4(i)]. There is no such requirement for other types of inspections.

PHA Policy

Except at move-in inspections, the resident is not required to be present for the inspection. The resident may attend the inspection if he or she wishes.

If no one is at home, the inspector will enter the unit, conduct the inspection and leave a notice that the inspector was there. Copies of inspection reports are available to tenants upon request.

8-II.D. INSPECTION RESULTS

The PHA is obligated to maintain dwelling units and the project in decent, safe and sanitary condition and to make necessary repairs to dwelling units [24 CFR 966.4(e)].

Emergency Repairs [24 CFR 966.4(h)]

If the unit is damaged to the extent that conditions are created which are hazardous to the life, health, or safety of the occupants, the tenant must immediately notify the PHA of the damage, and the PHA must make repairs within a reasonable time frame.

If the damage was caused by a household member or guest, the PHA must charge the family for the reasonable cost of repairs. The PHA may also take lease enforcement action against the family.

If the PHA cannot make repairs quickly, the PHA must offer the family standard alternative accommodations. If the PHA can neither repair the defect within a reasonable time frame nor offer alternative housing, rent shall be abated in proportion to the seriousness of the damage and loss in value as a dwelling. Rent shall not be abated if the damage was caused by a household member or guest, or if the resident rejects the alternative accommodations.

PHA Policy

When conditions in the unit are hazardous to life, health, or safety, the PHA will make repairs or otherwise abate the situation within 24 hours.

Defects hazardous to life, health or safety include, but are not limited to, the following:

- Any condition that jeopardizes the security of the unit
- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling
- Natural or LP gas or fuel oil leaks
- Any electrical problem or condition that could result in shock or fire
- Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit
- Utilities not in service, including no running hot water
- Conditions that present the imminent possibility of injury
- Obstacles that prevent safe entrance or exit from the unit
- Absence of a functioning toilet in the unit
- Inoperable smoke detectors

Non-emergency Repairs

PHA Policy

The PHA will correct non-life-threatening health and safety defects within 30 calendar days of the inspection date.

If the PHA is unable to make repairs within that period due to circumstances beyond the PHA's control (e.g. required parts or services are not available, weather conditions, etc.) the PHA will notify the family of an estimated date of completion.

The family must allow the PHA access to the unit to make repairs.

Resident-Caused Damages

PHA Policy

Damages to the unit beyond wear and tear will be billed to the tenant in accordance with the policies in 8-I.F., Maintenance and Damage Charges.

Repeated or excessive damage to the unit beyond normal wear and tear will be considered a serious or repeated violation of the lease.

Housekeeping

PHA Policy

Residents whose housekeeping habits pose a non-emergency health or safety risk, encourage insect or rodent infestation, or cause damage to the unit are in violation of the lease. In these instances, the PHA will provide proper notice of a lease violation.

A reinspection will be conducted within 30 calendar days to confirm that the resident has complied with the requirement to abate the problem.

Failure to abate the problem or allow for a reinspection is considered a violation of the lease and may result in termination of tenancy in accordance with Chapter 13.

Notices of lease violation will also be issued to residents who purposely disengage the unit's smoke detector. Only one warning will be given. A second incidence will result in lease termination.

PART III: GUESTS

8-III.A. GUESTS

Regulations: 24 CFR 5.100

A guest is defined as a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.

The lease must provide that the tenant has the right to exclusive use and occupancy of the leased unit by the members of the household authorized to reside in the unit in accordance with the lease, including reasonable accommodation of their guests [24 CFR 966.4(d)]. The head of household is responsible for the conduct of visitors and guests, inside the unit as well as anywhere on or near PHA premises [24 CFR 966.4(f)].

PHA Policy

A resident family must notify the PHA when overnight guests will be staying in the unit for more than three days. A guest can remain in the unit no longer than 14 consecutive days or a total of 30 cumulative calendar days during any 12-month period.

A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure expected to last 30 consecutive days). An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.

Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, that are not included as a family member because they live outside of the public housing unit more than 50 percent of the time, are not subject to the time limitations of guests as described above.

Former residents who have been evicted are not permitted as overnight guests.

Guests who represent the public housing unit address as their residence address or address of record for receipt of benefits or any other purposes will be considered unauthorized occupants. In addition, guests who remain in the unit beyond the allowable time limit will be unauthorized occupants, and their presence constitutes a violation of the lease.

PART IV: SMOKE-FREE POLICY

8-IV.A. SMOKE-FREE POLICY

In accordance with HUD regulations, the Housing Authority has adopted these smoke-free policies. The policies are effective as of the Board approval date.

Due to the increased risk of fire, increased maintenance costs, and the known health effects of secondhand smoke, smoking is prohibited in all living units and interior areas, including but not limited to hallways, rental and administrative offices, community centers, day care centers, laundry centers, and similar structures.

Smoking is also prohibited in outdoor areas within 25 feet from public housing and administrative office buildings.

This policy applies to all employees, residents, household members, guests, and service persons. Residents are responsible for ensuring that household members and guests comply with this rule. The term “smoking” means any inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other prohibited tobacco product in any manner or any form. Prohibited tobacco products include water pipes or hookahs.

Violation of the smoke-free policy constitutes a violation of the terms of the public housing lease. Consequences of lease violations include termination of tenancy.

PHA Policy

Designated Smoking Areas (DSA)

The PHA has established designated smoking areas at All High-Rise LOCATION(S). Residents using the designated smoking areas must extinguish all smoking materials and dispose of them safely in receptacles provided for that purpose.

Electronic Nicotine Delivery Systems (ENDS)

Electronic nicotine delivery systems (ENDS) include e-cigarettes, nicotine inhalers, and vaping devices.

Use of ENDS is not permitted in public housing units, common areas, or in outdoor areas within 25 feet from housing and administrative buildings.

Effective Date

The PHA’s effective date(s) of this smoke-free policy is/are as follows:

The smoke-free policy is effective for all residents, household members, employees, guests, and service persons as of June 1, 2017.

Enforcement

The PHA must enforce smoke-free policies when a resident violates this policy. When enforcing the lease, the PHA will provide due process and allow residents to exercise their right to an informal settlement and formal hearing.

The PHA will not evict a resident for a single incident of smoking in violation of this policy.

As such, the PHA will implement a graduated enforcement framework that includes escalating warnings.

Prior to pursuing eviction for violation of smoke-free policies, the PHA will take specific, progressive monitoring and enforcement actions, while at the same time educating tenants and providing smoking cessation information.

The lease will identify the actions that constitute a policy violation, quantify the number of documented, verified violations that warrant enforcement action, state any disciplinary actions that will be taken for persistent non-responsiveness or repeated noncompliance, and state how many instances of noncompliance will constitute a violation.

Tenancy termination and eviction will be pursued only as a last resort.

The PHA may terminate tenancy at any time for violations of the lease and failure to otherwise fulfill household obligations if resident behavior disturbs other residents' peaceful enjoyment and is not conducive to maintaining the property in a decent, safe, and sanitary condition.

Upon issuance of a written warning from the property manager and/or a documented complaint, the PHA will increase the frequency of unit inspections for a suspected policy violator.

Repeated violation of the smoke-free policy may rise to the level of other good cause for termination of tenancy.

Quitting smoking: 10 ways to resist tobacco cravings

<https://www.mayoclinic.org/healthy-lifestyle/quit-smoking/in-depth/nicotine-craving/art-20045454>

Chapter 9

REEXAMINATIONS

INTRODUCTION

This chapter outlines HUD's requirements for reexamining income and family composition for families in the Public Housing Program. A family's choice of rent determines when the PHA is to reexamine the family's income and composition. The PHA may require families to report interim changes in family income or family circumstances as well. A family's failure to comply with the PHA's reexamination requirements is grounds for terminating assistance. The PHA must establish and adopt admission and occupancy policies concerning how annual and interim reexaminations will be conducted in accordance with such policies.

HUD requires the PHA to offer all families the choice of paying income-based rent or flat rent at least annually. The PHA's policies for offering families a choice of rents is in this chapter, as well as in Chapter 6, **6-VIII.E that has more details**.

This chapter discusses both annual and interim reexaminations.

Part I: Annual and Interim Reexamination Process: This part contains the PHA policies for annual reexaminations, streamlined income determination, applying the cost-of-living adjustments COLA, annual reexaminations/choice of rent, and interim reexaminations.

Part II: Managing the Annual Reexamination Process: This part contains policies for effective date of annual reexamination, establishing the reexamination cycle, mail-in verses in-person reexaminations, effective communication, reasonable accommodations, and limited English proficiency, tracking the reexamination process, conducting the reexamination, mandated use of the Enterprise Income Verification (EIV), and HUD's form Debits Owed to Public Housing Agencies and Termination, form HUD-52675, and additional compliance with community service, criminal background/sex offender check, and changes in family size.

Part III: Changes in Family Composition / Remaining Family Members and Prior Debt: his part contains HUD's requirements and PHA's policies.

Part IV. Zero Income Families: This part contains PHA's policies on zero income families.

Part V: Over-Income Families: This part contains guidance and the PHA's policies for managing over-income families.

Part VI: Recalculating Tenant Rent: This part contains policies on changes in utility allowance, notification of rent change and effective date, and discrepancies.

Note: Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this ACOP, apply to annual and interim reexaminations.

Regulations

- 1 24 CFR § 960.257(b)
- 2 24 CFR § 960.257(d)
- 3 24 CFR § 960.257(a)
- 4 Form HUD-50058 Instruction Booklet (1-2)
- 5 24 CFR § 960.259(a)(2)
- 6 24 CFR § 960.257(a)(2); 24 CFR § 960.253(f)
- 7 24 CFR § 5.230(b); 24 CFR § 960.259(b)
- 8 24 CFR § 960.257(a)
- 9 24 CFR § 960.257(a)
- 10 24 CFR § 960.257(a); § 960.253(a) and (c)
- 11 24 CFR § 966.4(b)(1)(ii)
- 12 Notice PIH 2017-12, Administrative Guidance for Effective and Mandated Use of the EIV
- 13 Notice PIH 2017-12
- 14 24 CFR § 960.607
- 15 24 CFR § 960.257(b)(3)
- 16 24 CFR § 960.257(b)(3)(ii); Notice PIH 2023-27, Streamlining Administrative Regulations for Programs Administered by Public Housing Agencies
- 17 24 CFR § 960.257(c)(3)(i)
- 18 24 CFR § 960.257(c)(5)
- 19 Notice PIH 2017-12
- 20 24 CFR § 960.253(a)(1)
- 21 24 CFR § 960.253(f)
- 22 24 CFR § 960.253(f)(2)(i)
- 23 24 CFR § 960.253(f)(2)(ii)
- 24 24 CFR § 960.253(f)(2) (iii)
- 25 24 CFR § 960.253(f)(1); 24 CFR § 960.257(a)(2)
- 26 24 CFR § 960.253(f)(3)(i)
- 27 24 CFR § 960.253(f)(3)(ii)
- 28 24 CFR § 960.253(b)(6)
- 29 24 CFR § 960.253(f)(3)(iii)
- 30 24 CFR § 960.257(b)(2)
- 31 24 CFR § 960.257(c)
- 32 24 CFR § 960.257(a)
- 33 24 CFR § 8.24(b)
- 34 Notice PIH 2023-27, Administrative Guidance for Effective and Mandated Use of the EIV
- 35 24 CFR § 966.4(a)(1)(v); Notice PIH 2023-27, Effective Use of the EIV System's Deceased Tenants Report to Reduce Subsidy Payment & Administrative Errors
- 36 Since family members under 18 are not required to sign Form HUD-52675, family members under 18 cannot be held responsible for rent arrearages.
- 37 24 CFR § 5.2009(b); Notice PIH 2017-08, VAWA Reauthorization Act of 2013 Guidance
- 38 24 CFR § 960.257(d)
- 39 Notice PIH 2023-03(HA), Final Implementation of Public Housing Over-Income Limit under the Housing Opportunity Through Modernization Act of 2016 (HOTMA) 40 24 CFR § 960.503

PART I: ANNUAL REEXAMINATION PROCESS

9-I.A. ANNAUL REEXAMINATIONS

The annual reexamination helps public housing administrators determine the continued eligibility of the family, the required unit size and the appropriate adjustments in the rent after consultation with the family and verification of the information.

As part of the annual reexamination, the PHA must:

- Complete the reexamination within a year (12 months) of the previous annual reexamination or new admission for families paying income-based rent.³ Reexamination completion status is based on the effective date of the submission of a HUD form 50058 with action type 2 in the Inventory Management System/PIH Information Center (IMS/PIC);⁴.
- Require that the family supply any information requested to determine family income and composition.⁵ In the case of families choosing to pay a flat rent, PHAs must conduct a reexamination of family composition annually, and conduct reexamination of family income at least once every three years;⁶ unless the family is determined to be an over-income family. According to regulations 24 CFR 960.507(c), PHAs are required to conduct income examinations of Public Housing Families who have been determined to exceed the over-income limit at specific intervals, even if a family is paying flat rent.
- Require an adult household member who turned 18 years of age to sign the Form HUD-9886-A (10-23), Authorization for the Release of Information/Privacy Act Notice and all other consent forms. Note: In accordance with the final rule on HUD Notice PIH 2023-27 issued September 29, 2023, participants must sign the consent form no later than their next interim or regularly scheduled income reexamination. After an applicant or participant has signed and submitted a consent form either on or after January 1, 2024 (regardless of the PHA compliance date), they do not need to sign and submit subsequent consent forms at their next interim or regularly scheduled income reexamination except under the following circumstances: 1) when any person 18 or older becomes a member of the family. 2) When a member of the family turns 18 years of age. 3) As required by HUD or the PHA in administration instructions.
- Verify household income, assets, deductions, expenses, and family composition;⁸
- Calculate adjustments in rent, as appropriate;⁹
- Update household size, utility allowance (if applicable), and choice of rent as needed;¹⁰
- Provide tenant with written notice of an increase in tenant payment,¹¹ and
- For reexaminations, Level 4 verifications must be dated within the 120-day period preceding the reexamination or the date the PHA requested the documentation.¹²

When completing a reexamination, PHAs are encouraged to carefully consider the following components and updates:

Component	Updates at Annual Reexamination
Changes in income, assets, deductions, expenses, and household characteristics	<ul style="list-style-type: none"> • Obtain declaration of income, assets, deductions, expenses, and household characteristics. • Review documents for changes from previous year. • Follow verification hierarchy to verify and calculate income, assets, deductions, expenses, and household characteristics.¹³
Changes in family composition	<ul style="list-style-type: none"> • Review and update the household size on the HUD-50058. • If household size changes, the family may be under-housed or over-housed in their current unit and may require a transfer to an appropriately sized unit.
Utility allowance	Verify that the utility allowance (if applicable) is correct based on lower of household size or unit size and using the PHA's current Utility Allowance Schedule. Refer to Chapter 6 Part VIII.H.
Rent Choice	Offer the family a choice between the flat rent amount and income-based rent amount at annual reexamination. Refer to Chapter 6 Part VIII.E.
Determination of Rent	Verify that the total tenant payment (TTP) is correct based on income-based rent or flat rent. Refer to Chapter 6 Part VIII.
Community Service / Self-Sufficiency Requirement	<ul style="list-style-type: none"> • Document adequately whether non-exempt tenants are complying with their community service or economic self-sufficiency responsibilities. • Determine any changes to the exempt or non-exempt status of family members.¹⁴

PHA Policy

PHA will comply with the required annual reexamination process. For more detail refer to Part II below - Managing the Annual Reexamination Process.

9-I.B. STREAMLINED INCOME DETERMINATION FOR FAMILIES ON FIXED SOURCES OF INCOME [24 CFR 960.257 (b)(3)]

For any family member with fixed sources of income, the PHA may elect to determine that family member's income based on a streamline income determination, by applying the verified cost of living adjustment (COLA) or the current rate of interest to the previously verified or adjusted income.¹⁵ Applying a mandatory inflation factor may result in an increase in requests for interim reexamination if the family did not actually receive an increase. If the PHA chooses to implement this streamlined method of income determination at annual reexamination, they must first adopt this provision in the ACOP and after the initial year of implementation, fully reverify and recalculate all income every 3 years.¹⁶

Non-fixed sources of income remain subject to annual third-party verification for families with less than 90% of their income coming from fixed sources.

STREAMLINED INCOME DETERMINATION FOR FAMILIES WITH 90% OR MORE FIXED INCOME SOURCES [24 CFR 960.257 (c)(3)(i)] [24 CFR 960.257 (c)(5)]

At annual reexamination, the PHA may choose to implement a streamlined income determination with 90% or more of the family's adjusted income consisting of fixed income sources. For families with 90% or more of their income coming from fixed sources, the PHAs adopting this option do not have to do annual recertification of all sources of a family's income. Instead, the PHAs must apply the appropriate COLA to fixed sources.¹⁷ Under this streamlining option, all income sources must be fully verified and recalculated every 3 years.¹⁸ The PHAs are still required to follow-up on any discrepancies or new sources of income reported in HUD's Enterprise Income Verification system (EIV).¹⁹

Streamlined annual reexamination for fixed sources of income:

Regulation: 24 CFR §§960.257, 982.516

HUD Notice PIH 2016-05 Issued April 7, 2016

Programs to which this provision applies: Housing Choice Voucher (including project-based voucher), public housing.

Description of change:

This provision offers PHAs the discretion to adopt a streamlined income determination for any family member with a fixed source of income.

Note that the family member may also have non-fixed sources of income, which remain subject to third-party verification. Upon request of the family, the PHA must perform third-party verification of all income sources. Note that this provision pertains only to the

verification of sources of income; PHAs must continue to conduct third-party verification of deductions.

For purposes of this Notice, the term “fixed income” includes income from:

- Social Security payments include Supplemental Security Income (SSI) and Supplemental Security Disability Insurance (SSDI).
- Federal, state, local, and private pension plans; and
- Other periodic payments received from annuities, insurance policies, retirement funds, disability or death benefits, and other similar types of periodic payments.

The determination will be made by applying a verified cost of living adjustment (COLA) or current rate of interest to the previously verified or adjusted income amount. The COLA or current interest rate applicable to each source of fixed income must be obtained either from a public source or from tenant-provided, third-party generated documentation. In the absence of such verification for any source of fixed income, third-party verification of income amounts must be obtained. This provision is available for program participants only and may be implemented at the family’s next annual reexamination following adoption of the provision in the PHA’s ACOP or Admin. Plan. The provision is not available for program applicants; in the initial year in which a streamlined income determination is made, the COLA must be applied to a source of income that has been verified previously. In the initial year of employing a streamlined income determination, a PHA must determine whether a source of income is fixed. A PHA may do this by comparing the amount of income from the source to the amount generated during the prior year. If the amount is the same or if it has changed only because of a COLA or due to interest generated on a principal amount that remained otherwise constant, then the source is fixed. A PHA may also make such a determination by requiring a family to identify as to which source(s) of income are fixed. A PHA must document in the tenant file how it made the determination that a source of income is fixed.

For the second income determination involving a family member whose income was adjusted previously using a streamlined income determination, the adjustment would be made to the previously determined income amount (i.e., in year two, the COLA is applied to the year one 10 income amount, as previously adjusted by a COLA). For any family member whose income is determined pursuant to a streamlined income determination, third-party verification of all income amounts for all family members must be performed at least every three years. This means that, for the third income determination involving a family member whose income had been adjusted twice using a streamlined income determination, the PHA would need to obtain third party verification of all income amounts. This also means that if a family member with a fixed income source is added to the family during year two, for example, then the PHA must obtain third-party verification of all income amounts for that family member at the next reexamination if the PHA wishes to have all family members with fixed incomes on the same schedule with respect to streamlined annual reexaminations.

Example: Streamlined income determination for program participant's first reexamination following PHA's adoption of provision

	Under previous regulation	Under this regulation
January 2016 – Baseline Yeast	<p>Carl's income consists of 90% fixed sources and 10% non-fixed sources</p> <p>The PHA must verify all income amounts using third-party verification.</p>	(not yet implemented)
January 2017	<p>Carl's income Consist of 90% fixed sources and 10% non-fixed sources.</p> <p>The PHA must verify all income amounts using third-party verification.</p>	<p>Carl's income is reported to be 90% fixed sources and 10% non-fixed sources.</p> <p>The PHA must compare the amount of income from the fixed sources to the amount generated during the prior year; if the amounts are the same or if they have changed only as a result of the application of a COLA or due to interest generated on a principal amount that remained otherwise constant, then the amounts are fixed.</p> <p>The PHA may adjust the fixed sources by a COLA or current interest rate obtained from a public source or from tenant-provided, third party generated documentation.</p> <p>The PHA must verify the non-fixed amounts using third-party verification.</p>
January 2018	<p>Carl's income consists of 90% fixed sources and 10% non-fixed sources.</p> <p>The PHA must verify all income amounts using third-party verification.</p>	<p>Carl's income is reported to be 90% fixed sources and 10% fixed sources.</p> <p>The PHA may adjust the fixed sources by a COLA or current interest rate obtained from a public source or form tenant-provided, third-party generated documentation.</p> <p>The PHA must verify the non-fixed amounts using third-party verification.</p>

January 2019	<p>Carl's income Consists of 90% fixed sources and 10% non-fixed sources.</p> <p>The PHA must verify all income amounts using third-party verification.</p>	<p>Carl's income is reported to be 90% fixed sources and 10% non-fixed sources.</p> <p>The PHA must verify all income amounts using third-party verification.</p>
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Background: Existing guidance (Notice PIH 2010–19) explains how to identify and verify existing sources of income using HUD's Enterprise Income Verification system. Non-fixed sources of income remain subject to full income-verification requirements. For example, if a family member has both fixed and non-fixed sources of income, this provision may be applied only to the fixed sources of income.

Mandatory or discretionary: Discretionary. Prior to adopting streamlined income determinations, PHAs must amend any policies governing income determinations to identify the sources of income that will be considered eligible for a streamlined income determination. Note:

A PHA that adopts this provision must continue to obtain family member signatures on the consent forms required by 24 CFR 5.230, as if this provision had not been adopted.

Effective date: April 7, 2016

Streamlined Income Determination

Regulation: 24 CFR §§ 5.609(c)(2)(i); 5.657(d); 891.105; 891.410(g)(4); 891.610(g)(4); 960.257(c); and 982.516(b)

HOTMA did not update or otherwise change the streamlined income determination provision codified in the FAST Act and in HUD's regulations found in 24 CFR §§ 5.657(d), 960.257(c), and 982.516(b); however, PHAs should be aware that the adjustments of non-fixed income sources at annual reexamination using third-party verification must follow the HOTMA income calculation rules outlined in Attachment B (Calculating Income) of this notice.

Under current program regulations, PHAs may elect to apply a streamlined income determination for families receiving fixed income using the methodology below. For any income determined pursuant to a streamlined income determination, a PHA/MFH Owner must obtain third-party verification of all income amounts every 3 years.

When 90 percent or more of a family's unadjusted income consists of fixed income, owners using streamlined income determinations must apply a COLA or COLAs to the family's fixed-income sources, provided that the family certifies both that 90 percent or more of their unadjusted income is fixed income and that their sources of fixed income have not changed from the previous year.

Sources of non-fixed income need not be adjusted and must not be adjusted by COLA, but PHAs may choose to adjust sources of non-fixed income by the amount determined based on third-party verification.

PHAs have the discretion to either adjust the non-fixed income or carry over the calculation of non-fixed income from the first year to years 2 and 3. Adjustments to non-fixed income must be calculated in accordance with section 14.2 (Annual Reexamination) of this notice.

When less than 90 percent of a family's unadjusted income consists of fixed income, owners using streamlined income determinations must apply COLA to each of the family's sources of fixed income.

The PHA must determine all other income pursuant to section 14.2 (Annual Reexaminations) of this notice.

The table below explains the applicable PHA action at each point in time in the streamlining cycle.

Table II: PHA Action at Point in Time in Streamlining Cycle

Point in Time in Streamlining Cycle	PHA Action
Year 1	PHA/MFH Owner completes a Move in, Initial Certification (MFH Only) or Annual Reexamination consistent with the regulations on reexaminations.
Years 2 and 3	PHA/MFH Owner completes an Annual Reexamination with the following streamlined income determination for each type of source: <ul style="list-style-type: none"> • Fixed Income: Apply inflation adjustment factor; PHA/MFH Owner does not collect third-party verification. • Non-fixed income when fixed income is more than 90 percent of unadjusted income: PHA/MFH Owner has discretion to either adjust the income using third-party verification or use the previous year's calculation. • Non-fixed income when fixed income is less than 90 percent of unadjusted income: PHA/MFH Owner must adjust the income using third-party verification. • Assets and Deductions: PHA/MFH Owner completes verification and calculation of assets and deductions.
Year 4	Three-year cycle starts over

PHA Discretion: PHAs have the discretion to implement streamlined income determinations under current program regulations.

PHA Policy

The PHA opted not to use the streamline income determination.

PHA will follow the requirement to first determine the family's income for the previous 12-month period and use this amount as the family income for annual reexaminations and will use any adjustments to reflect current income.

Any change of income since the family's last annual reexamination, including those that did not meet the 10% threshold to process an interim reexamination of family income in accordance with the PHA's policies and 24 CFR §§ 5.657(c), 960.257(b), or 982.516(c), will be considered. PHA will also use income from assets that is always anticipated, irrespective of the income examination type. Refer to Chapter 6-IV.D. for more detail.

9-I.C. Applying the Current SSA COLA at Next Annual and Interim Reexamination

Regulations: 24 CFR §§ 5.609(c)(2); 960.257; 982.516; and 891.105

Summary: Annually in October, the Social Security Administration (SSA) announces the cost-of-living adjustment (COLA) by which federal SS and SSI benefits are adjusted to reflect the increase, if any, in the cost of living as measured by the Consumer Price Index for Urban Wage Earners and Clerical Workers prepared by the Bureau of Labor Statistics. The purpose of the COLA is to ensure that the purchasing power of SS and SSI benefits are not eroded by inflation. The federal COLA does not apply to state-paid disability benefits. Additional information regarding the SSA COLA is available online at www.socialsecurity.gov.

Effective the day after SSA has announced the COLA, PHAs are required to factor in the COLA when determining SS and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1 or later of the upcoming year.

Example: Adjusting the SS Benefit by the COLA

Elizabeth Peterson receives \$500 a month (SS benefit). The PHA is processing her annual reexam (in November 2023), which is effective 1/1/2024. The PHA must determine annual SS income as follows:

- Current benefit amount: \$500
- COLA: \$18.00 (\$500 x 3.6 percent [or 0.036])
- New gross SS benefit effective 01/01/2024: \$518.00 (\$500 current benefit + \$18 COLA)
- Annual SS income effective 1/1/2024: \$6,216 (\$518 x 12)

PHA Policy

Effective the day after SSA has announced the COLA, PHA will factor in the COLA for all annual reexaminations and interims of family that have not yet been completed and will be effective January 1 or later of the upcoming year.

9-I.D. ANNUAL REEXAMINATIONS AND CHOICE OF RENT

Once a year, the PHA must give each family the opportunity to choose between flat rent or income-based rent, the two methods for determining tenant rent.²⁰ The PHA must offer each family the choice at the time of annual reexaminations.²¹

Annual reexamination requirements for income-based rent:

- Conduct a full reexamination of family income and composition at lease annually,²²
- Inform the family of the flat rent amount and the income-based rental amount determined by the examination of family income and composition,²³ and
- Inform the family of the PHA policies on switching rent types in the event of financial hardship.²⁴

Annual reexamination requirements for flat rents:

If a family chose a flat rent, the PHA must:

- Conduct a reexamination of income at lease once every 3 years, unless the family is considered an over-income family (Refer to Part V. of this chapter), and reexamination of family composition annually;²⁵
- Use income information from the first annual rent option in the intervening years when the PHA chooses not to conduct a full examination of family income;²⁶
- Inform the family of the updated flat rent amount and the income-based rent amount as determined during the most recent full reexamination;²⁷
- Compare the updated flat rent amount to the previous flat rent amount to determine if a phase-in is required,²⁸ and
- Inform the family of the PHA policies on switching rent types in the event of a financial hardship.²⁹

PHA Policy

For those families who choose to pay income-based rent, the PHA shall conduct a reexamination of income and family composition at least annually and comply with the above requirements.

For families who choose flat rents, the PHA shall conduct a reexamination of family composition at least annually and shall conduct a reexamination of family income at least once every three (3) years [24 CFR 960.257(a)(2)], unless the family is considered an over-income family. The PHA shall comply with the above requirements.

Note: Policies related to the reexamination process for families paying flat rent are also in Chapter 6-VIII.E, with more details.

For flat rent reexamination of family composition (“Annual Update”)

As noted above, full reexaminations are conducted every 3 years for families paying flat rents. In the years between full reexaminations, regulations require the PHA to conduct a reexamination of family composition (“annual update”) [24 CFR 960.257(a)(2)].

The annual update process is like the annual reexamination process, except that the PHA does not collect information about the family’s income and expenses, and the family’s rent is not recalculated following an annual update.

Scheduling

The PHA must establish a policy to ensure that the reexamination of family composition for families choosing to pay the flat rent is completed at least annually [24 CFR 960.257(a)(2)].

PHA Policy

For families paying flat rents, annual updates will be conducted in each of the 2 years following the full reexamination.

In scheduling the annual update, the PHA will follow the policy used for scheduling the annual reexamination of families paying income-based rent as set forth in this chapter.

Conducting Annual Updates

The terms of the public housing lease require the family to furnish information necessary for the redetermination of rent and family composition [24 CFR 966.4(c)(2)].

PHA Policy

Generally, the family will not be required to attend an interview for an annual update. However, if the PHA determines that an interview is warranted, the family may be required to attend.

Notification of the annual update will be sent by first-class mail and will inform the family of the information and documentation that must be provided to the PHA. The family will have 10 business days to submit the required information to the PHA. If the family is unable to obtain the information or documents within the required time frame, the family may request an extension. The PHA will accept required documentation by mail, by email, by fax, or in person.

If the family’s submission is incomplete, or the family does not submit the information in the required time frame, the PHA will send a second written notice to the family. The family will have 10 business days from the date of the second notice to provide the missing information or documentation to the PHA.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

9-I.E. INTERIM REEXAMINATIONS

Interim reexaminations are conducted because of changes in family income, family compositions, or circumstances impacting adjusted annual income that occur between reexaminations. The purpose of an interim reexamination is to determine the continued eligibility of the family and adjust the rent, if necessary. A family may request, and the PHA must process within a reasonable time of the request, an interim reexamination of family income or composition at any time due to changes since the last reexamination.³⁰ The interim reexamination policies must be detailed in the ACOP and in the annual PHA Plan as necessary.³¹

Regulations

24 CFR §§ 5.567(c)(1); 882.515(b)(1); 960.257(b)(1); 982.516(c)(1); 891.105; 891.410(g); and 891.610(g)

A family may request an interim determination of family income or composition because of any changes since the last determination. The PHA must conduct any interim reexamination within a reasonable period after the family request or when the PHA becomes aware of a change in the family's adjusted income that must be processed in accordance with the final rule.

What qualifies as a "reasonable time" may vary based on the amount of time it takes to verify information, but the PHA generally should conduct the interim reexamination not longer than 30 days after the PHA becomes aware of changes in income.

The following subsection focuses on HOTMA's revisions to income reexamination requirements. The final rule changes the conditions under which interim reexaminations must be conducted, codifies when interim reexaminations should be processed and made effective, and requires related changes for annual reexaminations and streamlined income determinations. When the PHA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income.

For example, if the family is reporting a decrease in annual adjusted income that is more than 10 percent, but the family also had a change in assets that would result in a change in income, the change in assets must also be reviewed. HUD recommends as a best practice that PHAs maintain documentation of all reported decreases in annual adjusted income in the family's file, including those that did not result in an interim reexamination. HUD also recommends reviewing the applicable regulations to ensure that any program-specific reexamination requirements are addressed¹².

A. Decreases in Adjusted Income

Regulations: 24 CFR §§ 5.657(c)(2); 882.515(b)(2); 891.105; 891.410(g)(2); 891.610(g)(2); 960.257(b)(2); and 982.516(c)(2)

Summary: A family may request an interim determination of family income for any change since the last determination. However, the PHA may decline to conduct an interim reexamination of family income if the PHA estimates that the family's adjusted income will decrease by an amount that is less than 10 percent of the family's annual adjusted income. PHAs have the discretion to set a lower percentage threshold, in which case that lower percentage threshold must be included in the ACOP, Administrative Plan, or Tenant Selection Plan, as applicable.

PHAs must conduct an interim reexamination of family income when the PHA becomes aware that a family's annual adjusted income has changed by an amount that the PHA estimates will result in a decrease of 10 percent or more in annual adjusted income or a lower threshold set by HUD or by a PHA in their ACOP, Administrative Plan, or Tenant Selection Plan, as applicable.

In addition to decreases in family income, increases in deductions may produce a sufficient decrease in adjusted income to support an interim reexamination effective January 1, 2024, or later.

HUD is using its discretion, as authorized by HOTMA, to establish a lower threshold through notice to process interim reexaminations under certain circumstances. Specifically, HUD is requiring PHAs to apply a 0-percent threshold and to process an interim reexamination when there is a decrease in family size attributed to the death or permanent move-out from the assisted unit of a family member during the period since the family's last reexamination that results in a decrease in adjusted income of any amount. If there is no change/decrease in adjusted income as a result of the decrease in family size, then a non-interim transaction is processed instead of an interim reexamination. This 0-percent threshold for interim reexamination applies only to decreases in family size that result in a **decrease** in adjusted income.

If the net effect of the changes in annual adjusted income due to a decrease in family size results in an **increase** in annual adjusted income, then PHA will process the removal of the household member(s) as a non-interim reexamination transaction **without** making changes to the family's annual adjusted income.

Example 1: Interim Reexaminations / Decreases in Annual Adjusted Income

Scenario A: A family with an annual adjusted income of \$9,600 experiences a change in household composition and becomes eligible for two dependent deductions totaling \$960, resulting in a 10-percent decrease in the family's adjusted income. The \$960 decrease in the family's adjusted income would require an interim reexamination, because the income decrease meets the 10-percent threshold for an interim reexamination.

Scenario B: A family experiences an increase in deductible child-care expenses from \$0 to \$12,000 annually. Before the change, their annual adjusted income was \$40,000. Since the child-care expense deduction results in a greater than 10-percent reduction in annual adjusted income, an interim reexamination is required.

Scenario C: A family with an adjusted income of \$9,600 adds a dependent family member with no income. This would result in an adjusted income decrease of \$480 due to the dependent deduction. The decrease does not meet the 10-percent threshold of the family's adjusted income, and because this is a family member joining the assisted unit (as opposed to a decrease a family size). The PHA is not required to conduct an interim reexamination. However, the PHA has adopted a policy that has decreased the threshold from a 10-percent change to a 5-percent change, therefore the decrease would meet the threshold, triggering an interim reexamination.

Scenario D: A family member moved out of the assisted unit. The family's adjusted income prior to the change in household composition was \$20,000, but that number decreased to \$18,000 when the family member moved out. Since HUD requires PHAs to process decreases in adjusted income greater than 0 percent due to decreases in family size, the PHA must process an interim reexamination.

Scenario E: A family member moves into the assisted unit who receives \$20,000 in pension income (which is more than 10% of the household's adjusted income). At the same time, the head of household got a new job that increases the household's income by \$15,000 per year. The PHA will process the increase in pension income due to the new household member but will not include the head of household increase in earned income until the next annual reexamination.

PHA Discretion: PHAs may establish a percentage threshold lower than 10 percent of annual adjusted income for processing interim reexaminations due to decreases in a family's annual adjusted income. PHA must identify in their ACOPs, Administrative Plans, and Tenant Selection Plans, as applicable, the percentage threshold they will use for conducting interim reexamination decreases of a family's annual adjusted income. PHAs **are not permitted** to establish a dollar-figure threshold amount instead of a percentage threshold. PHAs may establish policies to round calculated percentage decreases up or down to the nearest unit (e.g., a calculated decrease of 9.5 percent may be rounded up to 10 percent).

PHA Policy

The PHA opted to establish a percentage threshold of 10 percent of annual adjusted income for processing interim reexaminations due to decreases in a family's annual adjusted income. PHA opted to establish round calculated percentage decreases down to the nearest unit (e.g., a calculated decrease under 10% shall be rounded down to 9 percent -e.g. 9.7 will be rounded down to 9 percent). Note: The PHA will document in the tenant file all the family's reported changes and will document the reason for not conducting an interim at the time.

As required, the PHA shall apply a **0-percent threshold** to process an interim reexamination **when there is a decrease in family size** attributed to the death or permanent move-out from the assisted unit of a family member during the period since the family's last reexamination that results in a decrease in adjusted income of any amount. If there is no change/decrease in adjusted income because of the decrease in family size, then a non-interim transaction is processed instead of an interim reexamination.

This 0-percent threshold for interim reexamination applies only to decreases in family size that result in a **decrease** in adjusted income.

If the net effect of the changes in annual adjusted income due to a decrease in family size results in an **increase** in annual adjusted income, then PHA will process the removal of the household member(s) as a non-interim reexamination transaction **without** making changes to the family's annual adjusted income.

B. Increases in Adjusted Income

Regulations: 24 CFR §§ 5.657(c)(3); 882.515(b)(3); 960.257(b)(3); and 982.516(c)(3); 891.105; 891.410(g)(2); and 891.610(g)(2)

Summary: PHAs must conduct an interim reexamination of family income when the PHA becomes aware that the family's adjusted income has changed by an amount that the PHA estimates will result in an increase of 10 percent or more in annual adjusted income or another amount established through a HUD notice, with the following exceptions:

- PHAs **may not** consider any increases in **earned income** when estimating or calculating whether the family's adjusted income has increased, **unless the family has previously received an interim reduction** during the same reexamination cycle; and
- PHAs may choose not to conduct an interim reexamination during the last three months of a certification period if a family reports an increase in income within three months of the next annual reexamination effective date.

Note: Families who delay reporting income increases until the last three months of their certification period may be subject to retroactive rent increases in accordance with the PHA's policies.

PHAs **must not** process interim reexaminations for income increases that result in less than a 10-percent increase in annual adjusted income.

When the family previously received an interim reexamination for a decrease to annual adjusted income during the same annual cycle, a PHA has the discretion to consider or

ignore a subsequent increase in **earned** income for the purposes of conducting an interim reexamination.

PHAs must identify in their ACOPs, Administrative Plans, and Tenant Selection Plans, as applicable, if they perform interim reexaminations for **earned** income increases that result in a 10-percent increase in annual adjusted income.

If a PHA has a policy of considering increases in earned income after an interim conducted for a decrease in income, and the family's adjusted income has increased by 10 percent or more, the PHA must conduct an interim reexamination in accordance with local policies. Conversely, PHAs that adopt local policies to never consider increases in **earned** income must not perform an interim reexamination.

A series of smaller reported increases in adjusted income may cumulatively meet or exceed the 10-percent increase threshold, at which point the PHA must conduct an interim reexamination.

When an increase of any size is reported by a family, it is a recommended best practice for the PHA to note the reported increase in the tenant file.

Example 2: Interim Reexaminations / Increases in Annual Adjusted Income

Scenario A: The Martinez family's annual reexamination is due on 11/1/2024. The family no longer has child-care expenses for their three children. The family stopped paying for daycare as of 8/31/2024 and reported the change (and certified no other changes to annual household income or expenses) to the PHA on 9/7/2024, resulting in an estimated 15-percent increase in the family's annual adjusted income. Although 15 percent is well above the 10-percent threshold, the PHA does not process an interim reexamination, because they have a policy to not process changes reported within three months of the next annual reexamination. **Note: BHA's does have a policy to process an interim with changes reported within three months of the next annual reexamination.**

Scenario B: The Allen family had an annual adjusted income of \$29,000 as of their last annual reexamination effective 5/1/2024. The family experienced the following changes to income and household composition since 5/1/2024:

- In July, the Allen family's eldest child, Kristina Allen (age 20), starts going to college full-time on a Pell Grant. Kristina is not employed, nor does she receive any other type of student financial assistance. The family now qualifies for a \$480 dependent deduction, because full-time students are considered dependents.
- The family reports Kristina's student status to the PHA, which noted the change in the family's file. The PHA is not allowed to perform an interim reexamination, because the dependent deduction represents a 1.7-percent decrease in the family's annual adjusted income, and the PHA did not establish a threshold lower than 10 percent for interim decreases in income.
- In October, the family added an adult family member, Tom Smith, to the household. The new adult family member receives a pension of \$275 monthly, or \$3,300 annually.
-

The PHA determined that the Allen family's new annual adjusted income is \$31,820, accounting for both the addition of Tom's pension income and the deduction of the full-time student dependent allowance for Kristina. The Allen family's annual adjusted income increased a total of \$2,820, or only 9.7 percent. Since this increase is below the 10-percent threshold, the PHA will not conduct an interim reexamination. Instead, they will process a non-interim transaction to add Tom to the family without changing the family's annual adjusted income effective 10/1/2024.

Scenario C: The Nguyen family's last annual reexamination was 4/1/2024. In June 2024, Patrick Nguyen lost his job, and the family's adjusted income fell from \$25,000 to \$13,000. The PHA conducted an interim reexamination for the decrease in income. In November 2024, Kelly Nguyen finds a job, and the family's adjusted income rises to \$18,000. The PHA has a policy of considering increases in earned income when an interim reexamination has been performed for a decrease in income. Since the family's adjusted income has increased by more than 10 percent when including earned income, and the family previously received an interim reduction during the same reexamination cycle, the PHA will conduct an interim reexamination for the increase.

Scenario D: The Mosberg family had an annual adjusted income of \$35,909 based on earned income (and two dependent deductions) as of the last annual reexamination effective 6/1/2024. The family experienced the following changes to income since 6/1/2024:

- In August, Libby reported she received a raise at work, increasing her annual earned income by \$2,650. She also recently started receiving monthly child support payments of \$150, or \$1,800 annually. She reported no other changes to the PHA.
- While the **combined** increase of earned income (wages) and unearned income (child support) is a 12.3-percent increase in annual adjusted income since the 6/1/2024 annual reexamination, the PHA must look at the earned and unearned income changes independently to determine if an interim reexamination should be performed. The earned income is about 7 percent of the increase, and the unearned income is approximately 5 percent of the total 12.3-percent increase.

The PHA documented in the tenant file that the family reported the change, but an interim reexamination was **not** performed, because the 5-percent increase in annual adjusted income based on **unearned** income does not meet the 10-percent threshold. Further, the PHA may not perform an interim reexamination for Libby's 7-percent increase in annual adjusted income based on **earned** income, because an interim reexamination for an income decrease during the reexamination cycle was not completed **and** it does not meet the 10-percent threshold to perform an interim.

Note: Even if Libby's change in earned income had exceeded 10 percent of her annual income, the PHA may not perform an interim reexamination, because there was no prior interim reexamination for a decrease in income.

In November, Libby reported that her monthly child support payments increased again, from \$150 to \$325. She certified no other changes to income or deductions. Libby's annual **unearned** income from child support of \$3,900 is now a 10.8-percent increase in annual adjusted income (based on the effective 6/1/2024 annual reexamination), so the PHA **must** perform an interim reexamination, but only for the **unearned** child support income. The PHA will continue to disregard the increased **earned** income reported by the family until Mosberg's next annual reexamination.

PHA Discretion: PHAs have discretion on the following policies:

- Whether the PHA will conduct interim reexaminations for income increases reported by families within the last three months of a family's reexamination period; and
- Whether the PHA/MFH Owner will count increases in earned income when estimating or calculating whether the family's adjusted income has increased when the family previously received an interim reduction during the same reexamination cycle and whether they will conduct interim reexaminations when families previously underwent interim reexaminations for decreases in income (both earned and unearned income).

PHAs must establish policies for the above-discretionary items in their ACOPs, Administrative Plans, and Tenant Selection Plans, as applicable.

PHA Discretion: None.

PHA Policy

As required, the PHA will comply with HOTMA's revisions to income reexamination requirements listed above.

- The PHA opted to conduct interim reexaminations for income increases reported by families within the last three months of a family's reexamination period.
- PHA opted to count increases in earned income when estimating the family's adjusted income increased when the family previously received an interim reduction during the same reexamination cycle. The PHA will conduct interim reexaminations when families previously underwent interim reexaminations for decreases in income (both earned and unearned income).

The PHA will conduct an interim reexamination of family income when the PHA becomes aware that the family's adjusted income has changed by an amount that the PHA estimates will result in an increase of 10 percent or more in annual adjusted income, **except** when the increase is in earned income, unless the family has previously received an interim reduction during the same reexamination cycle.

The PHA will conduct an interim reexamination during the last three months of a certification period if a family reports an increase in income within three months of the next annual reexamination effective date. Families who delay reporting income increases until the last three months of their certification period shall be subject to retroactive rent increases in accordance with the PHA's policies. However, the PHA **will not** process interim reexaminations for income increases that result in less than a 10-percent increase in annual adjusted income. Nevertheless, if a family previously received an interim reexamination for a decrease to annual adjusted income during the same annual cycle, the PHA will consider the subsequent increase in **earned** income for the purpose of conducting an interim reexamination.

When a **combined** increase of earned income (wages) and unearned income (child support) is reported, the PHA will look at the earned and unearned income changes independently to determine if an interim reexamination should be performed. For example, combined income can total 12.3 percent, the earned income at about 7 percent of the increase, and the unearned income at about 5 percent. Refer to Example 2: Scenario D. above.

Documenting Tenants' Files:

The PHA will document in the tenant file all the family's reported changes and will document the reason for not conducting an interim at the time. When an increase of any size is reported by a family, the PHA shall note the reported increase in the tenant file through an income change form signed by the tenant.

Over-Income Tenants:

Refer to Part VI that contains over-income policies.

C. Non-Interim Reexamination Transactions

Regulations: 24 CFR §§ 5.657(c)(2) 891.105; 891.410(g)(2); and 891.610(g)(2)

Families may experience changes within the household that do not trigger an interim reexamination under HOTMA but still need to be reported in a non-interim reexamination submission to HUD.

In these cases, PHAs will submit a separate, new action code on form HUD-50058. Further instructions on the use of this action code will be provided along with supplemental guidance on other revisions to forms HUD-50058.

The code will be used for the following transaction types when an interim reexamination is not triggered under the final rule:

- Adding or removing a hardship exemption for the child-care expense deduction;
- Updating or removing the phased-in hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction (the phased-in relief will begin at an eligible family's first annual or interim reexamination, whichever is sooner, after January 1, 2024);
- Adding or removing general hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction;
- Adding or removing a minimum rent hardship;
- Adding or removing a non-family member (i.e., live-in aide, foster child, foster adult);

- Ending a family's EID or excluding 50 percent (decreased from 100%) of a family member's increase in employment income at the start of the second 12-month EID period.
- Adding a family member and the **increase in adjusted income** does not trigger an interim reexamination under the final rule;
- Removing a family member and the **increase in adjusted income** does not trigger an interim reexamination under the final rule;
- Adding/Updating a family or household member's Social Security number; and
- Updating a family member's citizenship status from eligible to ineligible or vice versa, resulting in a change to the family's rent and/or utility reimbursement, if applicable (i.e., family begins receiving prorated assistance or previously prorated assistance becomes full assistance), or updating the prorated rent calculation due to the addition or removal of family members in household with an ineligible noncitizen(s).

PHA Policy

For any family who experiences changes within the household that do not trigger an interim reexamination under HOTMA, the PHA will submit a separate, new action code on form HUD-50058 revision.

D. Calculating Income for New Admissions and Interim Reexaminations

Regulations: 24 CFR §§ 5.609(c)(1); 882.515; 891.410(c) and (g)(2); 891.610(c) and (g)(2); 960.257; and 982.516

When calculating a household's income, including asset income, at the time of **admission** to the program **or** during **interim reexaminations**, **PHAs must use anticipated income** (current income) (i.e., the family's estimated income for the upcoming 12-month period). This requirement is consistent with the pre-HOTMA process for conducting income examinations at admission and for interim reexaminations.

PHA Policy

The PHA will comply with requirements. Refer to Chapter 6 Part IV.

E. Policies for Families to Report Changes to Annual Adjusted Income or Household Composition

Regulations: 24 CFR §§ 5.657(c)(4); 882.515(b)(1)–(4); 882.808(i)(4); 891.105; 891.410(g)(2); 891.610(g)(2); 960.257(b)(4); and 982.516(d)

PHAs must require families to report household composition changes; however, PHAs determine the timeframe in which reporting happens. PHAs must develop policies that describe when and under what conditions families must report

changes in annual adjusted income consistent with the new requirements for processing interim reexaminations.

PHAs are responsible for educating families on the requirements for reporting changes. Families are responsible for reporting these changes to the PHA. It is the PHA's responsibility to track all reported changes to a family's annual adjusted income to ensure that the PHA is correctly processing interim reexaminations in accordance with HUD's requirements.

A PHA's policies may require families to report only changes that the family estimates meet the threshold for an interim reexamination, and the PHA must determine if an interim reexamination is necessary.

Alternatively, PHAs may establish policies requiring that families report all changes in income and household composition, and the PHA will subsequently determine if the change requires an interim reexamination.

PHA Discretion: PHAs have the discretion to develop specific reporting policies that describe which changes must be reported to the PHA and the timeline for reporting the change. **For example**, PHAs may develop policies stipulating that families are not required to report any income increases that become effective within the last three months of the family's certification period, or PHAs may develop policies requiring families to report all changes to household composition, income, and deductions within 10 days of the change.

PHA Policy

The PHA requires all requests for changes listed below be in writing on a PHA format form and signed by Head or Co-Head of household.

Family Composition Change:

Tenants must report to the PHA all changes in **family composition** within 10 calendar days of the occurrence.

Failure to report within 10 calendar days may result in a retroactive rent charge. [966.4 (c)(2)]

As required, the PHA will process a decrease in adjusted income greater than 0 percent due to decrease in family size. However, if a new member is added with income that results in 10 percent or more of the adjusted income, the PHA will process an interim increase. If it is less than 10 percent, the income will be counted for the next annual reexamination, unless the families previously underwent interim reexaminations for decreases in income (both earned and unearned income).

Reporting of Unearned Income:

Tenants must report to the PHA with 10 calendar days of the occurrence, all changes in **unearned income** (e.g. child support, alimony, SS, SSD, SSI, TANF, pension, unemployment benefits, etc.). If unearned income results in an increase of 10 percent or more in annual adjusted income, the PHA will conduct an interim increase. If the changes result in less than 10 percent in annual adjusted income, the PHA will not count the unearned income until the next annual reexamination.

Reporting of Earned Income:

Tenants are not required to report **earned income** increases such as raises or new jobs, until their next annual reexamination review, unless the families previously underwent interim reexaminations for decreases in income (both earned and unearned income). Then the PHA will conduct an interim reexamination.

However, tenants are required to report to the PHA within 10 calendar days of the occurrence, **income increases within the last three months** of a family's reexamination period.

Reporting Expenses Deductions

Tenants must report to the PHA within 10 calendar days of occurrence, any request for **deductions** that results in a decrease or increase of 10 percent or more in annual adjusted income. Then the PHA will conduct an interim reexamination.

Tenants must report to the PHA within 10 calendar days of occurrence, any request for childcare expenses deduction or for **hardship exemption** to continue childcare deduction, or for a **general relief financial hardship**. Refer to Chapter 6 Part V.

Documenting Tenant's Files:

The PHA will track all reported changes to a family's annual adjusted income to ensure that the PHA is correctly processing interim reexaminations in accordance with HUD's requirements. The PHA will document in the tenant's file all the family's reported changes and document the reason for not conducting an interim at the time. To ensure that the tenants' files are being documented, the PHA requires all changes to be made in writing in a BHA format form to be signed by the tenants and the staff receiving the changes reported.

F. Processing Time Period for Interim Reexaminations

Regulations: 24 CFR §§ 5.657(c)(1); 882.515(b)(1); 891.105; 891.410(g)(2); 891.610(g)(2); 960.257(b)(1); and 982.516(c)(1)

The updated regulations codified long-standing guidance on how long PHAs should take to process an interim reexamination.

Families may request an interim determination of income or household composition because of any changes since the last determination. While the PHA may decline to conduct an interim reexamination of family income if they estimate the family's annual adjusted income will change by less than 10 percent, when the PHA conducts an interim reexamination, it must be conducted within a reasonable period after the family's request or after the PHA becomes aware of an increase in the family's adjusted income.

What qualifies as a "reasonable time" may vary based on the amount of time it takes to verify information, but the PHA generally should conduct the interim reexamination **not longer than 30 days** after the PHA becomes aware of changes in income.

PHA Discretion: None.

PHA Policy

The PHA will comply with requirements.

G. Effective Date of Interim Rent Changes

Regulations: 24 CFR §§ 5.657(c)(5); 882.515(b)(4)–(b)(5); 891.105; 891.410(g)(2); 891.610(g)(2); 960.257(b)(6); and 982.516(c)(4)

The updated regulation codified long-standing guidance on when interim reexaminations are made effective.

- **Changes Reported Timely:** If the family has reported a change in family income or composition in a timely manner according to the PHA policies, then the PHA must provide the family with a 30-day advance notice of any rent increases, and such rent increases will be effective the first day of the month beginning after the end of that 30-day period. If the tenant has complied with the interim reporting requirement and the tenant's rent is anticipated to decrease, rent decreases will be effective on the first day of the month after the date of the actual change leading to the interim reexamination of family income. This means the decrease will be applied retroactively.

- **Changes Not Reported Timely:** If the family has failed to report a change in family income or composition in a timely manner according to the PHAs' policies, PHAs must implement any resulting rent increases retroactively to the first day of the month following the date of the change leading to the interim reexamination of family income. Any resulting rent decrease must be implemented no later than the first rent period following completion of the reexamination. The PHA may choose to adopt a policy that would make the effective date of an interim reexamination retroactive to the first of the month following the date of the actual decrease in income as opposed to the first of the month following completion of the reexamination. PHAs may also choose to establish conditions or requirements for when such a retroactive application would apply (e.g., where a 108 family's ability to report a change in income promptly may have been hampered due to extenuating circumstances such as a natural disaster or disruptions to the PHA management operations).

PHAs that choose to adopt such policies must ensure the earliest date that the retroactive decrease is applied is the later of the first of the month following the date of the change that led to the interim reexamination, or the first of the month following the most recent previous income examination (i.e., most recent interim or annual reexamination or the family's initial examination if that was the family's only income examination before the interim reexamination in question).

In applying a retroactive change in rent or family share as the result of an interim reexamination, the PHA must clearly communicate the effect of the retroactive adjustment to the family so that there is no confusion over the amount of the rent that is the family's responsibility. These policies may reduce the potential hardship on families and eliminate or significantly reduce the amount a family may owe the PHA for back rent if the family has had difficulty in making timely rent payments during the time between the loss of income and the interim reexamination. An exception to the requirement that a PHA implement resulting rent increases retroactively to the first of the month following the date of the change leading to the interim reexamination exist if a PHA failed to process a family's interim reexamination because the family did not timely report an income decrease, as illustrated in example, scenario D, below.

Example: Effective Date of Interim Rent Change

Scenario A: The Miller family had a decrease in family income that met the threshold due to the loss of a job on 6/2/2024. They reported the decrease to the PHA in accordance with the PHA policies on 6/15/2024. The interim reexamination must be effective 7/1/2024, regardless of when the PHA processes the interim reexamination.

Scenario B: The Leon family had an increase of 10 percent or more in annual adjusted income on 6/1/2024 due to receiving a new type of benefit income. The increased income meets the threshold to require an interim. They reported the increase to the PHA in accordance with local policies on 6/20/2024. The PHA did not process the interim reexamination until 7/11/2024, so the effective date of the interim reexamination is 9/1/2024 to give the family the required 30-day notice of the increase in total tenant portion.

Scenario C: The Nguyen family had a family member join the household, thereby increasing the annual adjusted income by 10 percent or more due to the new member's Social Security income starting on 8/1/2024. The increased income meets the threshold to require an interim. However, the change in income was not reported to the PHA until 9/15/2024. The PHA has a policy requiring a family to report changes in family income within 30 days. Because the family failed to alert the PHA of the increase in income in accordance with the PHA's policy, the increased income is effective retroactive to 9/1/2024, the first of the month following the date of the income change.

Scenario D: The Housseini family's current annual reexamination is effective on 2/1/2024. A member of the Housseini family lost their job on 1/2/2024, but the family failed to report the change until 4/5/2024. If the PHA has a written policy allowing for retroactive rent decreases even when the family does not report changes timely, the retroactive rent decrease could be applied on 3/1/2024 (the first of the month following the family's most recent previous income examination).

PHA Discretion: PHAs must establish policies describing when and under what conditions a family is required to report changes in family income or composition to meet the "timely manner" requirement. PHAs must update their Administrative Plans, ACOPs, or Tenant Selection Plans, as applicable, to include these policies and must communicate them clearly to participating families.

PHAs may adopt a policy to apply rent decreases retroactively for circumstances in which families fail to report changes in a timely manner. A retroactive rent decrease may not be applied prior to the latter of either the first of the month following the date of the actual decrease in income, or the first of the month following the most recent previous income examination. PHAs may establish additional criteria to describe the conditions under which retroactive decreases will be applied (e.g., the kinds of extenuating circumstances that may inhibit timely reporting). In all cases of retroactive application, the PHA must clearly communicate to the family how the retroactive adjustment will affect their responsibility for rent.

PHA Policy

The tenant will be notified in writing of any rent adjustment. All notices will state the effective date of the rent adjustment.

Changes Reported Timely:

Rent Increases: If the family has reported a change in family income or composition in a timely manner according to the PHA policies, then the PHA will provide the family with a 30-day advance notice of any rent increases, and such rent increases will be effective the first day of the month beginning after the end of that 30-day period. **Note:** Any rent increases due to a change in Federal law or regulation, the increase will become effective on the first day of the second month following the month in which the PHA notifies the tenant of the law or regulatory change.

Rent Decreases: If the tenant has complied with the interim reporting requirement, the rent decreases will be effective on the first day of the month after the date of the actual change leading to the interim reexamination of family income. This means the decrease will be applied retroactively.

Changes Not Reported Timely:

Rent Increases: If the tenant has failed to report a change in family income or composition in a timely manner according to the PHA's policies, the PHAs will implement rent increases retroactively to the first day of the month following the date of the change leading to the interim reexamination of family income. No 30 days' notice is required.

Rent Decreases: If the tenant failed to report a change in family income or composition in a timely manner according to the PHA's policies, the rent decrease will be implemented no later than the first rent period following completion of the reexamination. **However**, in the case of the tenant's inability to report changes in family income or composition due to extenuating circumstances such as hospitalization, a natural disaster or disruptions to the PHA management operations, the PHA will make the effective date of an interim reexamination retroactive to the first of the month following the date of the actual decrease in income as opposed to the first of the month following completion of the reexamination.

H. Impact of Interim Reexamination Requirements on Family Self-Sufficiency (FSS) Programs

PHAs who operate FSS programs should note two effects that the new interim reexamination regulations will have on families participating in their FSS programs.

First, HOTMA requires that interim reexaminations must be conducted:

(1) when a family's income decreases by at least 10 percent of their annual adjusted income, or such lower threshold established by a PHA or by HUD through notice; or

(2) when a family's income increases by at least 10 percent of their annual adjusted income or such other amount established by HUD through notice, except in certain circumstances as described earlier in paragraph I.2 (Increases in Adjusted Income)

PHAs may not consider any increases in earned income when estimating or calculating whether the family's adjusted income has increased unless the family has previously received an interim reduction during the same reexamination cycle.

Families participating in the FSS program are subject to these interim requirements, therefore their escrow accounts may not grow as their earnings increase throughout the year.

Second, the "Streamlining and Implementation of Economic Growth, Regulatory Relief, and Consumer Protection Act Changes to Family Self-Sufficiency Program" final rule states that the FSS contract of participation (COP) will generally expire 5 years from the date of the family's first re-certification of income after the effective date of the FSS COP.

The PHA may not perform an interim reexamination of annual income when enrolling a family in the FSS program unless the family experienced a change in annual adjusted income that meets the threshold for conducting an interim reexamination under the HOTMA final rule.

Families for whom their first reexamination of income does not occur until their regularly scheduled annual reexamination will not have the opportunity to begin escrowing their increased earnings until that time and may have fewer escrow increases over the life of the 5-year contract.

Although families participating in FSS may experience fewer escrow increases under the HOTMA final rule, the revised interim reexamination regulations may provide these families the opportunity to use their increased earnings to realize other short- or long-term goals outside of the scope of the FSS program, such as investing in a hobby, going on a vacation with family, purchasing a car, etc.

PHA Discretion: None

Change in Household Size:

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. The PHA may use the results of the annual updates to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are in Chapter 12.

PHA Policy

At the time of an interim, the PHA will monitor any changes in unit size and family composition to ensure any transfer due to the appropriate unit size. If a transfer is due, the PHA will initiate a transfer application process according to the PHA policy in Chapter 12.

PART II: MANAGING THE ANNUAL REEXAMINATION PROCESS

6-II.A. Overview

Generally, PHAs have flexibility in how they manage their reexamination process to maintain a balanced workload. These flexibilities include setting effective dates for reexamination, conducting mail-in or in-person interviews and monitoring the overall process. Best Practices for Managing the Annual Reexamination Process/Tips:

- Know the reexamination schedule for the entire year and update the schedule regularly;
- Begin the reexamination process on time to avoid missed deadlines. Ideally, the timeframe for initiating reexaminations is 120 days prior to the family's anniversary date. This will allot time to interview the family, verify information, process the calculations and set the effective date for the family's anniversary annually after providing the appropriate notice of any rent changes;
- Allocate adequate staff and other resources for the volume of reexaminations due;
- Prepare written procedures governing the reexamination process and enforce their use.
- Assigned clear staff responsibility for completing reexaminations and supervising work;
- Train staff members and hold them accountable for on-time completion;
- Review the seasonality of annual reexamination and, if necessary, conduct some annual reexaminations early to avoid experiencing months with an inordinately high number of annual reexaminations due;
- Develop tracking system that documents every stage of the reexamination process. (These systems may be manual handwritten logs or automated spreadsheets or software programs);
- Develop a reporting system (manual or automated) that summarizes activities and outcomes on a monthly or more basis;
- Avoid delayed responses from third parties to prevent untimely verification of information. Use other permissible verification methods without delay;
- Perform regular quality control reviews of completed reexamination consistent with requirements;
- Implement employees' recognitions and reward programs to encourage timely and efficient performance; and

- Regularly evaluate success and consider changes to system, policies, procedures, and staff training programs that might improve the overall process.

6-II.B. Effective Date of Annual Reexamination - Reexamination Cycle

PHA have discretion when determining when they will complete Annual Reexamination. However, HUD requires that the effective date of the reexamination for a family payment in-based rent occur no more than 12 months after the previous annual reexamination or new admission effective date.³²

PHAs typically align a family's annual reexamination effective date with the anniversary of their admission in the program or their last interim reexamination. Neither of these methods are required but are considered best practices for ease of scheduling and reporting.

Establishing the Reexamination Cycle: When a PHA chooses to establish reexamination cycles, based on the date of program admission, the family's annual reexamination will be due the same date every year.

PHA Policy

The PHA will comply with all HUD's requirements. The PHA has determined to schedule annual reexaminations to coincide with the family's anniversary date.

The PHA will begin the annual reexamination process approximately 120 days in advance of the scheduled effective date. If the family transfers to a new unit, the anniversary date will NOT change.

Anniversary date is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

6-II.C. Mail-in Versus In-person Reexaminations:

HUD does not require that PHAs conduct in-person interviews as a part of the annual reexamination process. Some PHAs choose to complete some or all reexamination via mail, while others request that some or all tenants appear in person, per the PHA's ACOP policy. However, all PHAs are required to conduct reexaminations in alternative formats to reasonably accommodate individual with disabilities who may be unable to attend a face-to-face interview because of their disability.³³ Accommodation may include conducting a home visit to complete the reexamination process.

PHA Policy

Tenants are required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, or cohead.

For all Senior and Disabled High-Rises:

Based on experience, the PHA has chosen to conduct in-person interviews at each building location to facilitate the interview process for the elderly and disabled tenants and ensure that all forms are filled out and signed correctly. If participation in an in-person interview poses a hardship because of a tenant's disability, the family should contact the PHA to request reasonable accommodation (e.g. home visit, or via-mail, etc.)

For all Family Developments:

The PHA has chosen to conduct phone interviews and then have the tenants report to the management office to sign all reexamination documents and provide requested documents needed to complete the reexamination process. If participation in a phone interview or reporting to the office to sign and provide documents poses a hardship because of a tenant's disability, the family should contact the PHA to request reasonable accommodation (e.g. home visit, or via-mail, etc.)

Note: In the case of natural disaster or pandemic, the PHA may conduct mail-in or phone interviews for all tenants according to the circumstances.

6.II.D. Effective Communication, Reasonable Accommodations, and Limited English Proficiency Requirements

All notifications and communications must ensure effective communication for individuals with disabilities. PHAs must provide appropriate auxiliary aides and services necessary to ensure effective communication, which includes ensuring that information is provided in appropriate accessible formats as needed, e.g., Braille, audio, large type, assistive listening devices, and sign language interpreters. PHAs must provide reasonable accommodations for individuals with disabilities throughout the reexamination process and may not require individuals with disabilities to make either a new reasonable accommodation request or provide additional documentation during the reexamination process for existing accommodation that have already been granted.

PHAs must also take reasonable steps to ensure meaningful access and activities to individuals with limited English proficiency. Refer to HUD's Final Guidance to Federal Financial Assistance Recipients: Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (LEP Guidance) (72 Fed. Reg. 2732 (January 22, 2007)). LEP guidance and LEP information is available on HUD's website.

PHA Policy

The PHA shall make every effort to provide notifications and communications to ensure effective communication for individuals with disabilities. The PHA shall provide appropriate auxiliary aides and services necessary to ensure effective communication, which may include ensuring that information is provided in appropriate accessible formats as needed, e.g., Braille, audio, large type, assistive listening devices, and sign language interpreters.

PHA shall provide reasonable accommodations for individuals with disabilities throughout the reexamination process and will not require individuals with disabilities to make either a new reasonable accommodation request or provide additional documentation during the reexamination process for existing accommodation that have already been granted.

The PHA shall also take reasonable steps to ensure meaningful access and activities to individuals with limited English proficiency.

6.II.E. Tracking the Reexamination Process

It is important that the PHA has tracking and monitoring procedures and systems in place to ensure that the required reexamination for each assisted family is initialed and completed on time.

Most PHAs have a system of record with reporting features to help staff monitor and track the annual reexamination process. Housing software programs can identify reexamination due dates and monitor PHA monthly reexamination activity through computer-generated reports. Most software systems allow for reporting on various date-driven fields. The dates tracked for each family might include:

- Lease effective date;
- Reexamination effective date;
- Initial reexamination notification date;
- Second notice date;
- Termination notices date;
- Notice of rent adjustment date; and
- Next annual reexamination date.

PHA's computer software generally has the capability to provide audits reports identifying outstanding annual reexaminations. PHAs are strongly encouraged to review HUD's IMS/PIC system Reexamination Module to identify late annual reexaminations. Many PHAs also maintain internal electronic reexamination activities or progress logs. These logs are used to assist staff in managing the on-time completion of the re-examination process and are considered a best practice.

PHA Policy

The PHA has tracking and monitoring procedures and systems in place to ensure that the required reexamination for each assisted family is initialed and completed on time.

The PHA has a software program to identify reexamination due dates and monitor monthly reexaminations through computer-generated reports. Each month a report is printed showing a list of all the upcoming annual reexaminations that are due for the staff to start the reexamination process 120 days before the effective date of the assisted families' annual reexaminations.

To ensure that the annual reexamination for each assisted family is initiated and completed on time, the PHA has established a reexamination checklist for the staff to track and monitor reexamination procedures. Each month the PHA's information system department generated a report to ensure that the reexamination for each assisted family was completed in a timely manner.

Initial Reexamination Notification

Notification of annual reexamination interviews will be sent by first-class mail and will contain the date, time, and location of the interview. In addition, it will inform the family of the information and documentation that must be provided.

If the tenant is unable to attend a scheduled interview, the tenant is required to contact the PHA in advance of the interview to reschedule the interview appointment.

Second Notice Date

If the tenant does not attend the scheduled interview, the PHA will send a second notification with a new interview appointment time.

Termination Notice

If a tenant fails to attend two scheduled interviews without PHA approval, the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

Notice of Rent Adjustment

Once the annual reexamination process is completed for each assisted family, the PHA will send the notice of rent adjustment by first-class mail. Once the tenant receives their notice with their actual rent adjustment, they have 30 days from the receipt of their notice of rent adjustment to change their rent choice that they made upon the date of their reexamination interview due to an anticipated rent amount given.

6-II.F. Conducting the Annual Reexaminations

The terms of the public housing lease require the family to furnish information regarding income, assets, and family composition as may be necessary for the redetermination of rent, eligibility, and the appropriateness of the housing unit [24 CFR 966.4(c)(2)].

PHA Policy

The PHA requires that the Head, Spouse, and Co-Head of the household attend the reexamination interview to certify all information given by the tenants on their income, assets, expenses deductions, and family composition.

Tenant Required Documents

By the initial reexamination notification, tenants were asked to bring all current and required documents/information to the annual reexamination appointment concerning their income, assets, and expenses. Any required documents or information that the tenant failed or was unable to provide at the time of the interview must be provided within 10 days calendar days of the interview. If the family is unable to obtain the information or materials within the required time frame, the tenants may request an extension of 5 days. If the family does not provide the required documents or information within the required time frame (plus the extensions), the family will be considered in violation of their lease and may be terminated from their assisted program in accordance with the policies in Chapter 13.

If the PHA can assist the family in obtaining a third-party verification, the PHA will make its best effort (e.g. send a traditional signed release verification form to an employer, a bank, or the department of welfare, or pension entity, etc.). The PHA will follow the verification process contained in Chapter 7.

Deduction Documents

Tenants are responsible to provide to the PHA the required current documents listed below for their claimed expenses:

- **Unreimbursed Medical Expenses:** If the tenants failed to provide current proof of their unreimbursed medical expenses for any elderly family or disabled family, the PHA will perform the annual reexamination without the deduction due.
- **Unreimbursed Reasonable Attendant Care and Auxiliary Apparatus Expenses:** If the tenants failed to provide current proof of their unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, the PHA will perform the annual reexamination without the deduction due.

- **Unreimbursed Childcare Expenses:** If the tenants failed to provide current proof of their unreimbursed childcare expenses to enable a member of the family to be employed or further their education, the PHA will perform the annual reexamination without the deduction due.
- **Permissive Deduction of 50% Child Support:** If the tenant failed to provide current proof of permissive deduction for 50% child support deduction, the PHA will perform the annual reexamination without the deduction due. The player must be employed and must have paystubs showing the support being garnished from earnings.

Required Signed Documents

The PHA require the tenants to sign every year the following annual reexamination documents/forms:

- Public Housing Annual Recertification
- Applicant/Tenant Certification
- Family Choice Rental Payment Request
- HUD-9886 – Authorization for the Release of Information/Privacy Act Notice
- Criminal Background/Sex Offender Questionnaire
- Zero Income Statement, if applicable
- Fire Evacuation Assistance (Only for High-Rise tenants)

For family members who turned 18 years old, the PHA requires that they sign the following documents/forms.

- BHA Release Waiver
- Section 3 Questionnaire
- HUD-52675 – Debt Owed...
- RHIP - What You Should Know About EIV
- Anti-Drug Abuse Act

Note: These documents should have already been signed by other adult members during admission or during previous reexaminations.

Documents Not Needed at Reexaminations

The following types of documents/forms that are verified at admission typically do not need to be re-verified on an annual basis unless there is an addition to household at the time of the annual reexamination. These include:

- Legal identity
- Age
- Social security numbers
- Citizenship and Eligible Immigration Status

6.II.G. Reexamination Effective Dates

As part of the annual reexamination process, the PHA must make appropriate adjustments in the rent after consultation with the family and upon verification of the information [24 CFR 960.257(a)(1)].

PHA Policy

In general, an increase in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

Rent Adjustment Decrease

In general, a rent adjustment decreases that results from an annual reexamination will take effect on the tenant's anniversary date.

Rent Adjustment Increase

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period. **This means that the PHA will process the annual reexamination for the effective date of the annual reexamination using the tenant's information from prior annual reexamination or interim examination. Then process an interim/reexamination for the first of the month following the end of the 30-day notice.**

Delay in Processing Reexamination

In general, delays in reexamination processing are caused by the tenant if the tenant fails to provide information requested by the PHA by the date specified, and this delay prevents the PHA from completing the reexamination as scheduled.

If the tenant causes a delay in processing the annual reexamination, the rent adjustment increases will be applied retroactively to the scheduled effective date of the annual reexamination. The tenant will be responsible for any underpaid rent.

If the family causes a delay in processing the annual reexamination, the rent adjustment decreases will be applied prospectively, from the first day of the month following completion of the reexamination processing.

If the PHA causes a delay in processing the annual reexamination due to staff turnover, or other circumstances that prevented the PHA from processing the annual reexamination in a timely manner, the tenant will not be penalized. The rent adjustment increase will take effect on the first of the month following the end of the 30-day notice period. If a rent adjustment decreases and the tenant was overcharged, the PHA will reimburse the tenant.

6.II.H. Mandated Use of the Enterprise Income Verification

The EIV System is a web-based application, which provides PHAs with employment, wages, unemployment compensation and social security benefit information for tenants who participate in the Public Housing and various Section 8 programs. PHAs must use the EIV system in its entirety to verify tenant employment and income information during mandatory reexaminations of family composition and income in accordance with 24 CFR 5.236, and other HUD administrative guidelines. PHAs are required to review the EIV Income and Income Validation Tool reports during mandatory reexamination of family income and /or composition. Further, PHA must notify all adults program participants (including minors upon their 18th birthday) of Debts to Public Housing Agencies and Terminations, Form HUD-52675.

Mandated and Discretionary use of HUD's Enterprise Income Verification (EIV) System Regulation: 24 CFR § 5.233

The regulation clarifies that PHA must use EIV to verify tenant employment and income information at annual reexaminations of family composition and income. However, PHAs are no longer required to use EIV to verify tenant employment and income information during an interim reexamination of family composition and income.

PHA Discretion: PHAs may choose to use EIV to verify tenant employment and income information at interim reexaminations of family composition and income. PHAs that choose to use EIV to verify income information at interim reexaminations must include this information in the PHA's ACOP. Any policy adopted by a PHA must be applied consistently to all households.

PHA Policy

EIV:

PHA opted not to use EIV to verify tenant employment and income information at interim reexaminations, unless it is necessary to verify any income discrepancies during reviews, suspected misrepresentation of income, or hired dates.

However, as required, PHA will use EIV to verify tenant employment and income information at annual reexamination of family composition and income.

The PHA will review the EIV Income and Income Validation Tool reports during annual reexamination of family income and composition.

Form HUD-52675 – Debts to PHA and Terminations:

The PHA will notify all adults program participants (including minors upon their 18th birthday) of Debts to Public Housing Agencies and Terminations, Form HUD-52675. A signed copy of the form will be placed in the tenants' files.

6-II.I. Additional Reexamination Process for all Income-based and Flat Rent Families

Compliance with Community Service

For families who include nonexempt individuals, the PHA must determine compliance with community service requirements once every 12 months [24 CFR 960.257(a)(3)].

Refer to Chapter 11 for the PHA's policies governing compliance with the community service requirement. Families are required to provide current and accurate information on income, assets, allowances and deductions, family composition and community service compliance as part of the reexamination process [24 CFR 960.259].

The PHA is required to obtain all the information necessary to conduct reexaminations. How that information will be collected is left to the discretion of the PHA.

PHA Policy

For all residents of public housing, whether those residents are paying income-based or flat rents, the PHA shall conduct an annual review of community service requirement compliance with nonexempt individuals **and monitor the HUD-50058 community service code according to policies on Chapter 11.**

Criminal Background/Sex Offender Checks:

HUD requires PHAs to review criminal background and sex offender registration information for all adult's household members applying for assisted housing or for continued occupancy in assisted housing. The information that is collected will be used to determine eligibility for occupancy or for continued occupancy.

Information obtained through criminal background checks may be used for lease enforcement and eviction [24 CFR 5.903(e)]. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.

Additionally, HUD recommends that at annual reexaminations PHAs ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state [Notice PIH 2012-28].

If the PHA proposes to terminate assistance based on lifetime sex offender registration information, the PHA must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination. [24 CFR 5.903(f) and 5.905(d)]. (See Chapter 13.)

PHA Policy

The PHA will review criminal backgrounds and sex offender registration information for all adult's household member before admission for assisted housing. Then at the

time of the tenants' annual reexaminations, the PHA will only check the Sex Offender database to review any changes that would affect the tenants' continued occupancy.

At the annual reexamination, the PHA will require each household member aged 18 and over to execute a consent form for a criminal background/sex offender check as part of the annual reexamination process. The PHA will ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state. The PHA will use the Dru Sjodin National Sex Offender database to verify the information provided by the tenant.

If the PHA proposes to terminate assistance based on lifetime sex offender registration information, the PHA will notify the household of the proposed action and will provide the subject of the record and the tenant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination. (Refer to Chapter 13.)

Change in Household Size:

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. The PHA may use the results of the annual updates to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are in Chapter 12.

PHA Policy

At the time of annual reexamination, the PHA will monitor any changes in unit size and family composition to ensure any transfer due to the appropriate unit size. If a transfer is due, the PHA will initiate a transfer application process according to the PHA policy in Chapter 12.

PART III: CHANGES IN FAMILY COMPOSITIONS AND REMAINING FAMILY MEMBERS AND PRIOR DEBT

9.III.A. Changes in Family Compositions

The PHA must adopt policies prescribing when and under what conditions the tenant must report changes in family composition. Changes in family composition may make it appropriate to consider transferring the family to comply with occupancy standards. Policies related to such transfers are in Chapter 12.

24 CFR 966.4 (a)(1)(v)

The composition of the household as approved by the PHA (family members and any PHA-approved live-in aide). The family must promptly inform the PHA of the birth, adoption, or court-awarded custody of a child. The family must request PHA approval to add any other family member as an occupant of the unit.

24 CFR 966.4 (d)(3)

- (i) With the consent of the PHA, a foster child or a live-in aide may reside in the unit. The PHA may adopt reasonable policies concerning residence by a foster child or a live-in-aide and define the circumstances in which PHA consent will be given or denied.

Under such policies, the factors considered by the PHA may include:

(A) Whether the addition of a new occupant may necessitate a transfer of the family to another unit, and whether such units are available.

(B) The PHA's obligation to provide reasonable accommodation for handicapped persons.

- (ii) **Live-in aide** means a person who resides with elderly, disabled, or handicapped person and who:

(A) Is determined to be essential to the care and well-being of the person;

(B) Is not obligated for the support of the person; and

(C) Would not be living in the unit except to provide the necessary supportive services.

PHA Policy

Only authorized family or household members are allowed to reside in the Public Housing assisted unit. If a tenant wants to add a new family or household member, the tenant must request permission by completing the PHA's request for family composition change form, along with any required documentation. All tenants, those paying income-based rent as well as flat rent, must report **within 10 calendar days** all changes in family and household composition that occur between annual reexaminations (or annual

updates). The PHA will conduct reexaminations to account for any changes in household composition that occur between annual reexaminations.

New Family Members Not Requiring Approval

The addition of a family member because of birth, adoption, or court-awarded custody does not require PHA approval. However, the tenant is required to report changes within 10 days and provide the required documentation. If the addition of a new family member by birth, adoption, or court-awarded custody requires a larger size unit, the tenant will require to complete a transfer application and will be placed on the active public housing waiting list.

New Family Members Requiring Approval

A tenant must request PHA approval to add a new family member, except for birth, adoption, or court-awarded custody. The PHA defines new family members as a) the spouse, domestic partner, and their minor children, or b) tenant's child, stepchild, sibling, mother, father, grandparent, grandchild, mother-in-law, father-in-law.

The request must be made by the head-of-household and the family must be in good standing. The proposed new family member must be eligible based on the PHA standards for occupancy eligibility which includes passing a criminal background check for new family member aged 18 and older.

No one becomes authorized to reside in the tenant's unit until permission has been granted by the PHA in writing. If permission is disapproved, tenant may request a grievance hearing to review the Manager's decision.

In the case of the head-of-household leaving unit, a new family member with permission to reside in the unit may have succession or a remaining family member right after the new family member has been residing in the unit for at least one year.

If adding a family member to a household requires a transfer to a larger size unit (under the transfer policy in Chapter 12), the PHA will approve the addition only if the tenant can demonstrate that there are medical needs, except for birth, adoption, and court-awarded custody. The PHA will reference the occupancy standards in determining the appropriate unit bedroom size for a family. See Chapter 5.

A family will not be permitted to be added to the lease. However, they can apply for their own assisted unit by going through the Public Housing application and eligibility process. This will prevent tenants moving their relatives into their units, to then vacate and leave their unit to their new added family member.

New Household Members Requiring Approval

The PHA defines household members as live-in aide, foster child, and foster adult. Tenants must request PHA approval to add a new household member such as live-in aide, foster child, or foster adult. Requests must be made in writing and approved by the PHA prior to the individual moving into the unit.

The PHA will not approve the addition of a new household member unless the individual meets the PHA's eligibility criteria (see Chapter 3) and documentation requirements (See Chapter 7).

If the PHA determines that an individual does not meet the PHA's eligibility criteria or documentation requirements, the PHA will notify the tenant in writing of its decision to deny approval of the new household member and the reasons for the denial.

The PHA will make its determination within 10 business days of receiving all information required to verify the individual's eligibility.

If permission is granted, the income of the live-in aid, foster child, or foster adult will not be counted toward the rent. After the tenant's tenancy ends, the live-in aid, foster child, or foster adult has no succession or remaining family member rights.

Live-in Aide:

Live-in aide who resides with elderly (62 +), near elderly (50 +), disabled, or handicapped tenant would not be living in the unit except to provide the necessary supportive services and is determined to be essential to the care and well-being of the tenant. Occasional, intermittent, multiple, or rotating caregivers who do not typically reside in the unit do not count as live-in aides. Tenants must provide verification of the need for a live-in aide. To qualify for a live-in aide, tenant and their doctor must sign forms to verify that a live-in aide "Is essential to tenant's care and wellbeing." However, tenants select their own aide.

Federal Rules: Tenants' aides must be someone, "who is not obligated to support them." About this rule: HUD does not clarify what this rule means. However, the PHA interprets this to mean: Cannot be tenant's spouse. Cannot be tenant legal guardian. If disabled person is under age 18, cannot be a parent or someone with legal responsibility for the child. "Would not be living in the unit except to provide the necessary supportive services."

As required, a live-in-aide is allowed to have a family member live with them (for example, if the aide has a child). The family member needs to be approved by the PHA. The family member will need to pass criminal background check if an adult. While the aide can be granted an additional bedroom, there cannot be a second additional bedroom for the live-in aide's family. The live-in aide may have more than one family member living in the assisted unit. However, if there is more than one family member living there, the PHA will check for overcrowding. Since no more than one additional bedroom can be approved, the addition of one aide plus two aide family members (3 people total) would need to be checked to make sure this does not cause overcrowding or beyond the legal limit for number of occupants allowed in the unit. If the tenant does not have an additional room available at the time of their request to add a live-in-aide, the tenant may request a transfer application and be placed on the waiting list once live-in aide is approved.

HUD policies state that an aide can be turned down for these reasons:

- Committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.
- Committed drug-related criminal activity or violent criminal activity within the last 3 years.
- Currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance.

Departure of a Family Member or Household Member

If a family member or household member ceases to reside in the unit, the tenant must inform the PHA in writing within 10 calendar days by completing a PHA request for family composition change.

9.III.B. Remaining Family Member and Prior Debt

Legal Age Remaining Family Member:

If the Head of Household (HOH) dies or leaves the dwelling unit permanently for any reason, any remaining family members may continue to occupy the unit if there is at least one family member (not a live-in aide) or other individual of legal age who is a citizen or eligible non-citizen and has the capacity to execute the lease in accordance with state and local laws. A new HUD Form-50058 must be completed updating the family's composition.³⁴

Temporary Adult Guardian due to Remaining Family Minors:

A PHA may permit a temporary adult guardian currently not on the lease to reside in the unit until a court-appointed guardian is established. Once established, the PHA may add the new guardian as the new HOH in accordance with its screening policies. This will usually occur when the only remaining family members in the unit are minors, who otherwise would have to leave the unit.

Prior Debt by Former HOH:

The PHA is to first consider whether there are any remaining family members capable of executing a lease before permitting a new head of household to assume the lease. A PHA must not hold remaining family members under age 18 responsible for the rent arrearage incurred by the former HOH, nor for any amounts incurred before a new HOH attained age 18.³⁶

PHA Policy

If the head of household ceases to reside in the unit, the family must inform the PHA within 10 calendar days.

Legal Age Remaining Family Member:

If the Head of Household (HOH) dies, the PHA will allow the remaining family members to continue to occupy the unit if there is at least one family member (not a live-in aide) or

other individual of legal age who is a citizen or eligible non-citizen and has the capacity to execute the lease in accordance with state and local laws.

If the Head of Household leaves the unit for any reason, the PHA will allow the remaining family members to continue to occupy the unit if there is at least one family member (not a live-in-aide),) or other individual of legal age who is a citizen or eligible non-citizen and has the capacity to execute the lease in accordance with state and local laws. However, the remaining family member must be at least one year residing in the unit.

Temporary Adult Guardian due to Remaining Family Minors:

The PHA will first consider any remaining family members capable of executing a lease before permitting a new head of household to assume the lease. When the only remaining family member are minors, the PHA will permit a temporary adult guardian currently not on the lease to reside in the unit until a court-appointed guardian is established, or any government agency can advocate for the temporary adult guardian.

Prior Debt by Former HOH:

The PHA will not hold remaining family members under age 18 responsible for the rent arrearage incurred by the former HOH, nor for any amounts incurred before a new HOH attained age 18.³⁶ However, any adult family member aged 18 or older, or new adult household member executing the lease will be responsible for any rent or delinquent balance due to the PHA by the former HOH.

9.III.C. VAWA:

Under the Violence Against Women Act (VAWA), the PHAs may choose to bifurcate a lease, or remove a household member from a lease to evict, remove, terminate occupancy rights, or terminate assistance to such member who engage in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual. Such action by the PHA must be taken without regard to whether the household member is a signatory to the lease and without evicting, removing, terminating assistance to, or otherwise penalizing a victim of such criminal activity who is also a tenant or lawful occupant. If a PHA bifurcate a lease and the individual who was evicted or for whom assistance was terminated was the only eligible tenant, the PHA must provide to any remaining tenant(s) who were not already eligible, a period of 30 calendar days from the date of the lease bifurcation to establish eligibility for the Public Housing program or another covered housing program, or to find alternative housing. Court-ordered eviction of the perpetrator pursuant to applicable laws results in the underlying lease becoming null and void once the PHA regains possession of the unit. The PHA must executed a new lease with the remaining eligible tenant.³⁷

PHA Policy

The PHA will comply with the above requirements.

PART IV: ZERO INCOME FAMILIES

When families report zero income, PHAs have an obligation to pursue verification of income that reflects the family's lifestyle. One method is to examine the family's circumstances every 90 days until they have a stable income.³⁸ As a best practice, PHAs can require zero income families to complete a zero-income form. The form asks tenants to estimate how much they spend on telephone, cable TV, food, clothing, transportation, health care, childcare, debts, household items, etc., and whether any of these costs are being paid by an individual outside the family. If any such payments are received, they are to be verified accordingly and considered income.

Zero Income Procedures:

PHAs may accept a self-certification of zero income from the family at admission and at reexamination without taking any additional steps to verify zero reported income. HUD does not require that such self-certification be notarized.

PHAs are reminded that they must verify families' income in EIV within 120 days after admission, except where the PHA used Safe Harbor documentation to verify a family's income.

PHAs have discretion to establish reasonable procedures to manage the risk of unreported income, such as asking families to complete a zero-income worksheet at admission or periodically after admission to determine if they have any sources of unreported income or searching an upfront income verification source (see Level 5) for unreported income, such as a public benefits database to which the PHA has access. These procedures are meant to avoid improper payments and the need for repayment agreements.

In calculating annual income from a zero-income worksheet, PHAs must not assign monetary value to non-monetary in-kind donations from a food bank or similar organization received by the family (24 CFR § 5.609(b)(24)(vi)).

PHAs perform an interim reexamination only due to an increase in the family's adjusted income (24 CFR §§ 5.657(c)(3); 882.515(b)(3); 891.410(g)(2); 891.610(g)(2); 960.257(b)(3); and 982.516(c)(3)).

PHAs that establish zero income procedures must update their local discretionary policies, procedures, and forms to comply with the final rule requirements. For example, families who begin receiving income which does not trigger an interim reexamination should no longer be considered zero income even though the family's income is not reflected on the form HUD-50058.

PHA Policy:

Upon adult family members reporting no income status at admission, annual reexamination, or interim examination, PHA will require the adult member to sign a self-certification - "No Income Statement," that will not require notarization.

Since HUD does not require PHAs to conduct periodic zero income reviews, the PHA will only require zero income tenants to report any changes of income within 10 calendar days.

The PHA will perform an interim reexamination only due to an increase in the family's adjusted income in accordance with the final rule requirements established in this Chapter under the annual reexamination and interim process. Any tenant who begins receiving income which does not trigger an interim reexamination will no longer be considered zero income even though the family's income is not reflected on the form HUD-50058.

The PHA will verify families' income in EIV within 120 days after admission for income and zero income tenants.

PART V: OVER-INCOME FAMILIES

OVERVIEW

HOTMA Section 103 creates new limitations on tenancy and program participation for formerly income-eligible families residing in public housing with incomes over the newly created over-income (OI) limit. Therefore, PHA must implement Section 103 through their written policies. This part contains the HUD's regulations and the PHA's policies for managing over-income families.

9.V.A. HUD Notice PIH-2023-03(HA) issued March 13, 2023, as follows from bottom of page 4 through 19.

With the publication of the final rule, all elements of Section 103 of HOTMA will become effective after 30 days, *i.e.*, March 16, 2023. The HOTMA final rule requires all PHAs to fully implement the OI requirements by June 14, 2023.

There are no exceptions to the limitation on public housing tenancy for HUD assisted tenants who are determined to be over-income for 24 consecutive months.

Key Terms:

Alternative non-public housing rent (alternative rent) is the monthly amount a PHA must charge non-public housing over-income (NPHOI) families, if allowed by PHA policy to remain in a public housing unit, after they have exceeded the 24 consecutive month grace period.

The alternative rent is defined at 24 CFR 960.102, as the higher of the Fair Market Rent (FMR) or per unit monthly subsidy. The monthly subsidy provided for the unit is determined by adding the per unit assistance provided to a public housing property as calculated through the applicable formulas for the Public Housing Capital Fund and Public Housing Operating Fund. See 24 CFR 960.102 for more details about how HUD will calculate and publish such funding amounts.

Non-public housing over-income family (NPHOI family) is defined in 24 CFR 960.102 as a family that has exceeded the over-income limit for 24 consecutive months who remains in a public housing unit, as allowed by PHA policy, paying the alternative rent. These families are no longer public housing program participants and are unassisted tenants.

Over-income family (OI family) is defined in 24 CFR 960.102 as a family whose income exceeds the OI limit. This term includes families during the grace period or that are in the period before termination and are still public housing program participants. Note that in the public housing program, this term previously referred to a family that is not a low-income family (i.e., a family with an income exceeding 80 percent Area Median Income (AMI)).

Over-income limit (OI limit) is defined in 24 CFR 960.102. In the regulations, this amount is determined by multiplying the applicable income limit for a very low-income (VLI) family, as defined in 24 CFR 5.603(b), by a factor of 2.4 (i.e., 120 percent of the AMI). See section 7 below of this notice for further information.

The Section 103 requirements of the HOTMA final rule, specifically 24 CFR 960.507, 960.509 and the relevant regulations discussed in part 6 of the HUD Notice PIH 2023-03(HA), will become effective 30-days after publication. At that time, the PHA should begin to implement their over-income policy after revising their ACOP if a significant amendment is not required. If the implementation of this provision requires a significant amendment to the PHA Plan, a PHA should immediately take steps to complete the significant amendment process to effectuate the policy change in their PHA Plan and ACOP no later than 120 days after the publication date of the over-income provisions of the HOTMA final rule. Specifically, this means that the OI family's tenancy and participation in the public housing program must end within six month of the final notice per 24 CFR 960.507(c)(3) and if the PHA policy permits the family to remain in a public housing unit, the family must be charged the alternative rent upon the completion of the grace period.

Effective Date of Over-Income: All over-income requirements, specifically 24 CFR 960.507, 960.509 and the relevant regulations discussed in the Notice PIH 2023-03(HA) are now effective as of March 16, 2023, and are to be fully implemented by June 14, 2023.

Summary of Associated Regulatory Changes

The HOTMA final rule includes the new over-income requirements and makes necessary conforming changes to existing regulation including the removal of 24 CFR 960.261. The final rule updated existing requirements in 24 CFR 5.520, 5.628, 960.102, 960.206, 960.253, 960.601, 964.125, and 966.4. All regulatory changes are summarized below in numerical order (except for the parts containing definitions). Parts 960.507, and 960.509 are new regulations specific to the implementation of the over-income requirements and will be discussed in section 7 below.

24 CFR 5.520 - Restrictions on assistance to Noncitizens

A conforming change was made to paragraph (d)(1) of this section to clarify that a PHA must provide prorated assistance to mixed immigration status families, except as provided in 24 CFR 960.507. Once a mixed family has exceeded the over-income limit for 24 consecutive months, the family will either have their tenancy terminated or they must pay the alternative rent as an NPHOI family. For a PHA with a termination policy for over-income families, mixed families will pay their current, prorated rent amount during the period before termination. If the mixed family is permitted to pay the alternative rent, then, pursuant to 24 CFR 5.520(d)(1), the mixed family must not receive prorated assistance. Instead, the family must pay the full alternative rent amount.

24 CFR 5.628 - Family Payment

A new sub-paragraph was added at 24 CFR 5.628(a)(5) clarifying that the options available under the total tenant payment (TTP) now include the alternative rent (as defined in 960.102) for NPHOI housing families.

24 FR 960.102 and 24 CFR 960.601 - Definitions

Additional definitions and clarifications were added to these sections to implement the new requirements found at 24 CFR 960.507 for families exceeding the over-income limit.

These changes create new definition in 24 CFR 960.102 for the following terms:

- alternative non-public housing rent (alternative rent),
- non-public housing over-income family (NPHOI family),
- over- income family (OI family) and
- over-income limit (OI limit) defined above.

PHAs should reference the definition of alternative rent for guidelines on how to set the rent for NPHOI families.

In 24 CFR 960.601, the definition of exempt individual was updated to clarify those members of an NPHOI family do not have to comply with the Community Service Activities or Self-Sufficiency Work Activities requirements (CSSR).

24 CFR 960.206 - Waiting list:

Local preferences in admission to public housing program. This change creates a new local preference option for PHA admission. The PHA may choose to adopt this preference for NPHOI families who become a low-income family as defined in 24 CFR 5.603(b) and are eligible for re-admission to the public housing program. A PHA whose policy is to terminate OI families after the 24 consecutive month grace period may not use this preference because this preference may not be applied to current public housing families or OI families who have vacated the public housing project.

24 CFR 960.253 - Choice of Rent- Rent Options

Conforming changes have been made to paragraphs (a) and (f) of the HUD Notice PIH-2023-039HA) section to clarify the choice of rent in relation to NPHOI families and the new requirements found at 960.507. Families subject to 960.507 must pay the alternative rent, as stated in 960.253(a), when they've exceeded the grace period and allowed by PHA policy the option of remaining in a public housing unit. During the 24 consecutive month grace period, and in the period before termination, the family will continue to pay their current rent choice amount (i.e., the family's choice of income-based or flat rent, or the prorated rent for mixed families).

A conforming change has been made to paragraph (f) to clarify the exemption to the current practice of conducting a reexamination of family income every three years for a family that chooses the flat rent option.

The PHA must no longer apply the three-year reexamination provision to families once the PHA determines that the family is over-income. Once a PHA determines the family is over-income, the PHA must follow the documentation and notification requirements under 960.507(c).

PHAs have no discretion when it comes to the rent for NPHOI families. Once the grace period ends, and if the family is given the option to remain in a public housing unit and they choose to remain, then the family is required to pay the alternative rent as determined in accordance with 24 CFR 960.102. NPHOI families must not be given the choice of flat rent, income-based or prorated-rent.

24 CFR 960.257 - Family income and composition:

Annual and interim reexaminations. The final rule clarifies in 24 CFR 960.257(a)(5) that NPHOI families cannot be subject to income reexaminations. Additionally, 24 CFR 960.257(b)(4) states that, for over-income families in the period after the end of the 24 consecutive month grace period but before their tenancy termination pursuant to 24 CFR 960.507(d)(2), the PHA must conduct an interim reexamination of family income as otherwise required under 24 CFR 960.257. However, the resulting income determination will not make the family eligible to remain in the public housing program beyond the period before termination as defined by PHA policy. For over-income families who are in their grace period, 24 CFR 960.257 and 24 CFR 960.507(c) will dictate when income reexaminations occur *24 CFR 960.261*

Restriction on eviction of families based on income. [Removed]

Section 960.261(a) currently states that “PHAs may evict or terminate the tenancies of families who are over income...”. Paragraph (b) of this section created an exception to this discretionary policy for families with a valid contract for participation in the Family Self-Sufficiency (FSS) program under 24 part 984 and for families receiving the earned income disallowance (EID). As part of the rulemaking process Section 960.261 has been removed for two reasons.

First, the reference made in 24 CFR 960.261 to families who are over income is currently understood to mean a family whose annual income exceeds the limit for a low-income family at the time of initial occupancy which is 80 percent of the area median income (AMI) or lower. HUD has determined that 24 CFR 960.261 must be removed because the HOTMA OI limitation of 120 percent of AMI supersedes the prior regulation provision at 24 CFR 960.261; HOTMA establishes a new OI limit for families that have been admitted to the public housing program. This ensures that there is a singular definition of ‘over-income’ for continued occupancy in the public housing program. As a result of removing 24 CFR 960.261, a PHA may not evict or terminate the tenancy of OI families in the public housing program based on income until they have been over 120 percent AMI for 24 consecutive months and the PHA has implemented an OI policy in their written policies. Some PHAs may need to amend their written policies if they previously had a policy to not allow families to stay in the public housing program if their income exceeded 80 percent of AMI. Note that for initial occupancy in the public housing program, families must still not exceed 80 percent of AMI.

Second, 24 CFR 960.261 has been deleted to remove the exception to evict or terminate the tenancy of a family solely because the family is OI provided the family has a valid contract for participation in an FSS program under part 984 or if the family receives EID. With this final rule, HUD intends for there to be no exceptions to the HOTMA OI provision.

24 CFR 964.125 - Tenant Participation and Tenant Opportunities in Public Housing

Conforming changes have been made to paragraph (a) of this section to clarify those members of an NPHOI family, as described in 24 CFR 960.507, are no longer eligible to be members of a resident council. There is no PHA discretion to exempt an NPHOI family member from this regulation.

24 CFR 966.4 – Public Housing Program Lease requirements

HUD made conforming changes to the lease requirements under 24 CFR 966.4 (a)(2) regarding the term of the public housing lease for PHAs that have an over-income policy requiring termination after the grace period. This change requires the public housing lease to convert to a month-to-month term to account for the period before termination as determined by PHA policy. Lastly, the regulation at 24 CFR 966.4(l)(2)(ii) has also been revised to remove the reference to 24 CFR 960.261 as one of the grounds for termination and replaced it with a reference to 24 CFR 960.507. Paragraph (l) of this section now clarifies that being over the income limit for the program qualifies as grounds for

termination pursuant to the new over-income limit provided in 24 CFR 960.507. All PHAs must update their public housing leases accordingly.

Implementing Over-Income Policies - (Section 7 of the PIH 2023-03-(HA))

As described above, HUD requires PHAs to update their ACOPs to conform to the new regulations for public housing families exceeding the income limit. Through the development of those policies, a PHA can consider where they could provide reasonable accommodations in the administration of the over-income requirements, provided such policies follow the 1937 Act and all applicable fair housing requirements. PHAs are subject to, among other fair housing and civil rights authorities, Section 504 of the Rehabilitation Act (Section 504), the Fair Housing Act, and Title II of the Americans with Disabilities Act (ADA), which include, among other requirements, the obligation to grant reasonable accommodations that may be necessary for persons with disabilities.¹⁰

Generally, the requirements to implement over-income policies are found in 24 CFR 960.507. This is a new section detailing the requirements that a PHA must follow for families exceeding the OI limit for the public housing program. The requirements of 24 CFR 960.507 apply to all public housing families including FSS families and families benefiting from Earned Income Disregard (EID).

Determination of the Over-Income Limit

The ‘over-income limit’ (OI limit) is now defined at 24 CFR 960.102. The OI limit is determined by multiplying the applicable income limit for a very low-income (VLI) family, as defined in 24 CFR 5.603(b), by a factor of 2.4. The VLI varies by jurisdiction⁶ and by family size so each PHA will have to calculate the OI limit for each family size in their public housing program.

For example, the 2022 VLI limit for a family of 4 in Washington, DC, is \$71,150, so the over income-limit for that family size should be calculated as follows: $\$71,150 \times 2.4 = \$170,760$

See Appendix II for a step-by-step guide on looking up the VLI for an area and for more examples.

The OI limit must then be compared to the family’s annual income (per 24 CFR 5.611) during an annual or interim income examination. If the family’s annual income is greater than the OI limit, then they exceed the OI limit for the program and must be notified in accordance with 24 CFR 960.507(c) as described below in paragraph b of this section. This is a change from the guidance provided in Notice PIH 2019-11 which instructed PHAs to compare the OI limit to the family’s adjusted income. The guidance provided in this notice, to use a family’s annual income, applies going forward. PHAs do not need to redetermine a family’s OI status based on this change in guidance for annual or interim reexaminations effective prior to the date of this notice.

Please note, HUD's income limits are developed by HUD's Office of Policy Development and Research and are updated annually. Information about the income limits and HUD's methodology for adjusting income limits as part of the income limits calculation, can be found at <https://www.huduser.gov/portal/datasets/il.html>.

As stated in section 5 of Notice PIH 2023-03(HA), a PHA must update the OI limits for the public housing program in their ACOPs no later than 60 days after HUD publishes new income limits each year. Once a family has been determined to be over-income, the PHA must follow the notification requirements described in 24 CFR 960.507(c).

Notification Requirements

The requirements on notifying OI families are found in the regulations at 24 CFR 960.507(c)(1)- (3). The notice requirements in the final rule supersede the notice requirements discussed in Notice PIH 2019-11, which only required two notices. The new notice requirements do not apply retroactively, so any family that has properly received notice under Notice 2019-11 will not be required to receive new notices per 24 CFR 960.507(c).

PHAs must follow the over-income notification process at 24 CFR 960.507(c) for any notices occurring after implementation of the HOTMA final rule. Therefore, a PHA must update their PHA Plan and/or ACOPs accordingly.

PHAs should be aware that with the publication of the final rule, OI families that have completed 24 consecutive month grace period under the old notification requirements do not get a new grace period.

The required notices under the final rule are as follows:

In accordance with 24 CFR 960.507(c)(1), the PHA must provide written notice to the OI family no later than 30 days after the PHA's initial determination, stating that the family has exceeded the OI limit as determined pursuant to an annual reexamination or an interim reexamination.

The notice must state that: (Initial Notice)

- (1) The family has exceeded the over-income limit, and
- (2) Continuing to exceed the over-income limit for a total of 24 consecutive months will result in the PHA following its continued occupancy policy for over-income families in accordance with 24 CFR 960.507(d). See 24 CFR 960.507(c)(1) for more information.

If the PHA determines the family has continued to exceed the over-income limit for 12 consecutive months after the initial OI determination, the PHA must provide written notification pursuant to 24 CFR 960.507(c)(2) no later than 30 days after the PHA's income examination that led to the 12-month over-income determination.

The notice must state that: (Second Notice)

- (1) The family's income has exceeded the over-income limit for 12 consecutive months, and
- (2) Continuing to exceed the over-income limit for the next 12 consecutive months will result in the family either paying the higher alternative rent as a non-public housing over-income (NPHOI) family or termination of their tenancy, depending on the PHA's continued occupancy policies under 24 CFR 960.507(d). This notice should include the estimated alternative rent where applicable (see section 8 to determine the alternative rent). See 24 CFR 960.507(c)(2) for more information.

If the PHA determines the family has continued to exceed the over-income limit for 24 consecutive months after the initial OI determination, then the PHA must provide written notification pursuant to 24 CFR 960.507(c)(3) no later than 30 days after the PHA's income examination that led to the 24-month over-income determination.

The notice must state that: (Third and Final Notice)

- (1) The family has exceeded the over-income limit for 24 consecutive months, and
- (2) The PHA will either terminate the family's tenancy (in no more than six months) or charge the family the alternative non-public housing rent (at the next lease renewal or in no more than 60 days after the date the final notice per 24 CFR 960.507(c)(3), whichever is sooner), depending on the PHA's continued occupancy policies under 960.507(d). See 24 CFR 960.507(c)(3) for more information.

Once a PHA determines through an annual reexamination or an interim reexamination that a family's income exceeds the applicable OI limit, the PHA must notify the family and make a note in the tenant file to calculate the family's income again 12 months later to see if the family remains over-income. PHAs are required to begin tracking the 24 consecutive month grace period once a family's income exceeds the applicable OI limit.

After the initial OI determination is made, the PHA must conduct an income reexamination 12 months later to determine if the family remains over-income even if the family is paying the flat rent (24 CFR 960.253) and/or the date no longer coincides with the family's original annual reexamination date.

An income reexamination to determine if a family remains over-income does not reset the family's normal annual reexamination date. If a PHA discovers through an annual or interim income reexamination during the 24-month grace period that a previously over-income family is now below the over-income limit, the family is no longer over-income.

In this case, a previous OI family would be entitled to a new 24 consecutive month grace period if the family's income once again exceeds the OI limit.

Scenario #1 – Uninterrupted grace period

For example, if a family is determined to be over-income at an interim reexamination, the 24 consecutive month grace period begins. The 24-month ‘clock’ continues to run if the family remains over-income as determined by another reexamination 12 months later. At the end of the 24th month of the grace period, if the family remains over-income the family will be subject to the over-income policy of the PHA (i.e., termination within 6 months or beginning to pay the alternative rent).

Scenario #2 – Interrupted grace period

If the family is determined to no longer be OI at any point within the 24-month period, the grace period no longer applies. The family remains an income-eligible public housing program participant. If the family is determined to be OI again in the future, they would be entitled to a new 24 consecutive month grace period.

PHAs must ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other disabilities. For persons with vision impairments, upon request and free of charge, this may include brailled materials, large print, or materials on tape. For persons with hearing impairments, upon request and free of charge, this may include sign language or other types of interpretation, appropriate auxiliary aids, and services, such as interpreters, transcription services, and accessible electronic communications, in accordance with Section 504 and ADA requirements (24 CFR 8.6 and 24 CFR 8.28; 28 CFR part 35, Subpart E).

Limitation on public housing tenancy

Once a family exceeds the over-income limit for 24 consecutive months,⁸ the public housing agency must either:

Charge such family as monthly rent for the unit occupied by such family an amount equal to the greater of—

- (1)** the applicable fair market rent (FMR) for a dwelling unit in the same market area of the same size; or
- (2)** the amount of the monthly subsidy which shall include any amounts from the Operating Fund and Capital Fund under section 9 used for the unit.

OR

Terminate the tenancy of such family in public housing not later than 6 months after the final notice per 24 CFR 960.507(c)(3) confirming that the family has been over-income for 24 consecutive months.⁹

Additional details of the above-mentioned process are discussed below. PHAs should read the entire notice before pursuing action against any potential OI family.

Additionally, appendix I contains a summary of the above-mentioned process for ease of use by the PHA.

End of the grace period and Status of an Over-Income Family

This section describes the actions a PHA must take at the end of the grace period for over-income families. PHAs must ensure that OI families receive a grace period of 24 consecutive months before any adverse action is taken because of the family being over-income. A PHA can find these requirements in the regulations at 24 CFR 960.507 and 960.509.

Once a public housing family is determined to be over-income pursuant to an annual reexamination or an interim reexamination, the 24 consecutive month grace period begins. At all times prior to the end of 24 consecutive months, the family will continue to be public housing program participants. The change in OI family status will vary based on the over-income policy selected by the PHA.

PHA policy terminating the tenancy of Over-Income Families

In the case of a PHA with a policy to terminate OI families, these families continue to be +public housing program participants in the period before termination. It should be noted that while a PHA may choose to adopt a policy to terminate the tenancy of an OI family after the 24 consecutive month grace period, termination of tenancy is not equivalent to a judicial eviction. A judicial eviction typically occurs when a tenant fails to vacate the unit after their tenancy has been terminated, resulting in the need for judicial action initiated by the PHA to evict the tenant.

HUD expects that once an OI family receives proper notice of termination, many will leave voluntarily without necessitating court action. PHAs should note that the period before termination can be up to six months but could be less, as defined in the PHA policy.

In the period before termination, the OI family will continue to pay the rent type of their choice (i.e., income-based, flat rent, or prorated rent for mixed families). Additionally, the OI family is still a public housing program participant prior to termination, so the OI family must continue to abide by all program requirements including the Community Service Activities or Self-Sufficiency Work Activities requirements (CSSR).

Lastly, when an OI family is facing termination after exceeding the grace period, the family may request an interim reexamination, but a decrease in income and the family's rent will not reset the period before termination or enable the family to avoid termination.

PHA Requirements for NPHOI Families Remaining in a Public Housing Unit

If permitted by PHA policy to remain in a public housing unit, an OI family that agrees to pay the alternative rent will become a non-public housing over-income (NPHOI) family. Once given the third and final OI notification as required by 24 CFR 960.507(c)(2), at the next lease renewal or in no more than 60 days after the date the final notice per 24 CFR 960.507(c)(3), whichever is sooner, the family must execute a new lease created for NPHOI families and begin to pay the alternative rent. The family will no longer be public housing program participants and will become unassisted tenants once the new lease is signed.

If the PHA gives a family the option to pay the alternative rent and they decline, the PHA must terminate the tenancy of the family no more than 6 months after the end of the 24 consecutive month grace period. An OI family that declines to pay the alternative rent will continue to be a public housing program participant in the period before termination. As a result, PHAs that choose to permit OI families to remain in public housing units as NPHOI families must also have a termination policy in the event the family declines to execute a new lease under 24 CFR 960.509.

However, the PHA may permit, in accordance with its OI policies, an OI family to execute the new lease after the deadline, but before termination of the tenancy, if the OI family pays the PHA the total difference between the alternative rent and their public housing rent dating back to the date that is the earlier of 60 days after the date the final notice per 24 CFR 960.507(c)(3) or the date that would have been the next public housing lease renewal.¹⁰

If the PHA gives a family the option to pay the alternative rent and they accept, going forward the PHA may not conduct an annual reexamination of family income for an NPHOI family, but may offer hearing or grievance procedures at the discretion of the PHA. NPHOI families cannot participate in programs that are only for public housing or low-income families such as participation in a resident council,¹¹ or receive a HUD utility allowance.¹² Lastly, PHAs are also reminded that NPHOI families are no longer subject to CSSR. See section below Determination of the Alternative Rent and the new lease for NPHOI families of this notice for additional lease requirements.

Once the new lease is executed, an NPHOI family may only be readmitted into the public housing program if they once again become an eligible low-income family as defined in 24 CFR 5.603(b) and reapply to the public housing program. The PHA may choose to adopt the new local preference provided at 24 CFR 960.206(b)(6) for NPHOI families. However, the adoption of this preference is at the discretion of the PHA.

For PHAs that adopted the CARES Act provisions to charge OI families the FMR as the alternative rent and elected not to terminate over-income families who exceed the grace period, those PHAs were required to have these families once again pay an income-based rent or a flat rent at their next annual reexamination until HUD published the final rule. With the implementation of the HOTMA final rule, these PHAs must now have the family sign a new lease per 24 CFR 960.509 and charge the alternative rent as of the effective date of the final rule or terminate the tenancy of these families in accordance with their OI policy. PHAs must provide these families with proper notice in accordance with any Federal, State, and local laws.

Reporting Requirements

In addition to the new requirements for over-income families, 24 CFR 960.507(f) requires PHAs to report on two new data points annually: the total number of OI families residing in public housing and the total number of families on waiting lists for admission to the public housing projects of the agency as of end of the year.¹³ The regulation uses the term ‘as of the end of the year’, and this notice makes clear that the ‘end of the year’ in this case will mean the end of the calendar year or December 31st. Per the regulations, this information must also be made publicly available.

To minimize the additional reporting burden, HUD has taken the following steps:

Data on the number of OI families residing in public housing:

The number of families residing in public housing with incomes exceeding the over-income limitation will include the number of families in the 24 consecutive month grace period, those that are in the period before termination and those that are NPHOI families paying the alternative rent. PHAs will report on the number of OI families residing in public housing through income data already provided by form HUD-50058, under OMB approval number 2577-0083 and through unit data in the Inventory Management System/PIH Information Center (IMS/PIC) and/or its successor system: the Housing Information Portal (HIP). Therefore, this report will require no additional action on the part of PHAs. HUD will pull a report of this data as of December 31st each year and make it publicly available.

Data on the number of families on waiting lists for admission to public housing projects:

The additional burden to submit waitlist data is a new requirement for all PHAs with a public housing program and the reporting period of this requirement will begin January 1, 2024. This is the earliest date PHAs can submit waiting list data to HUD. This data must be submitted via a new electronic data collection tool that has been developed in the Operating Fund Web portal. As this is an existing HUD system that PHAs are already familiar with and comfortable working in it is expected that the additional burden will be minimal.

A PHA that maintains both an agency-wide and site-based wait lists, should be mindful not to duplicate households when reporting on the total number of families on the waiting list. All information provided, such as the number of households and the status of the waiting list (open or closed), should be current as of December 31st of the previous calendar year. The data may be provided by any authorized PHA official but will require the electronic signature of the Executive Director.

HUD will make this new reporting module available beginning on January 1st and all submissions will be due by March 31st of each year.

A user guide and training video for the **Public Housing Waiting List Data Collection Tool** will be provided on the Operating Fund Web Portal. HUD will combine this data with the data provided in IMS/PIC and/or HIP and the HUD-50058 form and publish the *Public Housing Over-Income Families and Waiting-Lists Report* annually on the HUD website by April 30th of each calendar year. at:
https://www.hud.gov/public_indian_housing/programs/ph/mod/hotma_ph.

Determination of the Alternative Rent and the new lease for NPHOI families

Alternative non-public housing rent (alternative rent)

This notice provides additional information and guidelines for PHAs on setting alternative rents for NPHOI families that the PHA has allowed to remain in public housing. As discussed in section 4 of this notice, the alternative rent is a new definition in 24 CFR 960.102, and it is the monthly amount PHAs must charge NPHOI families after they have exceeded the 24 consecutive month grace period. **The alternative rent is defined as the higher of Fair Market Rent (FMR) or per unit monthly subsidy.**

The amount of the monthly subsidy provided for the unit, will be determined by adding the per unit assistance provided to a public housing property, as calculated through the applicable formulas for the Public Housing Capital Fund and Public Housing Operating Fund, for the most recent funding year. As these amounts will vary by allocation, HUD will publish the *Per Unit Subsidy Report* annually for all public housing developments by December 31st to help establish the alternative rents for the following calendar year. However, for the 2023 calendar year, the Per Unit Subsidy Report will be published in 2023 soon after the publication of the final rule. This report will be found on [hud.gov](https://www.hud.gov/public_indian_housing/programs/ph/mod/hotma_ph) at: https://www.hud.gov/public_indian_housing/programs/ph/mod/hotma_ph.

Note that the published amount for a development is not automatically the alternative rent. Instead, the PHA must determine what amount to charge as the alternative rent by comparing the per unit subsidy amount for the development where an NPHOI family resides to the applicable FMR¹⁴ for a unit of the same bedroom size in the area. Whichever amount is higher will be the alternative rent applied to the family's new NPHOI lease. PHAs must update the information in IMS/PIC, and/or HIP (IMS/PIC's successor system) in a timely manner, to ensure that no unit that houses an NPHOI family receives public housing subsidy. Further, PHAs should be aware that since no public housing subsidy may support units occupied by NPHOI families, any delay may result in the PHA owing HUD any improperly calculated subsidy amounts. For more information on properly reporting NPHOI families in IMS/PIC, please see Notice PIH-2021-35 or its successor notice.

NPHOI Lease

In response to the public comments solicited by the 2020 FR Notice, new regulations have been added at 24 CFR 960.509 regarding the minimum lease requirements for NPHOI families. A PHA may add additional terms to the lease for NPHOI families, so long as it is consistent with HUD regulations, State, and local laws.

PHAs are required to make their leases flexible enough to easily adjust rent as the FMR changes and as HUD publishes the per unit subsidy calculations.

For PHAs with an over-income termination policy, in the period before termination, the OI family will remain on the public housing lease. Should an OI family decline to execute the new NPHOI lease, the regulation at 24 CFR 966.4(a)(2)(iii) has been revised so that the public housing lease will become month-to-month for OI families in the period before termination and the PHA must continue to charge these families their current rent (i.e., the family's choice of income-based, flat rent, or prorated rent for mixed families).

In accordance with 24 CFR 960.507, and as stated in section 7 of this notice, the NPHOI family must execute a new lease and begin to pay the alternative rent.

This lease must include the minimal provisions proved in 24 CFR 960.509.

Examples of these provisions include:

Lease term and renewal - The lease must have a term as determined by the PHA and included in PHA policy. Unlike the public housing lease, a 12-month lease term is not required. PHA's may choose to offer NPHOI families leases on a month-to-month basis.

Security deposits - The lease must provide that any previously paid security deposit will be applied to the tenancy upon signing a new lease.

No automatic lease renewal - Upon expiration of the lease term, the lease shall not automatically renew.

Grievance procedures - The lease may include hearing or grievance procedures and may explain when the procedures are available to the family. However, it should be noted that hearing or grievance procedures for NPHOI families are at the discretion of the PHA.

Unit Tenant Status Category and Sub-Category

The IMS/PIC Development Submodule categorizes units by Unit Tenant Status Categories and Sub-Categories. Per Notice PIH 2021-35, PHAs must ensure that a unit meets the substantive requirements of a Unit Tenant Status Sub-Category for the entire period that it is in that Subcategory in IMS/PIC. Each Sub-Category corresponds to one of four Categories: Occupied, Vacant, Vacant HUD Approved, and Non-Dwelling. At this time, PHAs will categorize units occupied by NPHOI families as 'Non-Assisted Tenant Over Income' in IMS/PIC. However, a new sub-category will be created in HIP. When this system is ready, PHAs will categorize units occupied by NPHOI families as 'Non-Public Housing Over-Income (NPHOI) Tenant'.

Appendix I – How to Process an Over-Income Family

DETERMINATION:

Determine if the family's income exceeds the Over-Income Limit.

Step 1: Go to <https://www.huduser.gov/portal/datasets/il.html> and follow the instructions in Appendix II to find the Very Low-Income amount for families in your jurisdiction.

Step 2: Use the following calculation to determine the Over-Income Limit:
Very Low-Income limit x 2.4 = Over-Income Limit

Step 3: If the family's annual income is greater than the Over-Income Limit, then they exceed the Over-Income Limit and must be notified up to a total of three times.

NOTIFICATION:

Notify the family up to a total of 3 times that they have exceeded the Over-Income Limit.

Notice 1: Provide written notice to the OI family no later than 30 days after the PHA's determination, stating that the family has exceeded the over-income limit.

Notice 2: If the PHA determined that the family's income has exceeded the over-income limit for 12 consecutive months, the OI family must be provided written notice of this fact no later than 30 days after said determination.

This notice must inform the OI family that continuing to exceed the over-income limit for the next 12 consecutive months will result in the family:

- a. Paying the higher alternative rent as a non-public housing over-income family; OR
- b. Having their tenancy terminated.

Notice 3: If the PHA determined that the family's income has exceeded the over-income limit for 24 consecutive months, the OI family must be provided written notice of this fact no later than 30 days after said determination.

This notice must inform the OI family that, at next lease renewal or in no more than 60 days after the date the final notice per 24 CFR 960.507(c)(3), whichever is sooner, the family must:

- a. Pay the higher alternative rent as a non-public housing over-income family; OR
- b. Be terminated from their unit in no more than 6 months.

LIMITATION: After the 24 consecutive month grace period take the following actions:

1. Charge as the alternative rent for the unit occupied by the NPHOI family, the greater of:

- a. The applicable FMR for a dwelling unit in the same market area of the same size; or
- b. The amount of the monthly subsidy which shall include any amounts from the Operating Fund and Capital Fund under section 9 used for the unit.

OR

2. Terminate the tenancy of OI family in public housing not later than 6 months after the final notice per 24 CFR 960.507(c)(3) confirming that the family has been over-income for 24 consecutive months.

a. Lease to convert to month-to-month term and PHAs must charge OI families, who continue to be public housing program participants, the family's choice of income-based, flat rent, or prorated rent for mixed families during the period before termination.

PHA Policy

PHA has opt to "Terminate the family's tenancy within six months after their 24 months grace period." The PHA will follow the required regulations noted on the above HUD's Notice PIH-2023-03(HA) issued March 13, 2023, concerning Supplemental Guidance for Implementation of Section 103 on Public Housing Tenancy for Over-Income Families under the Housing Opportunity Through Modernization Act of 2016- (HOTMA)

The following provisions implementing HOTMA Section 103 was effective on March 16, 2023, 30 days after the publication of the final rule. The PHA implemented the Over-Income Policy upon revising its ACOP.

According to the HUD's Notice PIH 2023-03(HA), HUD has provided PHAs with two options for their over-income families after they have exceeded the required 24 consecutive month grace period, which are as follow:

- 1) Terminate the family's tenancy within six months after their 24 months grace period; **or**
- 2) allow over-income families to remain in the public housing unit as a "non"-public housing tenants, paying an alternative non-public housing rent which is refer to "alternative rent" of the higher of the applicable fair market rent or the amount of the monthly subsidy provided for the unit. The per unit monthly subsidy includes amounts from the Operating and Capital Funds, as defined by the new regulations at 24 CFR 960.102.

If the PHA opts to allow these over-income families to remain residing in our public housing unit, these over-income families according to the regulations will no longer be considered public housing program participants and will be unassisted tenants.

According to the regulations this means the following:

- PHA must determine what amount to charge as the alternative rent by comparing the per unit subsidy amount for the development where the non-public housing over-income family resides to the applicable fair market rent for a unit of the same bedroom size in the area. Whichever amount is higher will be the alternative rent applied to the family which will receive a new “Non-Public Housing Over-Income Lease.”
- Mixed over-income families will not receive prorated assistance. The family must pay the full alternative rent amount.
- Members of these non-public housing over-income families do not have to comply with the Community Service Activities, or Self-sufficiency work activities requirements.
- Family will no longer be subject to income reexamination and will no longer have a choice of flat rent or income-based rent.
- Members of non-public housing over income families are no longer eligible to be members of a resident council.
- Non-public housing over income families cannot participate in programs that are only for public housing or low-income families such as participating in a resident council or receiving HUD utility allowance.
- Once the new lease is executed, a non-public housing over-income family may only be readmitted into public housing program if they once again become an eligible low-income family and reapply to the public housing program.

The PHA has opt to use option one, “Terminate the family’s tenancy within six months after their 24 months grace period” to fulfill the PHA purpose and mission to provide affordable subsidized housing to low and very-low-income families in our community who are in desperate need of affordable housing vs those who are over-income and who can afford the Fair Market Rent in private sectors, also to minimize homelessness in our community, to minimize the high volume of public housing applications received, to minimize the long waiting period for low and very low-income applicants to be placed in our public housing subsidized units, and to minimize the time-period to be able to open our public housing application process to the needy low and very low-income families in our community.

As required, the PHA converted its public housing lease to a month-to-month term to account for the period before termination as determined by PHA policy.

PHA will not evict or terminate the tenancy of OI families in the public housing program based on income **until** they have been over 120 percent AMI for 24 consecutive months. However, for initial occupancy in the public housing program, families must still not exceed 80 percent of AMI.

The ‘over-income limit’ (OI limit) is now defined at 24 CFR 960.102.

The PHA will determine the OI limit by multiplying the applicable income limit for a very low-income (VLI) family, as defined in 24 CFR 5.603(b), by a factor of 2.4. The PHA will calculate the OI limit for each family size in its public housing program.

For example, if the 2023 VLI limit for a family of four (4) in Bethlehem, PA is \$47,950, so the over income-limit for that family size should be calculated as follows: $\$47,950 \times 2.4 = \$115,080$.

The PHA will refer to the above Appendix II for a step-by-step guide on looking up the VLI for the area. The PHA will then compare the OI limit to the family's annual income (per 24 CFR 5.611) during an annual or interim income examination. If the family's annual income is greater than the OI limit, then they exceed the OI limit for the program and the PHA will notify the family in writing.

Please note, HUD's income limits are developed by HUD's Office of Policy Development and Research and are updated annually. Information about the income limits and HUD's methodology for adjusting income limits as part of the income limits calculation, can be found at:
<https://www.huduser.gov/portal/datasets/il.html>.

As required, in section 5 of Notice PIH 2023-03(HA), the PHA will update the OI limits for its public housing program in its ACOP no later than 60 days after HUD publishes new income limits each year. Once a family has been determined to be over-income, the PHA will follow the notification requirements described in 24 CFR 960.507(c).

An over-income family is defined as a family with an annual income that exceeds HUD's over-income limits. Over-income limit will be compared to family's annual income during an annual or interim income examination. If a family's income has exceeded the over-income limit for 24 consecutive months, PHA will terminate the family in accordance with the regulation at 24 CFR 960.507(d). The PHA will refer to HUD PIH-2022-2023-03 (HA) Appendix 1 on How to Process an Over-income Family.

As required, families participating in the FSS Program who become over-income will be entitled to the 24 consecutive months grace period, after which they are subject to their respective PHA's over-income policy. There are no exceptions to the income limitation on public housing program participation.

As required, for flat rent families, the PHA will no longer apply the three-year reexamination provision to families once the PHA determines that the family is over-income. Once a PHA determines the family is over-income, the PHA must follow the documentation and notification requirements under 960.507(c).

At a regular or interim reexamination, if a family's annual income exceeds the applicable over-income limit, PHA will document the family file and begin tracking the family's over-income status. At this time, PHA will notify the family in writing within 30 days of examination that they have been determined to be over-income and that if they continue to be over-income for 24 consecutive months (24-month grace period), the family will be terminated.

The initial notice will also inform the family that they may request a grievance hearing if they dispute the determination that they are over-income within a reasonable timeframe of 15 days.

A family who is over-income will be placed on an annual reexamination frequency beginning with the first regular or interim recertification in which the family exceeds the over-income limit.

During the 24 consecutive months grace period, and the period before tenancy termination, the family will continue to be a public housing program participant. The family will continue to:

- Pay their current rent choice amount of – income-based or flat rent, or the pro-rated rent for mixed families.
- Follow all programs requirements including the Community Service Activities.
- Maintain all rights of the public housing program participants.

The PHA will conduct an income examination 12 months after the initial over-income determination, unless it was already determined that the family 's income fell below the over-income limit.

If the family's annual income continues to exceed the applicable over-income limit for 12 consecutive months, PHA will notify the family, in writing within 30 days of examination, that their income continues to exceed the over-income limit.

This second notice will also inform the family that if their income exceeds the over-income limit for an additional 12 months, the family will be terminated. This notice will again inform the family that they may request a grievance hearing if they dispute the determination that they are over-income.

If an over-income family experiences a decrease in income during the 24-month grace period, the family may request in interim redetermination of rent in accordance with the PHA Policy. If, as a result, the previously over-income family is now below the over-income limit, the family is no longer subject to over-come provisions as of the effective date of the recertification. In such instances, PHA will notify the family in writing that over-income policies no longer apply to them. If the family's income later exceeds the over-income limit again, the family will be entitled to a new 24-month grace period.

The PHA will conduct an income examination 24 months after the initial over-income determination, unless it was already determined that the family 's income fell below the over-income limit.

If PHA determines that the family's income has exceeded the applicable over-income limit for 24 consecutive months, PHA will notify the family in writing within 30 days of examination. The notice will state that the family will be terminated within six (6) months.

This third and final notice will again inform the family that they may request a grievance hearing if they dispute the determination that they are over-income. This notice will also inform the family that they have 60 days to vacate the premises on or before the date indicated.

The PHA will ensure that OI families receive a grace period of 24 consecutive months before any adverse action is taken because of the family being over-income. A judicial eviction typically occurs when a tenant fails to vacate the unit after their tenancy has been terminated, resulting in the need for judicial action initiated by the PHA to evict the tenant. The PHA and HUD expect that once an OI family receives proper notice of termination, many will leave voluntarily without necessitating court action.

In the period before termination, the OI family will continue to pay the rent type of their choice (i.e., income-based, flat rent, or prorated rent for mixed families). Additionally, the OI family is still a public housing program participant prior to termination, so the OI family must continue to abide by all program requirements including the Community Service Activities or Self-Sufficiency Work Activities requirements (CSSR). Families are public housing program participants until the tenancy is terminated by the PHA.

As required, the family will be permitted to request an interim re-examination during the period between the final notice and termination. However, the interim reexamination will not enable the family to avoid termination after the 24-month grace period has elapsed; PHA will proceed with termination regardless of whether the interim reexamination may be due to loss of income. Refer to reference of Over-Income Families in Chapter 6 and Chapter 13.

As also required, the PHA will ensure that termination occurs no more than six (6) months after the third notice. The PHA must give appropriate notice of lease tenancy termination, or notice to vacate, per state and local laws. According to the requirements, the period before termination can be up to six months but could be less, as defined in the PHA policy. Therefore, once the third and final notice is sent and the over-income family does not voluntarily vacate within the 60 days' notice as indicated in the third and final notice, or request a grievance hearing to dispute the PHA's determination of their over-income status, the PHA will serve the over-income family with a 30-day lease termination notice to give the family their eviction due process, which should end before the six month, or less.

Accessibility:

The PHA will ensure that all notices and communications be provided in a manner that is effective for people with hearing, visual, and other disabilities. The following will be provided, FREE, upon request:

- Accommodation for vision impairments: Brailled materials, large print, or audio materials
- Accommodations for hearing impairments: Sign language or other interpretation, auxiliary aids, transcription services, and accessible electronic communications.

Over-Income Families - Annual Reporting to HUD:

The PHA must submit a report annually that specifies: The numbers of over-income families residing in a PHA's public housing as the end of the calendar year December 31st. However, according to the requirements this report will be pulled by HUD via form HUD-50058.

V-B. Interim Reexaminations to Determine Public Housing Over-Income Status

Regulations: 24 CFR § 960.507 – HUD Notice PIH 2023-27 – Issued September 29, 2023.

Summary: Regardless of changes in adjusted annual income, in some circumstances PHAs are required to conduct interim reexaminations of Public Housing families to determine whether they continue to exceed the income limit.

When a PHA makes an initial determination that a Public Housing family is over-income during an interim reexamination, the PHA must conduct a second interim reexamination 12 months after the over-income determination, and then again 12 months after the second over-income determination, unless the family's income falls below the over-income limit during the 24-month period.

Per 24 CFR 960.507(c), PHAs are required to conduct income examinations of Public Housing families who have been determined to exceed the over-income limit at specific intervals. This continued evaluation of the family's over-income status requires the PHA to notify any family that exceeds the over-income limit that they remain over the income limit, even if the family is paying the flat rent. (24 CFR 960.253).

The PHA must conduct an income examination 12 months after the initial over-income determination to determine and provide notification if the family remains over-income, unless the PHA determined the family's income fell below the over-income limit since the initial over-income determination.

The PHA must again conduct an income examination and provide notification 24 months after the initial over-income determination, unless the PHA determined the family's income fell below the over-income limit since the second over-income determination.

An interim income reexamination to determine if a Public Housing family remains over-income does not reset the family's normal annual reexamination date.

See Notice PIH 2023-03 (HA) for additional guidance on the required reexaminations and notice for over-income Public Housing families.

Example: Interim Reexamination to Public Housing Over-Income Status

Scenario A: Uninterrupted Grace Period: The Blayney Family

In June 2024, the PHA processed an interim reexamination for the Blayney family effective 7/1/2024 due to an increase in the family's annual adjusted income of 10 percent or more. The PHA sent written notification of its initial determination that the family's income exceeds the applicable over-income limit. The 24-month grace period starts.

The PHA must conduct an interim reexamination 12 months later, or by 7/1/2025, to determine if the Blayney family remains over-income, even if the family is paying flat rent. The PHA must notify the Blayney family that their income has exceeded the over-income limit for 12 consecutive months.

After completion of the 7/1/2025 interim reexamination, the Blayney family's income continued to exceed the applicable over-income limit for an additional 12 consecutive months. The PHA must conduct a second interim reexamination, even if the family is paying flat rent, 24 months from the initial determination, or by 7/1/2026, to determine if the family remains over-income.

At the 7/1/2026 interim reexamination, the Blayney family's income continued to exceed the applicable over-income limit. **The PHA must either terminate their tenancy in no more than six months from the end of the 24-consecutive-month grace period, by 1/1/2027,**

or

charge them the alternative non-public housing rent (at the next lease renewal or in no more than 60 days after the final notice, whichever is sooner), depending on the PHA's continued occupancy policies.

Scenario B: Interrupted Grace Period: The Morrison Family

The Morrison family experienced an income increase that resulted in an interim reexamination effective 2/1/2024. The family was sent the required written notification no later than 30 days after the PHA's initial determination of the family's over-income status. The 24-month grace period starts.

The PHA must conduct an interim reexamination 12 months later, or by 2/1/2025, to determine if the family remains over-income, even if the family is paying flat rent.

After completion of the interim reexamination effective 2/1/2025, the Morrison family remained over the applicable over-income limit. The PHA must conduct a second interim reexamination, even if the family is paying flat rent, 24 months from the initial determination, or by 2/1/2026, to determine if the family remains over-income. However, at a regularly scheduled annual reexamination effective 5/1/2025, the family is determined to no longer be over-income. This is prior to the expiration of the 24-month grace period on 2/1/2026. Thus, the grace period no longer applies, and the family remains an income eligible PH program participant.

If the family is determined to be over-income again in the future, they would be entitled to a new 24consecutive-month grace period.

PHA Discretion: None.

PHA Policy

The PHA will comply with requirements.

PART VI: RECALCULATING TENANT RENT

9-VI. OVERVIEW

For those families paying income-based rent, the PHA must recalculate the rent amount based on the income information received during the reexamination process and notify the family of the changes [24 CFR 966.4, 960.257]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

9-VI.A. CHANGES IN UTILITY ALLOWANCES [24 CFR 965.507, 24 CFR 966.4]

The tenant rent calculations must reflect any changes in the PHA's utility allowance schedule [24 CFR 960.253(c)(3)]. Chapter 16 discusses how utility allowance schedules are established.

PHA Policy

Adopted revised utility allowances will be applied to a family's rent calculations according to increases rent or decreases. If the revised utility allowance results in a rent decrease, the change will occur effective the first of the month the revised utility allowance became effective. If the revised utility allowance results in a rent increase, the increase will be effective on the first of the month following the 30-day notice of rent increase. For more detail refer to Chapter 6 Part VIII.H.

9-VI.B. NOTIFICATION OF RENT CHANGE AND EFFECTIVE DATE

The public housing lease requires the PHA to give the tenant written notice stating any change in the amount of tenant rent, and when the change is effective [24 CFR 966.4(b)(1)(ii)].

When the PHA redetermines the amount of rent (Total Tenant Payment or Tenant Rent) payable by the tenant, not including determination of the PHA's schedule of Utility Allowances for families in the PHA's Public Housing Program, or determines that the tenant must transfer to another unit based on family composition, the PHA must notify the tenant that the tenant may ask for an explanation stating the specific grounds of the PHA determination, and that if the tenant does not agree with the determination, the tenant shall have the right to request a hearing under the PHA's grievance procedure [24 CFR 966.4(c)(4)].

PHA Policy

The PHA will provide the tenant with written notice stating any changes in the amount of rent, and when the change is effective. In this notice, the PHA will notify the tenant that they may ask for an explanation of how the rent amount was computed by the authority.

9-VI.C. DISCREPANCIES

During an annual or interim reexamination, or a **rent computation quality control review**, the PHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information, or that an error was made by the PHA staff. When errors resulting in the overpayment or underpayment of rent are discovered, corrections will be made in accordance with the policies in Chapter 15. **Also refer to Chapter 6 Part IV.E.**

Chapter 10

PETS

[24 CFR 5, Subpart C; 24 CFR 960, Subpart G]

INTRODUCTION

This chapter explains the PHA's policies on the keeping of pets and describes any criteria or standards pertaining to the policies. The rules adopted are reasonably related to the legitimate interest of the PHA to provide a decent, safe and sanitary living environment for all tenants, and to protect and preserve the physical condition of the property, as well as the financial interest of the PHA.

The chapter is organized as follows:

Part I: Service Animals and Assistance Animals. This part explains the difference between service animals, assistance animals, and pets and contains policies related to the designation of a service animal and assistance animal as well as their care and handling. It also contains the Addendum to Lease Agreement Service Animal Policy/Agreement and the Addendum to Lease Agreement Assistance Animal Policy/Agreement for all approved service animals and assistance animals.

Part II: Pet Policies for All Developments/High Rises. This part includes pet policies that are common to both developments and high rises. It also contains the Addendum to Lease Agreement Pet Policy/Agreement for all approved pets.

Part III: Pet Deposits and Fees. This part contains policies for pet deposits and fees that are applicable to developments and high rises.

PART I: ASSISTANCE ANIMALS

[Section 504; Fair Housing Act (42 U.S.C.); 24 CFR 5.303; 24 CFR 960.705;
Notice FHEO 2020-01]

10-I.A. OVERVIEW

This part discusses situations under which permission for an assistance animal, including service and support animals, may be denied, and also establishes standards for the care of assistance animals.

Notice FHEO 2020-01 was published January 28, 2020. The notice provides guidance to help PHAs and other housing providers distinguish between a person with a non-obvious disability who has a legitimate need for an assistance animal and a person without a disability who simply wants to have a pet or avoid the costs and limitations imposed by the PHA's pet policies. FHEO 2020-01 makes clear that the notice is guidance and a tool for PHAs and other housing providers to use at their discretion and provides a set of best practices for addressing requests for assistance animals. The guidance in FHEO 2020-01 should be read together with HUD's regulations prohibiting discrimination under the Fair Housing Act (FHA) and the HUD/Department of Justice (DOJ) Joint Statement on Reasonable Accommodation under the Fair Housing Act. Housing providers may also be subject to the Americans with Disabilities Act (ADA) and should therefore refer also to DOJ's regulations implementing Titles II and III of the ADA at 28 CFR Parts 35 and 36, in addition to DOJ's other guidance on assistance animals.

There are two types of assistance animals: (1) service animals, and (2) other animals that do work, perform tasks, provide assistance, and/or provide therapeutic emotional support for individuals with disabilities (i.e., support animals).

Assistance animals, including service and support animals, are not pets and thus are not subject to the PHA's pet policies described in Parts II through IV of this chapter [24 CFR 5.303; 960.705; Notice FHEO 2020-01].

10-I.B. APPROVAL OF ASSISTANCE ANIMALS [Notice FHEO 2020-01]

Service Animals

Notice FHEO 2020-01 states that PHAs should initially follow the Department of Justice (DOJ) analysis to assessing whether an animal is a service animal under the Americans with Disabilities Act (ADA). Under the ADA, a *service animal* means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability.

As a best practice, housing providers may use the following questions to help them determine if an animal is a service animal under the ADA:

- Is the animal a dog? If not, the animal is not a service animal but may be another type of assistance animal for which an accommodation is needed (support animal).
- Is it readily apparent that the dog is trained to do work or perform tasks for the benefit of the individual with a disability? If yes, further inquiries are inappropriate because the animal is a service animal. If not, it is advisable that the PHA limit its inquiries to the following two questions: (1) Is the animal required because of the disability? and (2) What work or task has the animal been trained to perform?

If the answer to question (1) is "yes" and work or a task is identified in response to question (2), grant the requested accommodation if otherwise reasonable. If the answer to either question is "no," the animal does not qualify as a service animal but may be a support animal.

A service animal must be permitted in all areas of the facility where members of the public are allowed.

Support Animals (Assistance Animals other than Service Animals)

If the animal does not qualify as a service animal, the PHA must next determine whether the animal would qualify as a support animal (other type of assistance animal). If the individual has indeed requested a reasonable accommodation to get or keep an animal in connection with a physical or mental impairment or disability, the PHA may use the following questions to help them assess whether to grant the accommodation in accordance with the policies outlined in Chapter 2 (the PHA is not required to grant a reasonable accommodation that has not been requested):

- Does the person have an observable disability or does the PHA already have information giving them reason to believe that the person has a disability? If not, has the person requesting the accommodation provided information that reasonably supports that the person seeking the accommodation has a disability?

- If the person has an observable disability, the PHA already has information giving them reason to believe the person has a disability, or the person has provided information supporting that he or she has a disability, then has the person provided information that reasonably supports that the animal does work, performs tasks, provides assistance, and/or provides therapeutic emotional support with respect to the individual's disability?
- If yes, is the animal commonly kept in households? An *animal commonly kept in households* would be a dog, cat, small bird, rabbit, hamster, gerbil, other rodent, fish, turtle, or other small, domesticated animal that is traditionally kept in the home for pleasure rather than for commercial purposes. For purposes of this assessment, reptiles (other than turtles), barnyard animals, monkeys, kangaroos, and other non-domesticated animals are not considered common household animals.

If the individual is requesting to keep a unique animal not commonly kept in households, then the requestor has the substantial burden of demonstrating a disability-related therapeutic need for the specific animal or the specific type of animal. Such individuals are encouraged to submit documentation from a health care professional.

General Considerations

A person with a disability is not automatically entitled to have an assistance animal. Reasonable accommodation requires that there is a relationship between the person's disability and his or her need for the animal [PH Occ GB, p. 179].

Before denying a reasonable accommodation request due to lack of information confirming an individual's disability or disability-related need for an animal, the PHA is encouraged to engage in a good-faith dialog with the requestor called the "interactive process" [FHEO 2020-01].

A PHA may not refuse to allow a person with a disability to have an assistance animal merely because the animal does not have formal training. Some, but not all, animals that assist persons with disabilities are professionally trained. Other assistance animals are trained by the owners themselves and, in some cases, no special training is required. The question is whether or not the animal performs the assistance or provides the benefit needed by the person with the disability [PH Occ GB, p. 178].

A PHA's refusal to permit persons with a disability to use and live with an assistance animal that is needed to assist them, would violate Section 504 of the Rehabilitation Act and the Fair Housing Act unless [PH Occ GB, p. 179]:

- There is reliable objective evidence that the animal poses a direct threat to the health or safety of others that cannot be reduced or eliminated by a reasonable accommodation
- There is reliable objective evidence that the animal would cause substantial physical damage to the property of others

The Fair Housing Act does not require a dwelling to be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others. A PHA may therefore refuse a reasonable accommodation for an assistance animal if the specific animal poses a direct threat that cannot be eliminated or reduced to an acceptable level through the actions the individual takes to maintain or control the animal (e.g., keeping the animal in a security enclosure).

While most requests for reasonable accommodations involve one animal, requests sometimes involve more than one animal (for example, a person has a disability-related need for both animals, or two people living together each have a disability-related need for a separate assistance animal). The decision-making process in Notice FHEO 2020-01 should be used in accordance with the reasonable accommodation policies in Chapter 2 for all requests for exceptions or modifications to the PHA's rules, policies, practices, and procedures so that persons with disabilities can have assistance animals in the housing where they reside.

PHAs have the authority to regulate service animals and assistance animals under applicable federal, state, and local law [24 CFR 5.303(b)(3); 960.705(b)(3)].

PHA Policy

For an animal to be excluded from the pet policy and be considered a service animal, it must be a trained dog, and there must be a person with disabilities in the household who requires the dog's services.

For an animal to be excluded from the pet policy and be considered a support animal, there must be a person with disabilities in the household, there must be a disability-related need for the animal, and the family must request and the PHA approve a reasonable accommodation in accordance with the criteria outlined in Notice FHEO 2020-01 and the policies contained in Chapter 2.

10-I.C. CARE AND HANDLING

HUD regulations do not affect any authority a PHA may have to regulate assistance animals, including service animals, under federal, state, and local law [24 CFR 5.303; 24 CFR 960.705].

PHA Policy

Residents are responsible for feeding, maintaining, providing veterinary care, and controlling their assistance animals. A resident may do this on his or her own or with the assistance of family, friends, volunteers, or service providers.

Residents must care for assistance animals in a manner that complies with state and local laws, including anti-cruelty laws.

Residents must ensure that assistance animals do not pose a direct threat to the health or safety of others, or cause substantial physical damage to the development, dwelling unit, or property of other residents.

When a resident's care or handling of an assistance animal violates these policies, the PHA will consider whether the violation could be reduced or eliminated by a reasonable accommodation. If the PHA determines that no such accommodation can be made, the PHA may withdraw the approval of a particular assistance animal.

PHA Policy:

Some conditions and restrictions that PHA apply to pets will NOT be applied to service animals and assistance animals. Because PHA understands that a service animal and an assistance animal is NOT a pet, the following conditions and restrictions will NOT be applied:

- 1) Breed, size, and weight limitations will not be applied on service and assistance animals.
- 2) A pet deposit for service and assistance animals will not be required.
- 3) A service animal will not be required to be professionally trained. People with disabilities have the right to train the dog themselves. However, the dog must be already trained to perform before it is considered a service animal.
- 4) Proof that the service animal has been trained or certified will not be required.
- 5) An assistance animal does not have to be trained, or certified.
- 6) Residents or applicants will not be required to obtain liability insurance.

Because ADA requirements relating to service animals are different from the requirements relating to assistance animals under the FHAct and Section 504, an individual's use of a service animal will not be handled as a request for a reasonable accommodation under the FHAct or Section 504.

Service Animal Information:

To determine if an animal is a service animal when an individual's disability and the work or tasks performed by the service animal are not readily apparent (e.g., individual with a seizure disability using a seizure alert service animal, individual with a psychiatric disability using psychiatric service animal, individual with an autism-related disability using an autism service animal), PHA will not ask about the nature or extent of a person's disability, but only make the following two inquiries to determine whether an animal qualifies as a service animal:

- 1) Is this a service animal that is required because of a disability?
- 2) What work or tasks has the animal been trained to perform?

However, PHA will not make the two permissible inquiries set out above when it is readily apparent that the animal is trained to do work or perform tasks for an individual with a disability.

For example:

The dog is observed guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability.

The service animal will not be denied access, unless:

- 1) The service animal is out of control and its handler does not take effective action to control it.
- 2) The service animal is not housebroken (i.e., trained so that, absent illness or accident, the animal controls its waste elimination).
- 3) The animal poses a direct threat to the health or safety of others that cannot be reduced to an acceptable level by a reasonable modification to other policies, practices and procedures.

A determination that a service animal possesses a direct threat shall be based on an individualized assessment of the specific service animal's actual conduct, NOT on fear, stereotypes, or generalizations.

The service animal will be permitted to accompany the individual with a disability to all areas of the facility where members of the public are normally allowed to go.

PHA will ensure compliance with all relevant civil right laws, compliance with ADA, FHAct, and Section 504. PHA will not use the ADA definition of "service animal" as a justification for reducing its FHAct obligations.

PHA understands that under the FHAct, "an individual with a disability may have the right to have an animal other than a dog in his or her home if the animal qualifies as a 'reasonable accommodation' that is necessary to afford the individual equal opportunity to use and enjoy a dwelling, assuming that the use of the animal does not pose a direct threat."

In the case where all three statutes apply, to avoid possible ADA violations PHA will apply the ADA service animal test first accordingly. A form named "Service Animal Test for Staff" has been created as a tool to guide the PHA staff and to ensure compliance. PHA will only ask the two inquiries noted on the form, whether the animal is a service animal that is required because of a disability and if so, what work or tasks the animal has been trained to perform.

If the animal meets the test for "service animal," the animal will be permitted to accompany the individual with a disability to all areas of the facility as noted above. If the animal does not meet the ADA service animal test, then PHA will evaluate the request in accordance with the guidance provided in Section 1: Reasonable Accommodation for Assistance Animal under FHAct and Section 504, of the HUD's FHEO Notice: FHEO-2013-01 dated April 25, 2013.

Assistance Animal Information:

In order to help guide and educate the PHA's residents, applicants, and staff, in addition to avoid any misunderstanding between staff and tenants/ applicants, or to avoid any Disability-related complaints to HUD involving service animals or assistance animals, a "Request for Assistance Animal / Reasonable Accommodation" form has been created to be used as a tool to obtain required resident's information and information on assistance animal to comply with applicable state and local laws, such as dog license current year and number, and dates of required inoculations such as rabies.

Individuals must provide copies of vaccination certificates and current dog license with their request for assistant animal reasonable accommodation. PHA will take a photo of the assistance animal and will evaluate the request for a reasonable accommodation to possess an assistance animal in a dwelling using the general principles applicable to all reasonable accommodation requests.

After receiving the request, PHA will consider the following:

- a. Does the person requesting to use and live with the animal have a disability – i.e. a physical or mental impairment that substantially limits one or more major life activities?
- b. Does the above person needing the request have a disability-related need for an assistance animal? In other words, does the animal work, provide assistance, perform tasks or services for the benefit of the person above with a disability, or provide emotional support that alleviates one or more of the identified symptoms or effects of the person's existing disability?

If the answer to (1) or (2) is “no,” then the Fair Housing Act (FHA) and Section 504 of the Rehabilitation Act of 1973 (Section 504) do not require a modification to PHA's Pet Policy, and the reasonable accommodation request may be denied.

If the answer is “yes”, the FHA and Section 504 require PHA to modify or provide an exception to PHA's Pet Policy to permit a person with a disability to live with or use an assistance animal in all areas of the premises where persons are normally allowed to go, unless doing so would impose an undue financial and administrative burden or would fundamentally alter the nature of PHA's services.

This request may be denied if:

- 1) The specific assistance animal in question poses a direct threat to the health or safety of others that cannot be reduced or eliminated by another reasonable accommodation.
- 2) The specific assistance animal in question would cause substantial physical damage to the property of others that cannot be reduced or eliminated by another reasonable accommodation.

A determination that an assistance animal poses a direct threat of harm to others or would cause substantial physical damage to the property of others will only be based on an individualized assessment that relies on objective evidence about the specific animal's actual conduct, NOT on mere speculation or fear about the types of harm or damage an animal may cause and NOT on evidence about harm or damage that other animals have caused.

PHA WILL NOT deny a reasonable accommodation request because it is uncertain whether or not the person seeking the accommodation request has a disability or a disability-related need for an assistance animal.

PHA staff will ask the individuals who have disabilities that are not readily apparent or known to provide reliable documentation of a disability and their disability-related need for an assistance animal.

Medical Provider Verification:

PHA will assist the individuals by providing them with a PHA “Medical Provider Verification for An Assistance Animal” form. If the disability is readily apparent or known, but the disability-related need for the assistance animal is not, PHA may ask the individuals to provide documentation of the disability-related need for an assistance animal. BHA will assist the individuals by providing them with a PHA “Medical Provider Verification for An Assistance Animal” form.

The individual-provided documentation or PHA Medical Provider Verification form may be written by the individual’s physician, psychiatrist, social worker, or other mental health professional in order to note that the animal provides emotional support that alleviates one or more of the identified symptoms or effects of an existing disability. Such documentation is sufficient if it establishes that an individual has a disability and that the animal in question will provide some type of disability-related assistance or emotional support.

PHA will NOT ask for medical records or for detailed information of an individual’s physical or mental impairment.

For all approved service animals or assistance animal reasonable accommodations, refer to Lease Agreement has been established due to service animals and assistance animals not being the same and not having the same stipulations:

1. Lease Agreement Service Animal Policy/Agreement. Refer to Page 10-9 thru 10-19.
2. Lease Agreement Assistance Animal Policy/Agreement. Refer to Page 10-20 thru 10-29

Lease Agreement
Service Animal Policy/Agreement

In compliance with HUD Notice FHEO-2013-01 dated April 25, 2013 concerning Service Animals and Assistance Animals for People with Disabilities in Housing and HUD-Funded Programs, along with applicable state and local laws regarding animals, the Bethlehem Housing Authority has established the following Addendum to Lease Agreement Service Animal Policy/Agreement. In addition, BHA has established requirements to maintain a safe, decent, and sanitary living environment for existing and prospective residents and to protect and preserve the physical condition of the properties owned and operated by BHA and the financial interest of BHA.

BHA understands that service animals and assistance animals are not the same and both are not considered pets. Therefore, the conditions and restrictions that BHA apply to pets and assistance animals are not applied to service animals.

This Addendum to the lease became effective commencing October 1, 2019.

I. Preamble

Resident may own and keep a service animal if they live in any of the Bethlehem Housing Authority developments and high rises:

- Pfeifle
- Bayard
- Pembroke
- Marvine
- Fairmount
- Lynfield
- Parkridge
- Monocacy Tower (High Rise)
- Litzenberger (High Rise)
- H.A. Bodder House (High Rise)
- R. J. Bartholomew House (High Rise)

The policy is established without imposing unnecessary burdens and restrictions on service animal owners and prospective service animal owners.

Persons who apply for occupancy, will be notified of the right to own and keep a pet, a service animal, or an assistance animal at the time of their admission application.

The BHA's Pet Policy and Assistance Animal Policy does not apply to service animals.

Exclusion applies to only service animals that reside in all developments/high rises, as well as to service animals that accompany its disabled owner when visiting any of BHA's developments and high rises.

Additional service animal and assistance animal information is contained in Bethlehem Housing Authority's Admissions and Continued Occupancy Policy, chapter 10.

II. The ADA Definition of Service Animal

A service animal is not a pet. DOJ's revised ADA regulations define "service animal" narrowly as "any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability." The revised regulations specify that "the provision of emotional support, well-being, comfort, or companionship DO NOT constitute work or task for the purposes of this definition. Thus, TRAIN DOGS ARE THE ONLY ANIMAL THAT MAY QUALIFY AS SERVICE ANIMAL UNDER ADA (there is a separate provision regarding trained miniature horses), and emotional support animals are expressly precluded from qualifying as service animals under the ADA. **Note:** Under ADA, service animals can be any breed dog and does not have to be professionally trained by a professional service dog training program, nor have to wear a vest or patch or special harness identifying them as service animals.

Individuals with disabilities have the right to train the dog themselves. The dog must already be trained before it is considered a service animal.

III. Request for Service Animal Reasonable Accommodation

Because the ADA requirements relating to service animals are different from the requirements relating to assistance animals under the FHAct and Section 504, an individual's use of a service animal in an ADA covered facility MUST NOT be handled as a request for a reasonable accommodation under the FHAct or Section 504. Rather, in ADA-covered facilities, an animal need only to meet the definition of "service animal" to be allowed into a covered facility.

IV. Service Animal Permit

To determine if an animal is a service animal, the PHA will not ask about the nature or extent of a person's disability, but may make the following two inquiries to determine whether an animal qualifies as a service animal and ONLY when an individual's disability and the work or tasks performed by the service animal are NOT readily apparent (e.g., individual with a seizure disability using a seizure alert service animal, individual with a psychiatric disability using a psychiatric service animal, an individual with an autism-related disability using an autism service animal):

- 1) Is this a service animal that is required because of a disability?
- 2) What work or tasks has the animal been trained to perform?

These two inquiries above WILL NOT be made when it is readily apparent that the animal is trained to do work or perform tasks for an individual with a disability (e.g., the DOG IS OBSERVED guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability).

PHA will not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal. However, PHA will required current proof for required dog license and required inoculations, such as rabies.

- 1) The service animal is out of control and its handler does not take effective action to control it. ADA requires that service animals be under control of the handler at all times. In most instances, the handler will be the individual with a disability or a third party who

accompanies the individual with a disability. If a service animal is out of control and the handler does not take effective action, staff may request that the animal be removed from the premises.

- 2) The service animal is not housebroken (i.e., trained so that, absent illness or accident, the animal controls its waste elimination);
- 3) The service animal poses a direct threat to the health or safety of others that cannot be eliminated or reduced to an acceptable level by a reasonable modification to other policies, practices, or procedures.

Note: A determination that a service animal poses a direct threat will be based on an individualized assessment of the specific service animal's actual conduct, not on fears, stereotypes, or generalizations.

The service animal will be permitted to accompany the individual with a disability to all areas of the developments/high rises where members of the public are normally allowed to go.

Upon determination of a service animal, a Service Animal Permit will be issued, along with a "wallet size" permit card. In addition an Addendum to Lease Agreement Service Animal Policy/Agreement will be executed.

The PHA may revoke the service animal permit, at any time, if the animal is a nuisance or a threat to the health or safety of other people, or if the resident fails to comply with any provisions of the service animal policy or this Addendum to the Lease Agreement.

V. Conditions for Issuance of Service Animal Permit

- 1) The resident is responsible for complying with all local, state and federal laws and regulations governing the possession of their animal.
- 2) **Dog License:** Service animals are subject to local dog licensing and registration requirements. Residents who have a dog must get a current dog license from the proper authorities. The dog must wear the license at all times.

Inoculation: The resident must have its service animal inoculated and provide Bethlehem Housing Authority with updated proof of inoculations. The resident has the responsibility to check with the service animal's veterinarian to determine what vaccinations the service animal requires, such as rabies. Resident must comply with Pennsylvania law. Pennsylvania Law requires all **dogs** older than 12 weeks of age be rabies vaccinated by a licensed veterinarian. A follow-up rabies vaccination at 1 year is required and then every 3 years after that.

- 3) **Spayed/Neutered:** For service dogs, PHA does not require female dogs to be spayed or male dogs to be neutered. However, any puppies from the service dog will not be considered service dogs. Residents must remove these puppies from the housing developments/high rises. If the resident decided to stay with one puppy as a pet, the resident must apply for a pet permit and comply with the BHA Pet policy.
- 4) **Service Animal Vocal Chords:** BHA does not require any animal's vocal chords be removed.
- 5) **Service Animal Security Deposit:** BHA does not require security deposit for service animals or assistance animals.
- 6) **Charges to Resident:** The resident will be billed for any damages caused by the service animal. BHA will provide the resident with a written notice of any charges within 30 days of resident move out inspection, or the removal of the service animal inspection in order to give the resident the right to dispute the charges and request a hearing within 10 calendar days from receipt of the notice. If the resident does not request a hearing within the required period, charges will stand. Inspections will be conducted by the BHA Maintenance Department.
- 7) **Service Animal-Related Damages During Occupancy:** All reasonable expenses incurred by the Authority as a result of damages directly attributable to the presence of the service animal in the development/high rise will be the responsibility of the resident, including, but not limited to the cost of:
 - Repairs and replacements to the resident's unit;
 - Fumigation of the dwelling unit. Note: The expense of flea elimination shall also be the responsibility of the resident.
 - Repairs to common areas of the development/high rise.

The resident shall be billed for such costs in accordance with the policies in Section 8-1.G, Maintenance and Damage Charges.

In the event that the resident is unable to care for the service animal in an emergency situation, the Authority will charge the resident's account for the cost of kenneling a service animal when the designated service animal emergency care plan responsible parties listed cannot or will not accept the resident's service animal, or cannot be reached.

Resident's failure to pay any expenses incurred by the Authority will lead to termination of resident's tenancy.

- 8) **Nuisance Charge:** A **\$25.00 nuisance charge** will be imposed when a maintenance worker, contractor, or inspector cannot gain entry for his scheduled call and must return at another time/date due to an unrestrained service animal. This charge will be posted to the resident's account for payment in order to give the resident the right to dispute the charge and request a hearing within 10 calendar days from receipt of the notice. If the resident does not request a hearing within the required period, charges will stand.
- 9) **Service Animal Emergency Care Plan:** The resident is encouraged to file a "Service Animal Emergency Care Plan." The plan is necessary in the event of the resident's death or is unable to care for the service animal in an emergency situation, which empowers the Authority to transfer the responsibility of service animal care to the responsible contact parties listed. The Authority will charge the resident for the cost of kenneling a service animal in any emergency situation when the designated service animal emergency care plan responsible contact parties listed cannot or will not accept the resident's service animal, or cannot be reached, or the resident failed to file a "Service Animal Emergency Plan."
- 10) **Service Animal Photo:** BHA will take a color photo of the service animal which will be kept in the resident's file.
- 11) **Service Animal Permit Card/Door Label:** The resident must display an approved service animal label, which the Authority will provide, on the entry door of their unit, plus maintain their approved wallet permit card.
- 12) **Alteration for Service Animal:** The resident must not alter their dwelling unit to create an enclosure for the service animal.

VI. Service Animal Management Plan

- A) Dogs remain inside a tenant's dwelling unit unless they are under the control of a responsible individual.
- B) Service animal must be crated when residents are not home, in case of emergency or PHA personnel need to enter the dwelling unit. Service animal cannot be attached to handrails, doorknobs, molding or any BHA owned appliance at any time.
- C) The service animal must be harnessed, leashed, or tethered while in public places unless these devices interfere with the service animal's work or the person's disability prevents use of these devices. In that case, the person must use voice, signal, or other

effective means to maintain control of the animal. The dog must be off leash to do its job, but may be leashed at other times. Handler must not allow service animals to wander away from her or him and must maintain control of the service animal, even if it is retrieving an item at a distance from her or him.

- D) The resident is responsible for care and supervision of the service animal, which includes toileting, feeding, grooming, and veterinary care. The resident acknowledges responsibility for the cleanliness of their service animal and the daily removal of service animal waste in the following manner:
- 1) It is the resident's responsibility to have their service animal housebroken, and clean up after their service animal. For example: A "housebroken" dog is a dog that has been trained to eliminate outside. This is best achieved through regular trips outside. Proper housebreaking involves reinforcing elimination outside and careful observation of the dog's behavior to watch for signs of the dog's need to urinate or defecate. Resident may not store service animal waste in their dwelling unit. Resident may not flush service animal waste.
 - 2) Residents must clean up service animal residue on a daily basis. The resident's dwelling unit must be kept clean and free of animal odors at all times.
 - 3) The cost of extermination for fleas, ticks and any other animal related pests, caused by the presence of the resident's service animal, will be charged to the resident. The extermination will be arranged by the BHA to ensure prompt and proper rendering of the extermination service.
- E) The resident must not allow their service animal to disturb or interfere with the peaceful enjoyment of the living conditions of other residents who live in the housing development/high rise. This includes but is not limited to disturbances such as consistent or excessive barking, howling, biting, scratching, chirping, or any other similar activity.

VII. Inspection of Dwelling Unit

Resident agrees that the resident's dwelling unit is available for a service animal-related inspection at any time when given a thirty (30) minute verbal notice, if an emergency situation exists or after two (2) infractions of the policy.

VIII. Damages

Resident agrees to be strictly liable for all damages caused by the service animal where liability is imposed by state or local law.

IX. Revocation of Service Animal Permit

A) The Authority may revoke a resident's service animal permit if the following conditions occur:

1. The service animal dies
2. The service animal is permanently removed from the housing development/high rise.
3. The Authority may revoke a resident's service animal permit after determining that at least one of the following conditions is a reasonable cause for revocation:
 - a) The specific service animal in question poses a direct threat to the health or safety of others that cannot be reduced or eliminated by another reasonable accommodation.
 - b) The specific service animal in question causes substantial physical damage to the property of others that cannot be reduced or eliminated by another reasonable accommodation.
 - c) Resident Has violated any part of the Addendum to Lease Agreement Service Animal Policy /Agreement.
 - d) The service animal is a danger or hazard to the health and safety of the residents, management or visitors of the housing development/high rise.
 - e) The service animal has caused repeated damage to the dwelling unit, common areas, or other residents' personal property.
 - f) The service animal has bitten, scratched or caused injury to another person.
 - g) The service animal has defecated or urinated in the dwelling unit, common areas or outside and the resident failed to clean up after their service animal.

- h) The service animal has disturbed or interfered with the peaceful enjoyment of the living conditions of the other residents who reside in the housing development/high rise. Such examples include, but are not limited to, consistent or excessive barking, howling, chirping, scratching or any other disturbing activity.
- i) The required dog license has expired and has not been reissued, or resident failed to renew the license and provide proof to the Authority.
- j) The service animal inoculation certification has expired and resident has failed to provide current proof of updated inoculations.
- k) If by report or inspection, it is found resident is neglecting the service animal.
- l) Violations of any applicable State and local public health, animal control and animal anti-cruelty laws and regulations, and in accordance with the policies established in BHA Plan.

Note: Resident must return the service animal card to the management office, if service animal permit is revoked.

X. Death of Service Animal

In the event of the death of the resident's service animal, the resident is responsible for arranging the burial or other means of disposal of the dead animal off of the premises of the housing development/high rise.

- A) Proof of the animal disposal, according to public health regulations, must be provided.
- B) The unit will also be inspected for signs of service animal damage or vermin.

XI. Service Animal Rule Violation Procedure

Resident shall comply with the following Service Animal Rule Violation Summary:

A. Notice of Service Animal Rule Violation

- 1. Contain a brief statement of the factual basis for the determination and the service animal rule or rules alleged to be violated;

2. State that the service animal owner has ten (10) days from the effective date of service of the notice to correct the violation (including, in appropriate circumstances, removal of the service animal) or to make a written request for a meeting to discuss the violation; and
3. State that the service animal owner's failure to correct the violation, to request a meeting, or to appear at a requested meeting may result in initiation of procedures to have the service animal removed, or to terminate the service animal owner's tenancy, or both.

B. Service Animal Rule Violation Meeting

If the service animal owner makes a timely request for a meeting to discuss a service animal rule violation, the Housing Authority will establish a mutually agreeable time and place for the meeting no later than fifteen (15) days from the effective date of service of the notice of service animal rule violation. At the service animal rule violation meeting, the service animal owner and BHA shall discuss any alleged service animal rule violation. If the parties are unable to resolve the problem, the BHA may inform the service animal owner in writing that the service animal must be removed from the premises within ten (10) days of the service animal rule violation meeting.

C. Notice for Service Animal Removal

If the BHA determines that the service animal owner has failed to correct the service animal rule violation within the time provided under paragraph B of this section (including any additional time permitted by the BHA), the BHA may serve a notice to the service animal owner requiring the service animal owner to remove the service animal.

The notice will be in writing and will:

1. Contain a brief statement of the factual basis for determination and the service animal rule that has been violated;
2. State that the service animal owner must remove the service animal within ten (10) days of the effective date of the notice; and
3. State that failure to remove the service animal may result in initiation of the procedures to have the service animal removed or terminate the service animal owner's tenancy, or both.

Assistance Animal Policy/Agreement

In compliance with HUD Notice FHEO-2013-01 dated April 25, 2013 concerning Service Animal and Assistance Animal for People with Disabilities in Housing and HUD-Funded Programs, along with applicable state and local laws regarding animals, the Bethlehem Housing Authority has established the following Addendum to Lease Agreement Assistance Animal Policy/Agreement. In addition, BHA has established requirements to maintain a safe, decent, and sanitary living environment for existing and prospective tenants and to protect and preserve the physical condition of the properties owned and operated by BHA and the financial interest of the BHA.

BHA understands that service animals and assistance animals are not the same and both are not consider pets. Therefore, the conditions and restrictions that BHA applies to pets are not applied to service animals and assistance animals.

This Addendum to the lease became effective commencing October 1, 2019.

I. Preamble

Residents may own and keep a service animal or assistance animal if they live in any of the Bethlehem Housing Authority developments and high rises:

- 1) Pfeifle
- 2) Bayard
- 3) Pembroke
- 4) Marvine
- 5) Fairmount
- 6) Lynfield
- 7) Parkridge
- 8) Monocacy Tower (High Rise)
- 9) Litzenberger (High Rise)
- 10) H.A. Bodder House (High Rise)
- 11) R. J. Bartholomew House (High Rise)

The policy is established without imposing unnecessary burdens and restrictions on assistance animal owners and prospective assistance animal owners.

Persons who apply for occupancy will be notified of the right to own and keep a pet, a service animal, or an assistance animal at the time of their admission application.

The BHA's Pet Policy and Service Animal Policy does not apply to assistance animals.

Exclusion applies to only assistance animals that reside in all developments/high rises, as well as to service animals and assistance animals that accompany its disabled owner when visiting any of BHA's developments and high rises.

Additional service animal and assistance animal information is contained in Bethlehem Housing Authority's Admissions and Continued Occupancy Policy.

II. Definition of Assistance Animal

An assistance animal is not a pet. It is an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability. For the purpose of reasonable accommodation requests, neither the FHAct nor Section 504 requires an assistance animal to be individually trained or certified.

III. Request for Assistance Animal Reasonable Accommodation

Residents who wish to apply for a request for assistance animal reasonable accommodation must file an application for an Assistance Animal Permit with their development office at 1429 Fritz Drive – Bethlehem, PA 18017, or high rise office at 645 Main Street – Bethlehem, PA 18018.

I. Assistance Animal Permit

Prior to placing an assistance animal into residency in any property operated by the BHA, an applicant or current resident must file a request for assistance animal reasonable accommodation. An Assistance Animal Permit will be issued after all initial conditions have been satisfied, along with a "wallet size" permit card.

The BHA may revoke the privilege of an assistance animal permit, at any time, if the animal is a nuisance or a threat to the health or safety of other people, or if the resident fails to comply with any provisions of the assistance animal policy or this Addendum to the Lease Agreement.

II. Conditions for Issuance of Assistance Animal Permit

- 1) The resident is responsible for complying with all local, state and federal laws and regulations governing the possession of their assistance animal.
- 2) **Dog License:** A resident who has a dog must get a dog license from the proper authorities annually. The dog must wear the license at all times. Note: The law does not require a cat license.
- 3) **Inoculation:** The resident must have its assistance animal inoculated and provide Bethlehem Housing Authority with proof of the assistance animal inoculation(s)

prior to bringing the assistance animal into the resident's housing development/high rises. The inoculation proof must be provided according to expiration date. The resident has the responsibility to check with the assistance animal's veterinarian to determine what vaccinations the assistance animal requires, such as rabies.

Residents must comply with Pennsylvania law. Pennsylvania Law requires all **dogs** older than 12 weeks of age be rabies vaccinated by a licensed veterinarian. A follow-up rabies vaccination at 1 year is required and then every 3 years after that. All **cats** must be vaccinated for Rabies by 3 months of age and the **vaccination** must be kept up to date.

- 4) **Spayed/Neutered:** BHA requires female cats and dogs to be spayed and male cats and dogs must be neutered prior to bringing the assistance animal into the resident's housing development/high rise. Resident must provide the Authority with medical certification that the cat or dog was spayed or neutered. A cat or dog is exempt from spaying or neutering if the resident provides the Authority with a medical certification that the assistance animal may suffer permanent harm or death from the operation because of factors such as the assistance animal age or illness.
- 5) **Assistance Animal Vocal Chords:** BHA does not require any animal's vocal chords be removed.
- 6) **Assistance Animal Security Deposit:** BHA does not require security deposit for service animals or assistance animals.
- 7) **Charges to Tenant:** The resident will be billed for any damages caused by the assistance animal. BHA will provide the resident with a written notice of any charges within 30 days of resident move out inspection, or the removal of the assistance animal inspection in order to give the resident the right to dispute the charges and request a hearing within 10 calendar days from receipt of the notice. If the resident does not request a hearing within the required period, charges will stand. Inspection will be conducted by the BHA Maintenance Department.
- 8) **Assistance Animal-Related Damages During Occupancy:** All reasonable expenses incurred by the Authority as a result of damages directly attributable to the presence of the assistance animal in the development/high rise will be the responsibility of the resident, including
 - The cost of repairs and replacements to the resident's unit
 - Fumigation of the dwelling unit. Note: The expense of flea elimination shall also be the responsibility of the resident.
 - Repairs to common areas of the development/high rise.

The resident shall be billed for such costs in accordance with the policies in Section 8-1.G, Maintenance and Damage Charges.

In the event that the resident is unable to care for the assistance animal in an emergency situation, the Authority will charge the resident's account for the cost of kenneling an assistance animal when the designated assistance animal emergency care plan responsible contact parties listed cannot or will not accept the resident's assistance animal, or cannot be reached.

Resident's failure to pay any expenses incurred by the Authority will lead to termination of tenancy.

- 9) **Nuisance Charge:** A **\$25.00 nuisance charge** will be imposed when a maintenance worker, contractor, or inspector cannot gain entry for his scheduled call and must return at another time/date due to an unrestrained assistance animal. This charge will be posted to the resident's account for payment in order to give the resident the right to dispute the charge and request a hearing within 10 calendar days from receipt of the notice. If the resident does not request a hearing within the required period, charges will stand.
- 10) **Assistance Animal Emergency Care Plan:** The resident must file an "Assistance Animal Emergency Care Plan" as part of the reasonable accommodation process. The plan is necessary in the event of the resident's death or inability to care for the assistance animal in an emergency situation, which empowers the Authority to transfer the responsibility of assistance animal care to the responsible contact parties listed. The Authority will charge the resident for the cost of kenneling an assistance animal in any emergency situation when the designated assistance animal emergency care plan responsible contact parties listed cannot or will not accept the resident's assistance animal, or cannot be reached.
- 11) **Assistance Animal Photo:** The resident must allow BHA to take a color photo of the assistance animal which will be kept in the resident's file.
- 12) **Assistance Animal Permit Card/Door Label:** The resident must display an approved assistance animal label, which the Authority will provide, on the entry door of their unit, plus maintain their approved wallet permit card.

- 13) **Alteration for Assistance Animal:** The resident must not alter their dwelling unit to create an enclosure for the assistance animal without resident's request for reasonable accommodation to alter the unit.

III. Assistance Animal Management Plan

- A) Dogs and cats must remain inside a resident's dwelling unit unless they are on a leash and under the control of a responsible individual.

Assistance animal must be crated when residents are not home, in case of an emergency or BHA personnel needing to enter the dwelling unit. Assistance animal cannot be attached to handrails, doorknobs, molding or any BHA owned appliance at any time.

- B) The resident acknowledges responsibility for the cleanliness of their assistance animal and the daily removal of assistance animal waste in the following manner:

- 1) Cats must use a litter box, which is kept within the resident's dwelling unit. Assistance animal waste must be placed in a plastic bag, which is tightly closed and disposed of in a designated receptacle. Assistance animal waste must be disposed of daily.
- 2) It is the resident's responsibility to have their assistance animal (such as a dog) housebroken, and clean up after their assistance animal. For example: A "housebroken" dog is a dog that has been trained to eliminate outside. This is best achieved through regular trips outside. Proper housebreaking involves reinforcing elimination outside and careful observation of the puppy's behavior to watch for signs the puppy needs to urinate or defecate.

NOTE: Resident may not store assistance animal waste in their dwelling unit. Resident may not flush assistance animal waste, especially any waste mixed with kitty litter, down the toilet, sink, bathtub or any type of drain.

- 3) Resident must clean up assistance animal residue on a daily basis. The resident's dwelling unit must be kept clean and free of animal odors at all times.
- 4) The cost of extermination for fleas, ticks and any other animal related pests, caused by the presence of the resident's assistance animal, will be charged to the resident. The extermination will be arranged by the BHA to ensure prompt and proper rendering of the extermination service.

- C) The resident must not allow their assistance animal to disturb or interfere with the peaceful enjoyment of the living conditions of other residents who live in the housing development/high rise. This includes but is not limited to disturbances such as consistent or excessive barking, howling, biting, scratching, chirping, or any other similar activity.

IV. Inspection of Dwelling Unit

As a condition of accepting the Assistance Animal Permit, the resident agrees that the resident's dwelling unit is available for an assistance animal-related inspection at any time when given a thirty (30) minute verbal notice if an emergency situation exists or after two (2) infractions of the policy.

V. Damages

Resident agrees to be strictly liable for all damages caused by the assistance animal where liability is imposed by state or local law.

VI. Revocation of Assistance Animal Permit

- A) The Authority may revoke a resident's assistance animal permit if the following conditions occur:
 - 1) The assistance animal dies
 - 2) The assistance animal is permanently removed from the housing development/high rise.
- B) The Authority may revoke a resident's assistance animal permit after determining that at least one of the following conditions is a reasonable cause for revocation:
 - 1) The specific assistance animal in question poses a direct threat to the health or safety of others that cannot be reduced or eliminated by another reasonable accommodation.
 - 2) The specific assistance animal in question has caused substantial physical damage to the property of others that cannot be reduced or eliminated by another reasonable accommodation.
 - 3) Resident has violated any part of the Addendum to Lease Agreement Assistance Animal Agreement.

- 4) The assistance animal is a danger or hazard to the health and safety of the residents, management or visitors of the housing development/high rise.
- 5) The assistance animal has caused repeated damage to the dwelling unit, common areas, or other residents' personal property.
- 6) The assistance animal has bitten, scratched or caused injury to another person.
- 7) The assistance animal has defecated or urinated in the dwelling unit, common areas or outside and the resident failed to clean up after their assistance animal.
- 8) The assistance animal has disturbed or interfered with the peaceful enjoyment of the living conditions of the other residents who reside in the housing development/high rise. Such examples include, but are not limited to, consistent or excessive barking, howling, meowing, chirping, scratching or any other disturbing activity.
- 9) The required dog license has expired and has not been reissued, or resident failed to renew the license on an annual basis and provide proof to the Authority.
- 10) The assistance animal inoculation certification has expired and resident has failed to provide current proof of updated inoculation.
- 11) If by report or inspection, it is found resident is neglecting the assistance animal.
- 12) Violations of any applicable State and local public health, animal control and animal anti-cruelty laws and regulations, and in accordance with the policies established in BHA Plan.

Note: Resident must return the assistance animal card to the management office, if assistance animal permit is revoked.

VII. Death of Assistance Animal

In the event of the death of the resident's assistance animal, the resident is responsible for arranging the burial or other means of disposal of the dead animal off of the premises of the housing development/high rise.

- A) Proof of the animal disposal, according to public health regulations, must be provided.
- B) The unit will also be inspected for signs of assistance animal damage or vermin.

VIII. Assistance Animal Rule Violation Procedure

Residents shall comply with the following Assistance Animal Rule Violation Summary:

A. Notice of Assistance Animal Rule Violation

1. Contain a brief statement of the factual basis for the determination and the assistance animal rule or rules alleged to be violated;
2. State that the assistance animal owner has ten (10) days from the effective date of service of the notice to correct the violation (including, in appropriate circumstances, removal of the assistance animal) or to make a written request for a meeting to discuss the violation; and
3. State that the assistance animal owner's failure to correct the violation, to request a meeting, or to appear at a requested meeting may result in initiation of procedures to have the assistance animal removed, or to terminate the assistance animal owner's tenancy, or both.

B. Assistance Animal Rule Violation Meeting

If the assistance animal owner makes a timely request for a meeting to discuss an assistance animal rule violation, the Housing Authority will establish a mutually agreeable time and place for the meeting no later than fifteen (15) days from the effective date of service of the notice of assistance animal rule violation. At the assistance animal rule violation meeting, the assistance animal owner and BHA shall discuss any alleged assistance animal rule violation. If the parties are unable to resolve the problem, the BHA may inform the assistance animal owner in writing that the assistance animal must be removed from the premises within ten (10) days of the assistance animal rule violation meeting.

C. Notice for Assistance Animal Removal

If the BHA determines that the assistance animal owner has failed to correct the assistance animal rule violation within the time provided under paragraph B of this section (including any additional time permitted by the BHA), the BHA may serve a notice to the assistance animal owner requiring the assistance animal owner to remove the assistance animal.

The notice will be in writing and will:

1. Contain a brief statement of the factual basis for determination and the assistance animal rule that has been violated;

2. State that the pet owner must remove the assistance animal within ten (10) days of the effective date of the notice; and
3. State that failure to remove the assistance animal may result in initiation of the procedures to have the assistance animal removed or terminate the assistance animal owner's tenancy, or both.

PART II: PET POLICIES FOR ALL DEVELOPMENTS

[24 CFR 5, Subpart C; 24 CFR 960, Subpart G]

10-II.A. OVERVIEW

The purpose of a pet policy is to establish clear guidelines for ownership of pets and to ensure that no applicant or resident is discriminated against regarding admission or continued occupancy because of ownership of pets. It also establishes reasonable rules governing the keeping of common household pets. This part contains pet policies that apply to all developments.

10-II.B. MANAGEMENT APPROVAL OF PETS

Registration of Pets

PHAs may require registration of the pet with the PHA [24 CFR 960.707(b)(5)].

PHA Policy

Pets must be registered with the PHA before they are brought onto the premises.

Registration includes documentation signed by a licensed veterinarian or state/local authority that the pet has received all inoculations required by state or local law, and that the pet has no communicable disease(s) and is pest-free. This registration must be renewed annually and will be coordinated with the annual reexamination date.

Pets will not be approved to reside in a unit until completion of the registration requirements.

Pet registrations for dogs and cats will be monitored annually according to expiration dates of dogs and cats' inoculations, and according to dog license expiration dates.

Refusal to Register Pets

PHA Policy

The PHA will refuse to register a pet if:

The pet is not *a common household pet* as defined in Section 10-II.C. below

Keeping the pet would violate any pet restrictions listed in this policy

The pet owner fails to provide complete pet registration information, or fails to update the registration annually

The applicant has previously been charged with animal cruelty under state or local law; or has been evicted, had to relinquish a pet or been prohibited from future pet ownership due to pet rule violations or a court order

The PHA reasonably determines that the pet owner is unable to keep the pet in compliance with the pet rules and other lease obligations. The pet's temperament and behavior may be considered as a factor in determining the pet owner's ability to comply with provisions of the lease.

If the PHA refuses to register a pet, a written notification will be sent to the pet owner within 10 business days of the PHA's decision. The notice will state the reason for refusing to register the pet and will inform the family of their right to appeal the decision in accordance with the PHA's grievance procedures.

Pet Agreement

PHA Policy

Residents who have been approved to have a pet must enter into a pet agreement with the PHA, or the approval of the pet will be withdrawn.

The pet agreement is the resident's certification that he or she has received a copy of the PHA's pet policy and applicable house rules, that he or she has read the policies and/or rules, understands them, and agrees to comply with them.

The resident further certifies by signing the pet agreement that he or she understands that noncompliance with the PHA's pet policy and applicable house rules may result in the withdrawal of PHA approval of the pet or termination of tenancy.

Refusal to Register Pets

PHA Policy

The PHA will refuse to register a pet if:

- The pet is not *a common household pet* as defined in Section 10-II.C.
- Keeping the pet would violate any pet restrictions listed in this policy.
- The pet owner fails to provide complete pet registration information, or fails to provide updated information when requested by PHA when annually monitoring

registrations according to expiration dates of dogs and cats inoculations, and according to dog license expiration dates.

- The pet owner has previously been charged with animal cruelty under state or local law; or has been evicted, had to relinquish a pet or been prohibited from future pet ownership due to pet rule violations or a court order.
- The PHA reasonably determines that the pet owner is unable to keep the pet in compliance with the pet rules and other lease obligations.
- The pet's temperament and behavior may be considered as a factor in determining the pet owner's ability to comply with provisions of the lease.
- The tenant family is not in good standing with the PHA.
- If the PHA refuses to register a pet, a written notification will be sent to the pet owner within 10 calendar days of the PHA's decision. The notice will state the reason for refusing to register the pet and will inform the family of their right to appeal the decision in accordance with the PHA's grievance procedures.

Pet Agreement

PHA Policy

Residents who have been approved to have a pet must enter into a pet agreement with the PHA, or the approval of the pet will be withdrawn.

The pet agreement is the resident's certification that he or she has received a copy of the PHA's pet policy and applicable house rules, that he or she has read the policies and/or rules, understands them, and agrees to comply with them.

The resident further certifies by signing the pet agreement that he or she understands that noncompliance with the PHA's pet policy and applicable house rules may result in the withdrawal of PHA approval of the pet or termination of tenancy.

This pet agreement shall be the following Addendum to the Lease Agreement Pet Policy/Agreement which will only be executed by residents who have requested to register a pet and has been approved:

10-II.C. STANDARDS FOR PETS [24 CFR 5.318; 960.707(b)]

PHAs may establish reasonable requirements related to pet ownership including, but not limited to:

- Limitations on the number of animals in a unit, based on unit size
- Prohibitions on types of animals that the PHA classifies as dangerous, provided that such classifications are consistent with applicable state and local law
- Prohibitions on individual animals, based on certain factors, including the size and weight of the animal
- Requiring pet owners to have their pets spayed or neutered

PHAs may not require pet owners to have any pet's vocal cords removed.

PHAs may not require pet owners to obtain or carry liability insurance.

PHAs may not require that cats be declawed.

Definition of "Common Household Pet"

There is no regulatory definition of common household pet for public housing programs, although the regulations for pet ownership in both elderly/disabled and general occupancy developments use the term. The regulations for pet ownership in elderly/disabled developments expressly authorize PHAs to define the term [24 CFR 5.306(2)].

PHA Policy

Common household pet means a domesticated animal, such as a dog, cat, bird, or fish that is traditionally recognized as a companion animal and is kept in the home for pleasure rather than commercial purposes.

The following animals are not considered common household pets:

- Reptiles
- Rodents
- Insects
- Arachnids
- Wild animals or feral animals
- Pot-bellied pigs
- Animals used for commercial breeding

Pet Restrictions

PHA Policy

The following animals are not permitted:

Any animal whose adult weight will exceed 30 pounds

Dogs of the pit bull, rottweiler, chow, or boxer breeds

Ferrets or other animals whose natural protective mechanisms pose a risk to small children of serious bites or lacerations

Any animal not permitted under state or local law or code

Number of Pets

PHA Policy

Residents may own a maximum of 2 pets, only 1 of which may be a dog or a cat.

In the case of fish, residents may keep no more than can be maintained in a safe and healthy manner in a tank holding up to 20 gallons. Such a tank or aquarium will be counted as 1 pet; only one aquarium will be permitted.

Other Requirements

PHA Policy

Dogs and cats must be spayed or neutered at the time of registration or, in the case of underage animals, within 30 calendar days of the pet reaching 6 months of age.

Exceptions may be made upon veterinary certification that subjecting this particular pet to the procedure would be temporarily or permanently medically unsafe or unnecessary.

Pets must be licensed in accordance with state or local law. Residents must provide proof of licensing at the time of registration and annually, in conjunction with the resident's annual reexamination.

Residents will be responsible for any damages attributable to their pets.

10-II.D. PET RULES

Pet owners must maintain pets responsibly, in accordance with PHA policies, and in compliance with applicable state and local public health, animal control, and animal cruelty laws and regulations [24 CFR 5.315; 24 CFR 960.707(a)].

Pet Area Restrictions

PHA Policy

Pets must be maintained within the resident's unit. When outside of the unit (within the building or on the grounds) dogs and cats must be kept on a leash or carried. They must be under the control of the resident or other responsible individual at all times.

Pets other than dogs or cats must be kept in a cage or carrier when outside of the unit.

Pets are not permitted in common areas including lobbies, community rooms and laundry areas except for those common areas which are entrances to and exits from the building.

Pet owners are not permitted to exercise pets or permit pets to deposit waste on development premises outside of the areas designated for such purposes.

Designated Pet/No-Pet Areas [24 CFR 5.318(g), PH Occ GB, p. 182]

PHAs may designate buildings, floors of buildings, or sections of buildings as no-pet areas where pets generally may not be permitted. Pet rules may also designate buildings, floors of building, or sections of building for residency by pet-owning tenants.

PHAs may direct initial tenant moves as may be necessary to establish pet and no-pet areas. The PHA may not refuse to admit, or delay admission of, an applicant on the grounds that the applicant's admission would violate a pet or no-pet area. The PHA may adjust the pet and no-pet areas or may direct such additional moves as may be necessary to accommodate such applicants for tenancy or to meet the changing needs of the existing tenants.

PHAs may not designate an entire development as a no-pet area, since regulations permit residents to own pets.

PHA Policy

With the exception of common areas as described in the previous policy, the PHA has not designated any buildings, floors of buildings, or sections of buildings as no-pet areas. In addition, the PHA has not designated any buildings, floors of buildings, or sections of buildings for residency of pet-owning tenants.

Cleanliness

PHA Policy

The pet owner shall be responsible for the removal of waste from the exercise area by placing it in a sealed plastic bag and disposing of it in a container provided by the PHA.

The pet owner shall take adequate precautions to eliminate any pet odors within or around the unit and to maintain the unit in a sanitary condition at all times.

Litter box requirements:

Pet owners must promptly dispose of waste from litter boxes and must maintain litter boxes in a sanitary manner.

Litter shall **not** be disposed of by being flushed through a toilet.

Litter boxes shall be kept inside the resident's dwelling unit.

Alterations to Unit

PHA Policy

Pet owners shall not alter their unit, patio, premises or common areas to create an enclosure for any animal.

Installation of pet doors is prohibited.

Noise

PHA Policy

Pet owners must agree to control the noise of pets so that such noise does not constitute a nuisance to other residents or interrupt their peaceful enjoyment of their housing unit or premises. This includes, but is not limited to loud or continuous barking, howling, whining, biting, scratching, chirping, or other such activities.

Pet Care

PHA Policy

Each pet owner shall be responsible for adequate care, nutrition, exercise and medical attention for his/her pet.

Each pet owner shall be responsible for appropriately training and caring for his/her pet to ensure that the pet is not a nuisance or danger to other residents and does not damage PHA property.

No animals may be tethered or chained inside or outside the dwelling unit at any time.

Responsible Parties

PHA Policy

The pet owner will be required to designate two responsible parties for the care of the pet if the health or safety of the pet is threatened by the death or incapacity of the pet owner, or by other factors that render the pet owner unable to care for the pet.

A resident who cares for another resident's pet must notify the PHA and sign a statement that they agree to abide by all of the pet rules.

Pets Temporarily on the Premises

PHA Policy

Pets that are not owned by a tenant are not allowed on the premises. Residents are prohibited from feeding or harboring stray animals.

This rule does not apply to visiting pet programs sponsored by a humane society or other non-profit organizations, and approved by the PHA.

Pet Rule Violations

PHA Policy

All complaints of cruelty and all dog bites will be referred to animal control or an applicable agency for investigation and enforcement.

If a determination is made on objective facts supported by written statements, that a resident/pet owner has violated the pet rules, written notice will be served.

The notice will contain a brief statement of the factual basis for the determination and the pet rule(s) that were violated. The notice will also state:

That the pet owner has 10 business days from the effective date of the service of notice to correct the violation or make written request for a meeting to discuss the violation

That the pet owner is entitled to be accompanied by another person of his or her choice at the meeting

That the pet owner's failure to correct the violation, request a meeting, or appear at a requested meeting may result in initiation of procedures to remove the pet, or to terminate the pet owner's tenancy

Notice for Pet Removal

PHA Policy

If the pet owner and the PHA are unable to resolve the violation at the meeting or the pet owner fails to correct the violation in the time period allotted by the PHA, the PHA may serve notice to remove the pet.

The notice will contain:

- A brief statement of the factual basis for the PHA's determination of the pet rule that has been violated

- The requirement that the resident /pet owner must remove the pet within 30 calendar days of the notice

- A statement that failure to remove the pet may result in the initiation of termination of tenancy procedures

Pet Removal

PHA Policy

If the death or incapacity of the pet owner threatens the health or safety of the pet, or other factors occur that render the owner unable to care for the pet, the situation will be reported to the responsible party designated by the pet owner.

If the responsible party is unwilling or unable to care for the pet, or if the PHA after reasonable efforts cannot contact the responsible party, the PHA may contact the appropriate state or local agency and request the removal of the pet.

Termination of Tenancy

PHA Policy

The PHA may initiate procedures for termination of tenancy based on a pet rule violation if:

- The pet owner has failed to remove the pet or correct a pet rule violation within the time period specified

- The pet rule violation is sufficient to begin procedures to terminate tenancy under terms of the lease

Emergencies

PHA Policy

The PHA will take all necessary steps to ensure that pets that become vicious, display symptoms of severe illness, or demonstrate behavior that constitutes an immediate threat to the health or safety of others, are immediately removed from the premises by referring the situation to the appropriate state or local entity authorized to remove such animals.

If it is necessary for the PHA to place the pet in a shelter facility, the cost will be the responsibility of the pet owner.

If the pet is removed as a result of any aggressive act on the part of the pet, the pet will not be allowed back on the premises.

Inspections

PHA Policy

The PHA may, after reasonable notice of 30 minutes to the tenant, enter and inspect the premises during reasonable hours, in addition to other inspections allowed.

PART III: PET DEPOSITS AND FEES IN ELDERLY/DISABLED DEVELOPMENTS

10-III.A. OVERVIEW

This part describes the PHA's policies for pet deposits and fees in elderly, disabled and mixed population developments. Policies governing deposits and fees in general occupancy developments are described in Part IV.

10-III.B. PET DEPOSITS

Payment of Deposit

The PHA may require tenants who own or keep pets in their units to pay a refundable pet deposit. This deposit is in addition to any other financial obligation generally imposed on tenants of the project [24 CFR 5.318(d)(1)].

The maximum amount of pet deposit that may be charged by a PHA on a per dwelling unit basis, is the higher of the total tenant payment (TTP) or such reasonable fixed amount as the PHA may require. The PHA may permit gradual accumulation of the pet deposit by the pet owner [24 CFR 5.318(d)(3)].

The pet deposit is not part of the rent payable by the resident [24 CFR 5.318(d)(5)].

PHA Policy

Pet owners are required to pay a pet deposit in addition to any other required deposits. The amount of the deposit is \$300.00. A minimum payment of \$50 is due on or prior to the date the PHA and resident enter into a Pet Agreement; the pet is not permitted on the premises until the initial security deposit payment is made. Additional payment amounts must be no less than \$50, and payment intervals may be no more than 1 month. Failure to pay the entire pet deposit within 6 months of signing the Pet Agreement will result in requiring the pet to be removed from the unit.

Refund of Deposit [24 CFR 5.318(d)(1)]

The PHA may use the pet deposit only to pay reasonable expenses directly attributable to the presence of the pet, including (but not limited to) the costs of repairs and replacements to, and fumigation of, the tenant's dwelling unit. The PHA must refund the unused portion of the pet deposit to the tenant within a reasonable time after the tenant moves from the project or no longer owns or keeps a pet in the unit.

The PHA will refund the pet deposit to the resident, less the costs of any damages caused by the pet to the dwelling unit, within 30 days of move-out or removal of the pet from the unit.

The resident will be billed for any amount that exceeds the pet deposit.

The PHA will provide the resident with a written list of any charges against the pet deposit within 30 business days of the move-out inspection. If the resident disagrees with the amount charged to the pet deposit, the PHA will provide a meeting to discuss the charge.

10-III.C. OTHER CHARGES

Pet-Related Damages During Occupancy

PHA Policy

All reasonable expenses incurred by the PHA as a result of damages directly attributable to the presence of the pet in the project will be the responsibility of the resident, including:

- The cost of repairs and replacements to the resident's dwelling unit
- Fumigation of the dwelling unit.
- Repairs to common areas of the development/High-Rise

The expense of flea elimination shall also be the responsibility of the resident.

If the resident is in occupancy when such costs occur, the resident shall be billed for such costs in accordance with the policies in Section 8-I.G, Maintenance and Damage Charges. Pet deposits will not be applied to the costs of pet-related damages during occupancy.

Charges for pet-related damage are not part of rent payable by the resident.

Pet deposits will not be applied to the costs of pet-related damages during occupancy, unless in the event that the resident is unable to care for the pet in an emergency situation. The Authority may use the pet deposit to pay for the cost of kenneling a pet in any emergency situation when the designated pet emergency care plan responsible contact parties listed cannot or will not accept the resident's pet, or cannot be reached.

If the pet deposit funds are depleted because of the emergency cost incurred, the Authority will notify the resident and the resident must replenish the pet deposit amount, including paying any cost incurred beyond the security deposit. Failure to replenish the pet deposit and pay any extra cost incurred, will lead to termination of the pet policy, including the tenancy of the resident.

Charges for pet-related damage are not part of rent payable by the resident.

Pet Waste Removal Charge

The regulations do not address the PHA's ability to impose charges for house pet rule violations. However, charges for violation of PHA pet rules may be treated like charges for other violations of the lease and PHA tenancy rules.

PHA Policy

A separate pet waste removal charge of \$25.00 per occurrence will be assessed against pet owners who fail to remove pet waste in accordance with this policy. After 2 occurrences, the PHA may request that the pet be removed from the unit.

Notices of pet waste removal charges will be in accordance with requirements regarding notices of adverse action. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, the PHA may not take action for nonpayment of the charge until the conclusion of the grievance process.

Pet deposits will not be applied to the costs of pet-related damages during occupancy, unless in the event that the resident is unable to care for the pet in an emergency situation. The Authority may use the pet deposit to pay for the cost of kenneling a pet in any emergency situation when the designated pet emergency care plan responsible contact parties listed cannot or will not accept the resident's pet, or cannot be reached.

If the pet deposit funds are depleted because of the emergency cost incurred, the Authority will notify the resident and the resident must replenish the pet deposit amount, including paying any cost incurred beyond the security deposit. Failure to replenish the pet deposit and pay any extra cost incurred, will lead to termination of the pet policy, including the tenancy of the resident.

Charges for pet waste removal are not part of rent payable by the resident.

PART IV: PET DEPOSITS AND FEES IN GENERAL OCCUPANCY DEVELOPMENTS

10-IV.A. OVERVIEW

This part describes the PHA's policies for pet deposits and fees for those who reside in general occupancy developments.

10-IV.B. PET DEPOSITS

A PHA may require a refundable pet deposit to cover additional costs attributable to the pet and not otherwise covered [24 CFR 960.707(b)(1)].

A PHA that requires a resident to pay a pet deposit must place the deposit in an account of the type required under applicable State or local law for pet deposits, or if there are no such requirements, for rental security deposits, if applicable. The PHA must comply with such laws as to retention of the deposit, interest, and return of the deposit to the resident, and any other applicable requirements [24 CFR 960.707(d)].

Payment of Deposit

PHA Policy

Pet owners are required to pay a pet deposit in addition to any other required deposits. The amount of the deposit is \$300.00. A minimum payment of \$50 is due on or prior to the date the PHA and resident enter into a Pet Agreement; the pet is not permitted on the premises until the initial security deposit payment is made. Additional payment amounts must be no less than \$50, and payment intervals may be no more than 1 month. Failure to pay the entire pet deposit within 6 months of signing the Pet Agreement will result in requiring the pet to be removed from the unit.

The pet deposit is not part of rent payable by the resident.

Refund of Deposit

PHA Policy

The PHA will refund the pet deposit to the resident, less the costs of any damages caused by the pet to the dwelling unit, within 30 days of move-out or removal of the pet from the unit.

The resident will be billed for any amount that exceeds the pet deposit.

The PHA will provide the resident with a written list of any charges against the pet deposit within 10 business days of the move-out inspection. If the resident disagrees with the amount charged to the pet deposit, the PHA will provide a meeting to discuss the charges.

10-IV.C. NON-REFUNDABLE NOMINAL PET FEE

PHAs may require payment of a non-refundable nominal pet fee to cover the reasonable operating costs to the development relating to the presence of pets [24 CFR 960.707(b)(1)].

PHA Policy

The PHA requires pet owners to pay a non-refundable nominal pet fee.

10-IV.D. OTHER CHARGES

Pet-Related Damages During Occupancy

PHA Policy

All reasonable expenses incurred by the PHA as a result of damages directly attributable to the presence of the pet in the project will be the responsibility of the resident, including:

The cost of repairs and replacements to the resident's dwelling unit

Fumigation of the dwelling unit

Repairs to common areas of the project

The expense of flea elimination shall also be the responsibility of the resident.

If the resident is in occupancy when such costs occur, the resident shall be billed for such costs in accordance with the policies in Section 8-I.G, Maintenance and Damage Charges. Pet deposits will not be applied to the costs of pet-related damages during occupancy.

Charges for pet-related damage are not part of rent payable by the resident.

Pet Waste Removal Charge

The regulations do not address the PHA's ability to impose charges for house pet rule violations. However, charges for violation of PHA pet rules may be treated like charges for other violations of the lease and PHA tenancy rules.

PHA Policy

A separate pet waste removal charge of \$10.00 per occurrence will be assessed against pet owners who fail to remove pet waste in accordance with this policy.

Such charges will be due and payable 14 calendar days after billing.

Charges for pet waste removal are not part of rent payable by the resident.

Pet deposits will not be applied to the costs of pet-related damages during occupancy, unless in the event that the resident is unable to care for the pet in an emergency situation. The Authority may use the pet deposit to pay for the cost of kenneling a pet in any emergency situation when the designated pet emergency care plan responsible contact parties listed cannot or will not accept the resident's pet, or cannot be reached.

If the pet deposit funds are depleted because of the emergency cost incurred, the Authority will notify the resident and the resident must replenish the pet deposit amount, including paying any cost incurred beyond the security deposit. Failure to replenish the pet deposit and pay any extra cost incurred, will lead to termination of the pet policy, including the tenancy of the resident.

Charges for pet-related damage are not part of rent payable by the resident.

Chapter 11

COMMUNITY SERVICE

INTRODUCTION

This chapter explains HUD regulations requiring PHAs to implement a community service program for all nonexempt adults living in public housing.

This chapter describes HUD regulations and PHA policies related to these topics in two parts:

Part I: Community Service Requirements. This part describes who is subject to the community service requirement, who is exempt, and HUD's definition of economic self-sufficiency.

Part II: PHA Implementation of Community Service. This part provides PHA policy regarding PHA implementation and program design.

PART I: COMMUNITY SERVICE REQUIREMENT

11-I.A. OVERVIEW

HUD regulations pertaining to the community service requirement are contained in 24 CFR 960 Subpart F (960.600 through 960.609). PHAs and residents must comply with the community service requirement, effective with PHA fiscal years that commenced on or after October 1, 2000. Per 903.7(l)(1)(iii), the PHA Plan must contain a statement of how the PHA will comply with the community service requirement, including any cooperative agreement that the PHA has entered into or plans to enter into.

Community service is the performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self-responsibility in the community. Community service is not employment and may not include political activities [24 CFR 960.601(b)].

In administering community service requirements, the PHA must comply with all nondiscrimination and equal opportunity requirements [24 CFR 960.605(c)(5)].

11-I.B. REQUIREMENTS

Each adult resident of the PHA, who is not exempt, must [24 CFR 960.603(a)]:

- Contribute 8 hours per month of community service; or
- Participate in an economic self-sufficiency program (as defined in the regulations) for 8 hours per month; or
- Perform 8 hours per month of combined activities (community service and economic self-sufficiency programs).
- The required community service or self-sufficiency activity may be completed 8 hours each month or may be aggregated across a year. Any blocking of hours is acceptable as long as 96 hours is completed by each annual certification of compliance [Notice PIH 2015-12].

Definitions

Exempt Individual [24 CFR 960.601(b), Notice PIH 2015-12]

An *exempt individual* is an adult who:

- Is age 62 years or older
- Is blind or disabled (as defined under section 216[i][1] or 1614 of the Social Security Act), and who certifies that because of this disability s/he is unable to comply with the service provisions
- Is a primary caretaker of such an individual
- Is engaged in work activities

PHA Policy

The PHA will consider **20** hours per week as the minimum number of hours needed to qualify for a work activity exemption.

- Is able to meet requirements of being exempted under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program
 - This exemption applies to anyone whose characteristics or family situation meet the welfare agency exemption criteria and can be verified.
- Is a member of a family receiving assistance, benefits, or services under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program and the supplemental nutrition assistance program (SNAP), and has not been found by the state or other administering entity to be in noncompliance with such program.
- Is a member of a non-public housing over-income family.

Community Service [24 CFR 960.601(b), Notice PIH 2015-12]

Community service is the performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self responsibility in the community. Community service is not employment and may not include political activities.

Eligible community service activities include, but are not limited to, work at:

- Local public or nonprofit institutions such as schools, head start programs, before or after school programs, childcare centers, hospitals, clinics, hospices, nursing homes, recreation centers, senior centers, adult day care programs, homeless shelters, feeding programs, food banks (distributing either donated or commodity foods), or clothes closets (distributing donated clothing)
- Nonprofit organizations serving PHA residents or their children such as: Boy or Girl Scouts, Boys or Girls Club, 4-H clubs, Police Assistance League (PAL), organized children's recreation, mentoring or education programs, Big Brothers or Big Sisters, garden centers, community clean-up programs, beautification programs
- Programs funded under the Older Americans Act, such as Green Thumb, Service Corps of Retired Executives, senior meals programs, senior centers, Meals on Wheels
- Public or nonprofit organizations dedicated to seniors, youth, children, residents, citizens, special-needs populations or with missions to enhance the environment, historic resources, cultural identities, neighborhoods, or performing arts
- PHA housing to improve grounds or provide gardens (so long as such work does not alter the PHA's insurance coverage); or work through resident organizations to help other residents with problems, including serving on the Resident Advisory Board
- Care for the children of other residents so parent may volunteer

PHAs may form their own policy in regards to accepting community services at profit-motivated entities, acceptance of volunteer work performed at homes or offices of general private citizens, and court-ordered or probation-based work.

PHA Policy

Community services at profit-motivated entities, volunteer work performed at homes or offices of general private citizens, and court-ordered or probation-based work will not be considered eligible community service activities.

Economic Self-Sufficiency Program [24 CFR 5.603(b), Notice PIH 2015-12]

For purposes of satisfying the community service requirement, an *economic self-sufficiency program* is defined by HUD as any program designed to encourage, assist, train, or facilitate economic independence of assisted families or to provide work for such families.

Eligible self-sufficiency activities include, but are not limited to:

- Job readiness or job training
- Training programs through local one-stop career centers, workforce investment boards (local entities administered through the U.S. Department of Labor), or other training providers
- Employment counseling, work placement, or basic skills training
- Education, including higher education (junior college or college), GED classes, or reading, financial, or computer literacy classes
- Apprenticeships (formal or informal)
- English proficiency or English as a second language classes
- Budgeting and credit counseling
- Any other program necessary to ready a participant to work (such as substance abuse or mental health counseling)

Work Activities [42 U.S.C. 607(d)]

As it relates to an exemption from the community service requirement, *work activities* means:

- Unsubsidized employment
- Subsidized private sector employment
- Subsidized public sector employment
- Work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available
- On-the-job training
- Job search and job readiness assistance
- Community service programs
- Vocational educational training (not to exceed 12 months with respect to any individual)
- Job skills training directly related to employment
- Education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency
- Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate

Notification Requirements [24 CFR 960.605(c)(2), Notice PIH 2015-12, Notice PIH 2016- 06]

The PHA must give each family a written description of the community service requirement, the process for claiming status as an exempt person, and the process for PHA verification of exempt status. The PHA must also notify the family of its determination identifying the family members who are subject to the service requirement, and the family members who are exempt. In addition, the family must sign a certification, such as Attachment A of Notice PIH 2015-12, that they have received and read the policy and understand that if they are not exempt, failure to comply with the requirement will result in nonrenewal of their lease. The family must also sign a certification at annual reexamination, such as Attachment B of Notice PIH 2015-12, certifying that they understand the requirement.

PHA Policy

The PHA will provide the family with a copy of the Community Service Policy found in Exhibit 11-1 of this chapter, at lease-up, lease renewal, when a family member is determined to be subject to the community service requirement during the lease term, and at any time upon the family's request. The policy will notify the family that self-certification forms are subject to review by the PHA.

On an annual basis, at the time of lease renewal, the PHA will notify the family in writing of the family members who are subject to the community service requirement and the family members who are exempt. If the family includes nonexempt individuals the notice will include a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which they may record the activities they perform and the number of hours contributed. The form will also have a place for a signature by an appropriate official, who will certify to the activities and hours completed.

11-I.C. DETERMINATION OF EXEMPTION STATUS AND COMPLIANCE [24 CFR 960.605(c)(3)]

The PHA must review and verify family compliance with service requirements annually at least thirty days before the end of the twelve-month lease term. The policy for documentation and verification of compliance with service requirements may be found at Section 11-I.D., Documentation and Verification.

PHA Policy

Where the lease term does not coincide with the effective date of the annual reexamination, the PHA will change the effective date of the annual reexamination to coincide with the lease term. In making this change, the PHA will ensure that the annual reexamination is conducted within 12 months of the last annual reexamination.

Annual Determination

Determination of Exemption Status

An exempt individual is excused from the community service requirement [24 CFR 960.603(a)].

PHA Policy

At least 60 days prior to lease renewal, the PHA will review and verify the exemption status of all adult family members. This verification will only be done on an annual basis unless the family reports a change or the PHA has reason to believe that an individual's exemption status has changed. For individuals who are exempt because they are 62 years of age and older, verification of exemption status will be done only at the initial examination.

Upon completion of the verification process, the PHA will notify the family of its determination in accordance with the policy in Section 11-I.B., Notification Requirements.

Determination of Compliance

The PHA must review resident family compliance with service requirements annually at least 30 days before the end of the twelve month lease term [24 CFR 960.605(c)(3)]. As part of this review, the PHA must verify that any family member that is not exempt from the community service requirement has met their service obligation.

PHA Policy

Approximately 60 days prior to the end of the lease term, the PHA will provide written notice requiring the family to submit documentation that all subject family members have complied with the service requirement. The family will have 10 business days to submit the PHA required documentation form(s).

If the family fails to submit the required documentation within the required timeframe, or PHA approved extension, the subject family members will be considered noncompliant with community service requirements, and notices of noncompliance will be issued pursuant to the policies in Section 11-I.E., Noncompliance.

Change in Status between Annual Determinations

PHA Policy

Exempt to Nonexempt Status

If an exempt individual becomes nonexempt during the 12-month lease term, it is the family's responsibility to report this change to the PHA within 10 business days.

Within 10 **calendar** days of a family reporting such a change, or the PHA determining such a change is necessary, the PHA will provide written notice of the effective date of the requirement, a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which the family member may record the activities performed and number of hours contributed.

The effective date of the community service requirement will be the first of the month following 30-day notice.

Determination of Initial Compliance

When an adult family member becomes subject to community service, they must perform 8 hours of community service for the months they are subject to the requirement before the end of the lease term (anniversary date).

Example 1: Alberto Jones turns 18 on 5/10/15 and is not exempt from the community service requirement. His community service requirement begins on 6/1/15, and his initial compliance is reviewed before the end of the lease term (anniversary date), which is 11/30/15.

- Alberto must perform 6 months of community service in his initial compliance period, before the end of the lease term (anniversary date).

Example 2: Lisa Dewhurst leaves her job on 9/20/14 and is not exempt from the community service requirement. Her community service requirement begins on 10/1/14, and her initial compliance is reviewed before the end of the lease term (anniversary date), which is 6/30/15.

- Ms. Dewhurst must perform 9 months of community service in her initial compliance period, before the end of the lease term (anniversary date).

Nonexempt to Exempt Status

If a nonexempt person becomes exempt during the twelve month lease term, it is the family's responsibility to report this change to the PHA within 10 **calendar** days. Any claim of exemption will be verified by the PHA in accordance with the policy at 11-I.D., Documentation and Verification of Exemption Status.

Within 10 **calendar** days of a family reporting such a change, or the PHA determining such a change is necessary, the PHA will provide the family written notice that the family member is no longer subject to the community service requirement, if the PHA is able to verify the exemption.

The exemption will be effective immediately.

11-I.D. DOCUMENTATION AND VERIFICATION [24 CFR 960.605(c)(4), 960.607, Notice PIH 2016-08]

The PHA must retain reasonable documentation of service requirement performance or exemption in participant files.

Documentation and Verification of Exemption Status

PHA Policy

All family members who claim they are exempt from the community service requirement will be required to sign the community service exemption certification form found in Exhibit 11-3. The PHA will provide a completed copy to the family and will keep a copy in the tenant file.

The PHA will verify that an individual is exempt from the community service requirement by following the verification hierarchy and documentation requirements in Chapter 7.

The PHA makes the final determination whether or not to grant an exemption from the community service requirement. If a resident does not agree with the PHA's determination, s/he can dispute the decision through the PHA's grievance procedures (see Chapter 14).

Documentation and Verification of Compliance

At each regularly scheduled reexamination, each nonexempt family member presents a signed standardized certification form developed by the PHA of community service and self-sufficiency activities performed over the last 12 months [Notice PIH 2015-12].

If qualifying community service activities are administered by an organization other than the PHA, a family member who is required to fulfill a service requirement must provide documentation required by the PHA. The PHA may require a self-certification or certification from a third party [24 CFR 960.607].

If the PHA accepts self-certification of compliance with the community service requirement, it must provide a form which includes a statement that the client performed the required hours, contact information for the community service provider, a description of activities performed, and dates of service.

If the PHA accepts self-certification, it must validate a sample of certifications through third-party documentation. The PHA must notify families that self-certification forms are available and that a sample of self-certifications will be validated.

HUD strongly encourages PHAs to investigate community service compliance when there are questions of accuracy.

PHA Policy

Everyone who is subject to the community service requirement will be required to record their community service or self-sufficiency activities and the number of hours contributed on the required form. The certification form will also include places for signatures and phone numbers of supervisors, instructors, and counselors certifying the number of hours contributed.

Families will be required to submit the documentation to the PHA, upon request by the PHA, at least every 2 months.

If the PHA has reasonable cause to believe that the certification provided by the family is false or fraudulent, the PHA has the right to require additional third-party verification.

11-I.E. NONCOMPLIANCE

Noncompliant Residents

The lease specifies that it is renewed automatically for all purposes, unless the family fails to comply with the community service requirement **and families determined to be over-income for 24 consecutive months**. Violation of the service requirement is grounds for nonrenewal of the lease at the end of the twelve-month lease term, but not for termination of tenancy during the course of the twelve month lease term [24 CFR 960.603(b)].

PHAs may not evict a family due to CSSR noncompliance. However, if PHA finds a tenant is noncompliant with CSSR, the PHA must provide written notification to the tenant of the noncompliance which must include:

- A brief description of the finding of non-compliance with CSSR.
- A statement that the PHA will not renew the lease at the end of the current 12-month lease term unless the tenant enters into a written work-out agreement with the PHA or the family provides written assurance that is satisfactory to the PHA explaining that the tenant or other noncompliant resident no longer resides in the unit. Such written work-out agreement must include the means through which a noncompliant family member will comply with the CSSR requirement [24 CFR 960.607(c), Notice PIH 2015-12].

The notice must also state that the tenant may request a grievance hearing on the PHA's determination, in accordance with the PHA's grievance procedures, and that the tenant may exercise any available judicial remedy to seek timely redress for the PHA's nonrenewal of the lease because of the PHA's determination.

PHA Policy

The notice of noncompliance will be sent at least 45 days prior to the end of the lease term.

The family will have 10 **calendar** days from the date of the notice of noncompliance to enter into a written work-out agreement to cure the noncompliance over the 12-month term of the new lease, provide documentation that the noncompliant resident no longer resides in the unit, or to request a grievance hearing.

If the family reports that a noncompliant family member is no longer residing in the unit, the family must provide documentation that the family member has actually vacated the unit before the PHA agrees to continued occupancy of the family. Documentation must consist of a certification signed by the head of household as well as evidence of the current address of the family member that previously resided with them.

If the family does not request a grievance hearing or does not take either corrective action required by the notice of noncompliance within the required 10 **calendar** day timeframe, the PHA will terminate tenancy in accordance with the policies in Section 13-IV.D.

Continued Noncompliance and Enforcement Documentation [24 CFR 960.607(b)]

Should a family member refuse to sign a written work-out agreement or fail to comply with the terms of the work-out agreement, PHAs are required to initiate termination of tenancy proceedings at the end of the current 12-month lease (see 24 CFR 966.53(c)) for failure to comply with lease requirements. When initiating termination of tenancy proceedings, the PHA will provide the following procedural safeguards:

- Adequate notice to the tenant of the grounds for terminating the tenancy and for non-renewal of the lease;
- Right of the tenant to be represented by counsel;
- Opportunity for the tenant to refute the evidence presented by the PHA, including the right to confront and cross-examine witnesses and present any affirmative legal or equitable defense which the tenant may have; and,
- A decision on the merits.

PHA Policy

Notices of continued noncompliance will be sent at least 30 days prior to the end of the lease term and will also serve as the family's termination notice. The notice will meet the requirements for termination notices described in Section 13-IV.D, Form, Delivery, and Content of the Notice.

The family will have 10 **calendar** days from the date of the notice of non-compliance to provide documentation that the noncompliant resident no longer resides in the unit, or to request a grievance hearing.

If the family reports that a noncompliant family member is no longer residing in the unit, the family must provide documentation that the family member has vacated the unit before the PHA agrees to continued occupancy of the family. Documentation must consist of a certification signed by the head of household as well as evidence of the current address of the noncompliant family member that previously resided with them.

If the family does not request a grievance hearing or provide such documentation within the required 10 **calendar** day timeframe, the family's lease and tenancy will automatically terminate at the end of the current lease term without further notice.

PART II: IMPLEMENTATION OF COMMUNITY SERVICE

11-II.A. OVERVIEW

Each PHA must develop a policy for administration of the community service and economic self-sufficiency requirements for public housing. It is in the PHA's best interests to develop a viable, effective community service program, to provide residents with the opportunity to engage in the community and to develop competencies.

PHA Implementation of Community Service

The PHA may not substitute any community service or self-sufficiency activities performed by residents for work ordinarily performed by PHA employees or replace a job at any location where residents perform activities to satisfy the service requirement [24 CFR 960.609].

PHA Policy

The PHA will notify its insurance company if residents are performing community service at the PHA. In addition, the PHA will ensure that the conditions under which the work is to be performed are not hazardous.

If a disabled resident certifies that s/he can perform community service, the PHA will ensure that requests for reasonable accommodation are handled in accordance with the policies in Chapter 2.

PHA Program Design

The PHA may administer qualifying community service or economic self-sufficiency activities directly or may make community service activities available through a contractor, or through partnerships with qualified organizations, including resident organizations, and community agencies or institutions [24 CFR 960.605(b)].

PHA Policy

The PHA will attempt to provide the broadest choice possible to residents as they choose community service activities.

The PHA's goal is to design a service program that gives residents viable opportunities to become involved in the community and to gain competencies and skills. The PHA will work with resident organizations and community organizations to design, implement, assess and recalibrate its community service program.

The PHA will make every effort to identify volunteer opportunities throughout the community, especially those in proximity to public housing developments. To the greatest extent possible, the PHA will provide names and contacts at agencies that can provide opportunities for residents, including persons with disabilities, to fulfill their community service obligations.

Any written agreements or partnerships with contractors and/or qualified organizations, including resident organizations, are described in the PHA Plan.

The PHA will provide in-house opportunities for volunteer work or self-sufficiency programs when possible.

When the PHA has a ROSS program, a ROSS Service Coordinator, or an FSS program, the PHA will coordinate individual training and service plans (ITSPs) with the community service requirement. Regular meetings with PHA coordinators will satisfy community service activities and PHA coordinators will verify community service hours within individual monthly logs.

EXHIBIT 11-1: COMMUNITY SERVICE AND SELF-SUFFICIENCY POLICY

A. Background

The Quality Housing and Work Responsibility Act of 1998 requires that all nonexempt (see definitions) public housing adult residents (18 or older) contribute eight (8) hours per month of community service (volunteer work) or participate in eight (8) hours of training, counseling, classes or other activities that help an individual toward self-sufficiency and economic independence. This is a requirement of the public housing lease.

B. Definitions

Community Service – community service activities include, but are not limited to, work at:

- Local public or nonprofit institutions such as schools, head start programs, before or after school programs, child care centers, hospitals, clinics, hospices, nursing homes, recreation centers, senior centers, adult day care programs, homeless shelters, feeding programs, food banks (distributing either donated or commodity foods), or clothes closets (distributing donated clothing)
- Nonprofit organizations serving PHA residents or their children such as: Boy or Girl Scouts, Boys or Girls Club, 4-H clubs, Police Assistance League (PAL), organized children's recreation, mentoring or education programs, Big Brothers or Big Sisters, garden centers, community clean-up programs, beautification programs
- Programs funded under the Older Americans Act, such as Green Thumb, Service Corps of Retired Executives, senior meals programs, senior centers, Meals on Wheels
- Public or nonprofit organizations dedicated to seniors, youth, children, residents, citizens, special-needs populations or with missions to enhance the environment, historic resources, cultural identities, neighborhoods, or performing arts
- PHA housing to improve grounds or provide gardens (so long as such work does not alter the PHA's insurance coverage); or work through resident organizations to help other residents with problems, including serving on the Resident Advisory Board
- Care for the children of other residents so parent may volunteer

Note: Political activity is excluded.

Self-Sufficiency Activities – self-sufficiency activities include, but are not limited to:

- Job readiness or job training
- Training programs through local one-stop career centers, workforce investment boards (local entities administered through the U.S. Department of Labor), or other training providers
- Employment counseling, work placement, or basic skills training
- Education, including higher education (junior college or college), or reading, financial, or computer literacy classes
- Apprenticeships (formal or informal)
- English proficiency or English as a second language classes
- Budgeting and credit counseling
- Any other program necessary to ready a participant to work (such as substance abuse or mental health counseling)

Exempt Adult – an adult member of the family who meets any of the following criteria:

- Is 62 years of age or older
- Is blind or a person with disabilities (as defined under section 216[i][I] or 1614 of the Social Security Act), and who certifies that because of this disability they are unable to comply with the service provisions, or is the primary caretaker of such an individual
- Is engaged in *work activities*
- Is able to meet requirements under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program; or
- Is a member of a family receiving assistance, benefits, or services under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program and the supplemental nutrition assistance program (SNAP), and has not been found by the state or other administering entity to be in noncompliance with such program
- **Is a member of a non-public housing over-income family.**

PHAs can use reasonable guidelines in clarifying the work activities in coordination with TANF, as appropriate.

Work Activities – as it relates to an exemption from the community service requirement, *work activities* means:

- Unsubsidized employment
- Subsidized private sector employment
- Subsidized public sector employment
- Work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available
- On-the-job training
- Job search and job readiness assistance
- Community service programs
- Vocational educational training (not to exceed 12 months with respect to any individual)
- Job skills training directly related to employment
- Education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency
- Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate
- Provision of childcare services to an individual who is participating in a community service program

C. Requirements of the Program

1. The eight (8) hours per month may be either volunteer work or self-sufficiency program activity, or a combination of the two.
2. At least eight (8) hours of activity must be performed each month, or may be aggregated across a year. Any blocking of hours is acceptable as long as long as 96 hours is completed by each annual certification of compliance.
3. Family obligation:
 - At lease execution, all adult members (18 or older) of a public housing resident family must:
 - Sign a certification (Attachment A) that they have received and read this policy and understand that if they are not exempt, failure to comply with the community service requirement will result in a nonrenewal of their lease; and
 - Declare if they are exempt. If exempt, they must complete the Exemption Form (Exhibit 11-3) and provide documentation of the exemption.
 - Upon written notice from the PHA, nonexempt family members must present complete documentation of activities performed during the applicable lease term. This documentation will include places for signatures of supervisors, instructors, or counselors, certifying the number of hours.
 - If a family member is found to be noncompliant at the end of the 12-month lease term, they, and the head of household, will be required to sign an agreement with the housing authority to make up the deficient hours over the next twelve (12) month period, or the lease will be terminated.
 - At annual reexamination, the family must also sign a certification certifying that they understand the community service requirement.
4. Change in exempt status:
 - If, during the twelve (12) month lease period, a nonexempt person becomes exempt, it is their responsibility to report this to the PHA and provide documentation of exempt status.
 - If, during the twelve (12) month lease period, an exempt person becomes nonexempt, it is their responsibility to report this to the PHA. Upon receipt of this information the PHA will provide the person with the appropriate documentation form(s) and a list of agencies in the community that provide volunteer and/or training opportunities.

D. Authority Obligation

1. To the greatest extent possible and practicable, the PHA will:
 - Provide names and contacts at agencies that can provide opportunities for residents, including residents with disabilities, to fulfill their community service obligations.
 - Provide in-house opportunities for volunteer work or self-sufficiency activities.
2. The PHA will provide the family with a copy of this policy, and all applicable exemption verification forms and community service documentation forms, at lease-up, lease renewal, when a family member becomes subject to the community service requirement during the lease term, and at any time upon the family's request.
3. Although exempt family members will be required to submit documentation to support their exemption, the PHA will verify the exemption status in accordance with its verification policies. The PHA will make the final determination as to whether or not a family member is exempt from the community service requirement. Residents may use the PHA's grievance procedure if they disagree with the PHA's determination.
4. Noncompliance of family member:
 - At least thirty (30) days prior to the end of the 12-month lease term, the PHA will begin reviewing the exempt or nonexempt status and compliance of family members;
 - If, at the end of the initial 12-month lease term under which a family member is subject to the community service requirement, the PHA finds the family member to be noncompliant, the PHA will not renew the lease unless:
 - The head of household and any other noncompliant resident enter into a written agreement with the PHA, to make up the deficient hours over the next twelve (12) month period; or
 - The family provides written documentation satisfactory to the PHA that the noncompliant family member no longer resides in the unit.
 - If, at the end of the next 12-month lease term, the family member is still not compliant, a 30-day notice to terminate the lease will be issued and the entire family will have to vacate, unless the family provides written documentation satisfactory to the PHA that the noncompliant family member no longer resides in the unit;
 - The family may use the PHA's grievance procedure to dispute the lease termination.

All adult family members must sign and date below, certifying that they have read and received a copy of this Community Service and Self-Sufficiency Policy.

Resident

Date

Resident

Date

Resident

Date

Resident

Date

EXHIBIT 11-2: DEFINITION OF A PERSON WITH A DISABILITY UNDER SOCIAL SECURITY ACTS 216(i)(I) and Section 1416(excerpt) FOR PURPOSES OF EXEMPTION FROM COMMUNITY SERVICE

Social Security Act:

216(i)(1): Except for purposes of sections 202(d), 202(e), 202(f), 223, and 225, the term “disability” means (A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, or (B) blindness; and the term “blindness” means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of this paragraph as having a central visual acuity of 20/200 or less.

Section 1416 (excerpt):

SEC. 1614. [42 U.S.C. 1382c] (a)(1) For purposes of this title, the term “aged, blind, or disabled individual” means an individual who—

(A) is 65 years of age or older, is blind (as determined under paragraph (2)), or is disabled (as determined under paragraph (3)), and

(B)(i) is a resident of the United States, and is either (I) a citizen or (II) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 212(d)(5) of the Immigration and Nationality Act), or

(ii) is a child who is a citizen of the United States and, who is living with a parent of the child who is a member of the Armed Forces of the United States assigned to permanent duty ashore outside the United States.

(2) An individual shall be considered to be blind for purposes of this title if he has central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of the first sentence of this subsection as having a central visual acuity of 20/200 or less. An individual shall also be considered to be blind for purposes of this title if he is blind as defined under a State plan approved under title X or XVI as in effect for October 1972 and received aid under such plan (on the basis of blindness) for December 1973, so long as he is continuously blind as so defined.

(3)(A) Except as provided in subparagraph (C), an individual shall be considered to be disabled for purposes of this title if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months.

EXHIBIT 11-3: PHA DETERMINATION OF EXEMPTION FOR COMMUNITY SERVICE

Family: _____

Adult family member: _____

This adult family member meets the requirements for being exempted from the PHA's community service requirement for the following reason:

- ☐ 62 years of age or older (*Documentation of age in file*)
- ☐ Is a person with disabilities and self-certifies below that they are unable to comply with the community service requirement (*Documentation of HUD definition of disability in file*)

Tenant certification: I am a person with disabilities and am unable to comply with the community service requirement.

Signature of Family Member

Date

- ☐ Is the primary caretaker of such an individual in the above category (*Documentation in file*)
- ☐ Is engaged in work activities (*Verification in file*)
- ☐ Is able to meet requirements under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program (*Documentation in file*)
- ☐ Is a member of a family receiving assistance, benefits, or services under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program and the supplemental nutrition assistance program (SNAP), and has not been found by the state or other administering entity to be in noncompliance with such program (*Documentation in file*)

Signature of Family Member

Date

Signature of PHA Official

Date

EXHIBIT 11-4: CSSR WORK-OUT AGREEMENT
--

Date: _____

Noncompliant Adult: _____

Adult family member: _____

Community Service & Self-Sufficiency Requirement (CSSR):

Under Section 12 of the U.S. Housing Act, the _____ (insert name of PHA) is required to enforce the community service and self-sufficiency requirement (CSSR). Under the CSSR, each nonexempt adult family member residing in public housing must perform 8 hours per month of community service or self sufficiency activities.

Noncompliance: _____ (insert name of PHA) has found that the nonexempt individual named above is in noncompliance with the CSSR. This work-out agreement is the PHA's written notification to you of this noncompliance.

Our records show that for the most recent lease term you were required to perform _____ hours of CSSR activities. However, there were _____ hours of verified CSSR activities. Therefore, you are in noncompliance for _____ hours.

_____ (insert name of PHA) will not renew the lease at the end of the current 12-month lease term unless the head of household and noncompliant adult sign a written work-out agreement with _____ (insert name of PHA) or the family provides written assurance that is satisfactory to _____ (insert name of PHA) explaining that the noncompliant adult no longer resides in the unit. The regulations require that the work-out agreement include the means through which a noncompliant family member will comply with the CSSR requirement. [24 CFR 960.607(c), Notice PIH 2015-12]. The terms of the CSSR work-out agreement are on the reverse side of this page.

Enforcement: Should a family member refuse to sign this CSSR work-out agreement, or fail to comply with the terms of this CSSR work-out agreement, or fail to provide satisfactory written assurance that the noncompliant adult no longer resides in the unit, _____ (insert name of PHA) is required to initiate termination of tenancy proceedings at the end of the current 12-month lease [24 CFR 966.53(c)].

Terms of CSSR Work-Out Agreement

Noncompliant Adult: _____

Please check one of the below boxes:

- ☐ I [head of household or spouse/cohead] certify that the noncompliant adult named above no longer resides in the unit. [Verification attached.]
- ☐ I, the noncompliant adult named above, agree to complete _____ hours in the upcoming 12-month lease term. These hours include the _____ hours not fulfilled in the most previous lease term, plus the 96 hours for the upcoming lease term.

Below is a description of means through which I will comply with the CSSR requirement:

	Description of Activity	Number of Hours
1.		
2.		
3.		
4.		
5.		
	Total Hours	

SIGNED AND ATTESTED THIS DATE

Signature: _____

Head of Household

Date: _____

Signature: _____

Noncompliant Adult, if other than Head of Household

Date: _____

Signature: _____

PHA Official

Date: _____

Chapter 12

TRANSFER POLICY

INTRODUCTION

This chapter explains the PHA's transfer policy, based on HUD regulations, HUD guidance, and PHA policy decisions.

This chapter describes HUD regulations and PHA policies related to transfers in four parts:

Part I: Emergency Transfers. This part describes emergency transfers, emergency transfer procedures, and payment of transfer costs.

Part II: PHA Required Transfers. This part describes types of transfers that may be required by the PHA, notice requirements, and payment of transfer costs.

Part III: Transfers Requested by Residents. This part describes types of transfers that may be requested by residents, eligibility requirements, security deposits, payment of transfer costs, and handling of transfer requests.

Part IV: Transfer Processing. This part describes creating a waiting list, prioritizing transfer requests, the unit offer policy, examples of good cause, deconcentration, transferring to another development and reexamination.

The PHA may require the tenant to move from the unit under some circumstances. There are also emergency circumstances under which alternate accommodations for the tenant must be provided, that may or may not require a transfer.

The tenant may also request a transfer, such as a request for a new unit as a reasonable accommodation.

The PHA must have specific policies in place to deal with acceptable transfer requests.

PART I: EMERGENCY TRANSFERS

12-I.A. OVERVIEW

HUD categorizes certain situations that require emergency transfers [PH Occ GB, p. 147]. The emergency transfer differs from a typical transfer in that it requires immediate action by the PHA.

In the case of a genuine emergency, it may be unlikely that the PHA will have the time or resources to immediately transfer a tenant. Due to the immediate need to vacate the unit, placing the tenant on a transfer waiting list would not be appropriate. Under such circumstances, if an appropriate unit is not immediately available, the PHA should find alternate accommodations for the tenant until the emergency passes, or a permanent solution, i.e., return to the unit or transfer to another unit, is possible.

12-I.B. EMERGENCY TRANSFERS

If the dwelling unit is damaged to the extent that conditions are created which are hazardous to life, health, or safety of the occupants, the PHA must offer standard alternative accommodations, if available, where necessary repairs cannot be made within a reasonable time [24 CFR 966.4(h)].

VAWA requires the PHA to adopt an emergency transfer plan for victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

PHA Policy

The following are considered emergency circumstance warranting an immediate transfer of the tenant or family:

Maintenance conditions in the resident's unit, building or at the site that pose an immediate, verifiable threat to the life, health, or safety of the resident or family members that cannot be repaired or abated within 24 hours. Examples of such unit or building conditions would include: a gas leak, no heat in the building during the winter, no water, toxic contamination, and serious water leaks.

A verified incident of domestic violence, dating violence, sexual assault, stalking, or human trafficking. For instances of domestic violence, dating violence, sexual assault, stalking, or **human trafficking**, the threat may be established through documentation outlined in section 16-VII.D. In order to request the emergency transfer, the requestor must submit an emergency transfer request form (HUD-5383) (Exhibit 16-4 of this ACOP), although, the PHA may waive this requirement in order to expedite the transfer process.

The PHA will immediately process requests for transfers due to domestic violence, dating violence, sexual assault, stalking, or human trafficking. The PHA will allow a tenant to make an internal emergency transfer under VAWA when a safe unit is immediately available. The PHA defines *immediately available* as a vacant unit, that is ready for move-in within a reasonable period of time. If an internal transfer to a safe unit is not immediately available, the PHA will assist the resident in seeking an external emergency transfer either within or outside the PHA's programs.

The PHA has adopted an emergency transfer plan, which is included as Exhibit 16-3 to this plan.

12-I.C. EMERGENCY TRANSFER PROCEDURES

PHA Policy

Any condition that would produce an emergency work order would qualify a family for an emergency transfer if the repairs cannot be made within 24 hours.

If the transfer is necessary because of maintenance conditions, and an appropriate unit is not immediately available, the PHA will provide temporary accommodations to the tenant by arranging for temporary lodging at a hotel or similar location. The family is entitled to alternative accommodations even if the tenant, household member, guest, or other covered person is responsible for the damage that caused the hazard or if a family is in the process of being evicted.

If the conditions that required the transfer cannot be repaired, or the condition cannot be repaired in a reasonable amount of time, the PHA will transfer the resident to the first available and appropriate unit after the temporary relocation.

Emergency transfers that arise due to maintenance conditions are mandatory for the tenant.

If the emergency transfer is necessary to protect a victim of domestic violence, dating violence, sexual assault, stalking, or **human trafficking**, the PHA will follow procedures outlined in Exhibit 16-4.

12-I.D. COSTS OF TRANSFER

PHA Policy

The PHA will bear the reasonable costs of temporarily accommodating the tenant and of long-term transfers, if any, due to emergency conditions.

The reasonable cost of transfers includes the cost of packing, moving, and unloading.

The PHA will establish a moving allowance based on the typical costs in the community of packing, moving, and unloading. To establish typical costs, the PHA will collect information from companies in the community that provide these services.

The PHA will reimburse the family for eligible out-of-pocket moving expenses up to the PHA's established moving allowance.

PART II: PHA REQUIRED TRANSFERS

12-II.A. OVERVIEW

HUD regulations regarding transfers are minimal, leaving it up to the PHA to develop reasonable transfer policies.

The PHA may require that a resident transfer to another unit under some circumstances. For example, the PHA may require a resident to transfer to make an accessible unit available to a disabled family. The PHA may also transfer residents to maintain occupancy standards based on family composition. Finally, a PHA may transfer residents to demolish or renovate the unit.

A transfer that is required by the PHA is an adverse action and is subject to the notice requirements for adverse actions [24 CFR 966.4(e)(8)(i)].

12-II.B. TYPES OF PHA REQUIRED TRANSFERS

PHA Policy

The types of transfers that may be required by the PHA, include, but are not limited to, transfers to make an accessible unit available for a disabled family, transfers to comply with occupancy standards, transfers for demolition, disposition, revitalization, or rehabilitation, and emergency transfers as discussed in Part I of this chapter.

Transfers required by the PHA are mandatory for the tenant.

Transfers to Make an Accessible Unit Available

When a family is initially given an accessible unit, but does not require the accessible features, the PHA may require the family to agree to move to a non-accessible unit when it becomes available [24 CFR 8.27(b)].

PHA Policy

When a non-accessible unit becomes available, the PHA will transfer a family living in an accessible unit that does not require the accessible features, to an available unit that is not accessible. The PHA may wait until a disabled resident requires the accessible unit before transferring the family that does not require the accessible features out of the accessible unit.

Occupancy Standards Transfers

The PHA may require a resident to move when a reexamination indicates that there has been a change in family composition, and the family is either overcrowded or over-housed according to PHA policy [24 CFR 960.257(a)(4)]. On some occasions, the PHA may initially place a resident in an inappropriately sized unit at lease-up, where the family is over-housed, to prevent vacancies. The public housing lease must include the tenant's agreement to transfer to an appropriately sized unit based on family composition [24 CFR 966.4(c)(3)].

PHA Policy

The PHA will transfer a family when the family size has changed, and the family is now too large (overcrowded) or too small (over-housed) for the unit occupied.

For purposes of the transfer policy, overcrowded and over-housed are defined as follows:

Under-housed: the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides, according to the chart in Section 5-I.B.

Over-housed: the family no longer qualifies for the bedroom size in which they are living based on the PHA's occupancy standards as described in Section 5-I.B.

The PHA may also transfer a family who was initially placed in a unit in which the family was over-housed to a unit of an appropriate size based on the PHA's occupancy standards, when the PHA determines there is a need for the transfer.

The PHA may elect not to transfer an over-housed family to prevent vacancies.

A family that is required to move because of family size will be advised by the PHA that a transfer is necessary, and that the family has been placed on the transfer list.

Families that request and are granted an exception to the occupancy standards (for either a larger or smaller size unit) in accordance with the policies in Section 5-I.C. will only be required to transfer if it is necessary to comply with the approved exception.

Demolition, Disposition, Revitalizations, or Rehabilitation, Including Rental Assistance Demonstration (RAD) Conversions Transfers

These transfers permit the PHA to demolish, sell or do major capital or rehabilitation work at a building site [PH Occ GB, page 148].

PHA Policy

The PHA will relocate a family when the unit or site in which the family lives is undergoing major rehabilitation that requires the unit to be vacant, or the unit is being disposed of or demolished. The PHA's relocation plan may or may not require transferring affected families to other available public housing units.

If the relocation plan calls for transferring public housing families to other public housing units, affected families will be placed on the transfer list.

In cases of revitalization or rehabilitation, the family may be offered a temporary relocation if allowed under Relocation Act provisions, and may be allowed to return to their unit, depending on contractual and legal obligations, once revitalization or rehabilitation is complete.

12-II.C. ADVERSE ACTION [24 CFR 966.4(e)(8)(i)]

A PHA required transfer is an adverse action. As an adverse action, the transfer is subject to the requirements regarding notices of adverse actions. If the family requests a grievance hearing within the required timeframe, the PHA may not take action on the transfer until the conclusion of the grievance process.

12-II.D. COST OF TRANSFER

PHA Policy

The PHA will bear the reasonable costs of transfers that the PHA requires, except that residents will be required to bear the cost of occupancy standards transfers.

The reasonable costs of transfers include the cost of packing, moving, and unloading.

The PHA will establish a moving allowance based on the typical costs in the community of packing, moving, and unloading. To establish typical costs, the PHA will collect information from companies in the community that provide these services.

The PHA will reimburse the family for eligible out-of-pocket moving expenses up to the PHA's established moving allowance.

PART III: TRANSFERS REQUESTED BY TENANTS

12-III.A. OVERVIEW

HUD provides the PHA with discretion to consider transfer requests from tenants. The only requests that the PHA is required to consider are requests for reasonable accommodation. All other transfer requests are at the discretion of the PHA. To avoid administrative costs and burdens, this policy limits the types of requests that will be considered by the PHA.

Some transfers that are requested by tenants should be treated as higher priorities than others due to the more urgent need for the transfer.

12-III.B. TYPES OF RESIDENTS REQUESTED TRANSFERS

PHA Policy

The types of requests for transfers that the PHA will consider are limited to requests for transfers to alleviate a serious or life-threatening medical condition, transfers due to a threat of physical harm or criminal activity, reasonable accommodation, transfers to a different unit size as long as the family qualifies for the unit according to the PHA's occupancy standards, and transfers to a location closer to employment. No other transfer requests will be considered by the PHA.

The PHA will consider the following as high priority transfer requests:

When a transfer is needed to alleviate verified medical problems of a serious or life-threatening nature

When there has been a verified threat of physical harm or criminal activity. Such circumstances may, at the PHA's discretion, include an assessment by law enforcement indicating that a family member is the actual or potential victim of a criminal attack, retaliation for testimony, or a hate crime.

When a family requests a transfer as a reasonable accommodation. Examples of a reasonable accommodation transfer include, but are not limited to, a transfer to a first-floor unit for a person with mobility impairment, or a transfer to a unit with accessible features

The PHA will consider the following transfer requests:

When a family requests a larger/smaller bedroom size unit if the family meets the PHA's occupancy standards for the requested size unit

Transfers requested by the tenant are considered optional for the tenant.

12-III.C. ELIGIBILITY FOR TRANSFER

Transferring residents do not have to meet the admission eligibility requirements pertaining to income or preference. However, the PHA may establish other standards for considering a transfer request [PH Occ GB, p. 150].

PHA Policy

Except where reasonable accommodation is being requested, the PHA will only consider transfer requests from residents that meet the following requirements:

Have not engaged in criminal activity that threatens the health and safety of residents and staff

Owe no back rent or other charges, or have a pattern of late payment

Have no housekeeping lease violations or history of damaging property

Are compliant with the HUD mandated Community Service Program

A resident with housekeeping standards violations will not be transferred until the resident passes a follow-up housekeeping inspection.

Exceptions to the good record requirement may be made when it is to the PHA's advantage to make the transfer.

Exceptions will also be made when the PHA determines that a transfer is necessary to protect the health or safety of a resident who is a victim of domestic violence, dating violence, sexual assault, stalking, or **human trafficking**, and who provides documentation of abuse in accordance with section 16-VII.D of this ACOP. Tenants who are not in good standing may still request an emergency transfer under VAWA.

12-III.D. SECURITY DEPOSITS

PHA Policy

When a family transfers from one unit to another, the PHA will transfer their security deposit to the new unit. The tenant will be billed for any maintenance or others charges due for the “old” unit.

12-III.E. COST OF TRANSFER

The PHA must pay moving expenses to transfer a resident with a disability to an accessible unit as accommodation for the resident’s disability [Notice PIH 2010-26].

PHA Policy

The resident will bear all the costs of transfer s/he requests. However, the PHA will bear the transfer costs when the transfer is done as a reasonable accommodation.

12-III.F. HANDLING OF REQUESTS

PHA Policy

Residents requesting a transfer to another unit or development will be required to submit a written request for transfer.

To request the emergency transfer under VAWA, the resident will be required to submit an emergency transfer request form (HUD-5383) (Exhibit 16-4 of this ACOP). The PHA may, on a case-by-case basis, waive this requirement and accept a verbal request to expedite the transfer process. If the PHA accepts an individual's statement, the PHA will document acceptance of the statement in the individual's file in accordance with 16-VII.D. of this ACOP. Transfer requests under VAWA will be processed in accordance with the PHA's Emergency Transfer Plan (Exhibit 16-3). In case of a reasonable accommodation transfer, the PHA will encourage the resident to make the request in writing using a reasonable accommodation request form. However, the PHA will consider the transfer request any time the resident indicates that accommodation is needed whether a formal written request is submitted.

The PHA will respond by approving the transfer and putting the family on the transfer list, by denying the transfer, or by requiring more information or documentation from the family, such as documentation of domestic violence, dating violence, sexual assault, stalking, or **human trafficking** in accordance with section 16-VII.D of this ACOP.

If the family does not meet the "good record" requirements under Section 12-III.C., the manager will address the problem and, until resolved, the request for transfer will be denied.

The PHA will respond within ten (10) **calendar** days of the submission of the family's request. If the PHA denies the request for transfer, the family will be informed of its grievance rights.

PART IV: TRANSFER PROCESSING

12-IV.A. OVERVIEW

Generally, families who request a transfer should be placed on a transfer list and processed in a consistent and appropriate order. The transfer process must be clearly auditable to ensure that residents do not experience inequitable treatment.

12-IV.B. TRANSFER LIST

PHA Policy

The PHA will maintain a centralized transfer list to ensure that transfers are processed in the correct order and that procedures are uniform across all properties.

Emergency transfers will not automatically go on the transfer list. Instead, emergency transfers will be handled immediately, on a case-by-case basis. If the emergency cannot be resolved by temporary accommodation, and the resident requires a permanent transfer, the family will be placed at the top of the transfer list.

Transfers will be processed in the following order:

1. Emergency transfers (hazardous maintenance conditions, VAWA)
2. High-priority transfers (verified medical condition, threat of harm or criminal activity, and reasonable accommodation)
3. Transfers to make accessible units available
4. Demolition, renovation, etc.
5. Occupancy standards
6. Other PHA-required transfers
7. Other tenant-requested transfers

Within each category, transfers will be processed in order of the date a family was placed on the transfer list, starting with the earliest date.

With the approval of the executive director, the PHA may, on a case-by-case basis, transfer a family without regard to its placement on the transfer list to address the immediate need of a family in crisis.

Demolition and renovation transfers will gain the highest priority as necessary to allow the PHA to meet the demolition or renovation schedule.

Transfers will take precedence over waiting list admissions.

12-IV.C. TRANSFER OFFER POLICY

PHA Policy

Residents will receive one offer of a transfer.

When the transfer is required by the PHA, the refusal of that offer without good cause will result in lease termination.

When the transfer has been requested by the resident, the refusal of that offer without good cause will result in the removal of the family from the transfer list. In such cases, the family must wait six months to reapply for another transfer.

12-IV.D. GOOD CAUSE FOR UNIT REFUSAL

PHA Policy

Examples of good cause for refusal of a unit offer include, but are not limited to, the following:

The family demonstrates to the PHA's satisfaction that accepting the unit offer will require an adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities.

The family demonstrates to the PHA's satisfaction that accepting the offer will place a family member's life, health, or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders, other court orders, risk assessments related to witness protection from a law enforcement agency, or documentation of domestic violence, dating violence, stalking, or **human trafficking** in accordance with section 16-VII.D of this ACOP. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption.

A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final application) or live-in aide necessary to the care of the principal household member.

The unit is inappropriate for the applicant's disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to move.

The unit has lead-based paint and the family includes children under the age of six.

The PHA will require documentation of good cause for unit refusals.

12-IV.E. DECONCENTRATION

PHA Policy

If subject to deconcentration requirements, the PHA will consider its deconcentration goals when transfer units are offered. When feasible, families above the Established Income Range will be offered a unit in a development that is below the Established Income Range, and vice versa, to achieve the PHA's deconcentration goals. A deconcentration offer will be considered a "bonus" offer; that is, if a resident refuses a deconcentration offer, the resident will receive one additional transfer offer.

12-IV.F. REEXAMINATION POLICIES FOR TRANSFERS

PHA Policy

The reexamination date will be changed to the first of the month in which the transfer took place.

Chapter 13

LEASE TERMINATIONS

INTRODUCTION

Either party to the dwelling lease agreement may terminate the lease in accordance with the terms of the lease. A public housing lease is different from a private dwelling lease in that the family's rental assistance is tied to their tenancy. When the family moves from their public housing unit, they lose their rental assistance. Therefore, there are additional safeguards to protect the family's tenancy in public housing.

Likewise, there are safeguards to protect HUD's interest in the public housing program. The PHA has the authority to terminate the lease because of the family's failure to comply with HUD regulations, for serious or repeated violations of the terms of the lease, and for other good cause. HUD regulations also specify when termination of the lease is mandatory by the PHA.

When determining PHA policy on terminations of the lease, the PHA must consider state and local landlord-tenant laws in the area where the PHA is located. Such laws vary from one location to another, and these variances may be either more or less restrictive than federal law or HUD regulation.

This chapter presents the policies that govern voluntary termination of the lease by the family and the mandatory and voluntary termination of the lease by the PHA. It is presented in four parts:

Part I: Termination by Tenant. This part discusses the PHA requirements for voluntary termination of the lease by the family.

Part II: Termination by PHA - Mandatory. This part describes circumstances when termination of the lease by the PHA is mandatory. This part also explains nonrenewal of the lease for noncompliance with community service requirements and families that have been over the income limit for 24 consecutive months.

Part III: Termination by PHA – Other Authorized Reasons. This part describes the PHA's options for lease termination that are not mandated by HUD regulation but for which HUD authorizes PHAs to terminate. For some of these options HUD requires the PHA to establish policies and lease provisions for termination, but termination is not mandatory. For other options the PHA has full discretion whether to consider the options as just cause to terminate as long as the PHA policies are reasonable, nondiscriminatory, and do not violate state or local landlord-tenant law. This part also discusses the alternatives that the PHA may consider in lieu of termination, and the criteria the PHA will use when deciding what actions to take.

Part IV: Notification Requirements. This part presents the federal requirements for disclosure of criminal records to the family prior to termination, the HUD requirements and PHA policies regarding the timing and content of written notices for lease termination and eviction, and notification of the post office when eviction is due to criminal activity. This part also discusses record keeping related to lease termination.

PART I: TERMINATION BY TENANT

13-I.A. TENANT CHOOSES TO TERMINATE THE LEASE [24 CFR 966.4(k)(1)(ii) and 24 CFR 966.4(l)(1)]

The family may terminate the lease at any time, for any reason, by following the notification procedures as outlined in the lease. Such notice must be in writing and delivered to the property site office or the PHA central office or sent by pre-paid first-class mail, properly addressed.

PHA Policy

If a family desires to move and terminate their tenancy with the PHA, they must give at least 30 calendar days advance written notice to the PHA of their intent to vacate. When a family must give less than 30 days' notice due to circumstances beyond their control the PHA, at its discretion, may waive the 30-day requirement.

The notice of lease termination must be signed by the head of household, spouse, or cohead.

PART II: TERMINATION BY PHA – MANDATORY

13-II.A. OVERVIEW

HUD requires mandatory termination of the lease for certain actions or inactions of the family. There are other actions or inactions of the family that constitute *grounds* for lease termination, but the lease termination is not mandatory. The PHA must establish policies for termination of the lease in these cases where termination is optional for the PHA.

For those tenant actions or failures to act where HUD requires termination, the PHA has no such option. In those cases, the family's lease must be terminated. This part describes situations in which HUD requires the PHA to terminate the lease.

13-II.B. FAILURE TO PROVIDE CONSENT [24 CFR 960.259(a) and (b)]

The PHA must terminate the lease if any family member fails to sign and submit any consent form s/he is required to sign for any reexamination. See Chapter 7 for a complete discussion of consent requirements.

13-II.C. FAILURE TO DOCUMENT CITIZENSHIP [24 CFR 5.514(c) and (d) and 24 CFR 960.259(a)]

The PHA must terminate the lease if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family, resulting in no eligible family members; or (3) a family member, as determined by the PHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. For (3), such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated.

See Chapter 7 for a complete discussion of documentation requirements.

13-II.D. FAILURE TO DISCLOSE AND DOCUMENT SOCIAL SECURITY NUMBERS [24 CFR 5.218(c), 24 CFR 960.259(a)(3), Notice PIH 2018-24]

The PHA must terminate assistance if a participant family fails to disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number.

However, if the family is otherwise eligible for continued program assistance, and the PHA determines that the family's failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside of the family's control, the PHA may defer the family's termination and provide the opportunity to comply with the requirement within a period not to exceed 90 calendar days from the date the PHA determined the family to be noncompliant.

PHA Policy

The PHA will defer the family's termination and provide the family with the opportunity to comply with the requirement for a period of 90 calendar days for circumstances beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency, if there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.

See Chapter 7 for a complete discussion of documentation and certification requirements.

13-II.E. FAILURE TO ACCEPT THE PHA'S OFFER OF A LEASE REVISION [24 CFR 966.4(l)(2)(ii)(E)]

The PHA must terminate the lease if the family fails to accept the PHA's offer of a lease revision to an existing lease, provided the PHA has done the following:

- The revision is on a form adopted by the PHA in accordance with 24 CFR 966.3 pertaining to requirements for notice to tenants and resident organizations and their opportunity to present comments.
- The PHA has made written notice of the offer of the revision at least 60 calendar days before the lease revision is scheduled to take effect.
- The PHA has specified in the offer a reasonable time limit within that period for acceptance by the family.

See Chapter 8 for information pertaining to PHA policies for offering lease revisions.

13-II.F. METHAMPHETAMINE CONVICTION [24 CFR 966.4(l)(5)(i)(A)]

The PHA must immediately terminate the lease if the PHA determines that any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally assisted housing.

See Part 13-III.B. below for the HUD definition of *premises*.

13-II.G. LIFETIME REGISTERED SEX OFFENDERS [Notice PIH 2012-28]

Should a PHA discover that a member of an assisted household was subject to a lifetime registration requirement at admission and was erroneously admitted after June 25, 2001, the PHA must immediately terminate assistance for the household member.

In this situation, the PHA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the PHA must terminate assistance for the household.

13-II.H. NONCOMPLIANCE WITH COMMUNITY SERVICE REQUIREMENTS [24 CFR 966.4(l)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)(2)(ii) and (c)]

The PHA is prohibited from renewing the lease at the end of the 12-month lease term when the family fails to comply with the community service requirements as described in Chapter 11.

13-II.I. DEATH OF A SOLE FAMILY MEMBER [Notice PIH 2012-4]

The PHA must immediately terminate the lease following the death of the sole family member.

13-II.J. REQUIREMENTS FOR OVER-INCOME FAMILIES

In accordance with the regulations at 24 CFR 960.507 (d), PHA shall terminate the lease if a family's income has exceeded the over-income limit for 24 consecutive months (24-month grace period).

PHA will provide notice to the family once they have determined the family has exceeded the over-income limit for 24 consecutive months. PHA will terminate the lease within six (6) months of this notice.

Families may request an interim recertification during the period between notice and termination; however, decreases in income during this period will not forestall the family's termination.

Refer to Chapter 9 Over-Income Families for additional details on requirements for the notifying, tracking, and recertifying over-income families during the 24-month grace period. You may also refer to Chapter 6

PART III: TERMINATION BY PHA – OTHER AUTHORIZED REASONS

13-III.A. OVERVIEW

Besides requiring PHAs to terminate the lease under the circumstances described in Part II, HUD requires the PHA to establish provisions in the lease for termination pertaining to certain criminal activity, alcohol abuse, and certain household obligations stated in the regulations. While these provisions for lease termination must be in the lease agreement, HUD does not require PHAs to terminate for such violations in all cases. The PHA has the discretion to consider circumstances surrounding the violation or, in applicable situations, whether the offending household member has entered or completed rehabilitation, and the PHA may, as an alternative to termination, require the exclusion of the culpable household member. The PHA must adopt policies concerning the use of these options.

In addition, HUD authorizes PHAs to terminate the lease for other grounds, but for only those grounds that constitute serious or repeated violations of material terms of the lease or for other good cause. The PHA must develop policies pertaining to what constitutes serious or repeated lease violations, and other good cause, based upon the content of the PHA lease. In the development of the terms of the lease, the PHA must consider the limitations imposed by state and local landlord-tenant law, as well as HUD regulations and federal statutes. Because of variations in state and local landlord-tenant law, and because HUD affords PHAs wide discretion in some areas, a broad range of policies could be acceptable.

The PHA also has the option to terminate the tenancies of certain over-income families.

The PHA may consider alternatives to termination and must establish policies describing the criteria the PHA will use when deciding what action to take, the types of evidence that will be acceptable, and the steps the PHA must take when terminating a family's lease.

13-III.B. MANDATORY LEASE PROVISIONS [24 CFR 966.4(l)(5)]

This section addresses provisions for lease termination that must be included in the lease agreement according to HUD regulations. Although the provisions are required, HUD does not require PHAs to terminate for such violations in all cases, therefore PHA policies are needed.

***Definitions* [24 CFR 5.100]**

The following definitions will be used for this and other parts of this chapter:

Affiliated individual is defined in section 16-VII.B.

Covered person means a tenant, any member of the tenant's household, a guest, or another person under the tenant's control.

Dating violence is defined in section 16-VII.B.

Domestic violence is defined in section 16-VII.B.

Drug means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802].

Drug-related criminal activity means the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with the intent to manufacture, sell, distribute, or use the drug.

Guest means a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.

Household means the family and PHA-approved live-in aide. The term household also includes foster children and/or foster adults that have been approved to reside in the unit [HUD-50058, Instruction Booklet, p. 65].

Other person under the tenant's control means that the person, although not staying as a guest in the unit, is, or was at the time of the activity in question, on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not *under the tenant's control*.

Premises means the building or complex or development in which the public or assisted housing dwelling unit is located, including common areas and grounds.

Sexual assault is defined in section 16-VII.B.

Stalking is defined in section 16-VII.B.

Violent criminal activity means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

Drug Crime On or Off the Premises [24 CFR 966.4(l)(5)(i)(B)]

The lease must provide that drug-related criminal activity engaged in on or off the premises by the tenant, member of the tenant's household or guest, or any such activity engaged in on the premises by any other person under the tenant's control is grounds for termination.

PHA Policy

The PHA will terminate the lease for drug-related criminal activity engaged in on or off the premises by any tenant, member of the tenant's household or guest, and any such activity engaged in on the premises by any other person under the tenant's control.

The PHA will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to the drug-related criminal activity.

A record or records of arrest will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate the lease, the PHA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate the lease.

Illegal Use of a Drug [24 CFR 966.4(l)(5)(i)(B)]

The lease must provide that a PHA may evict a family when the PHA determines that a household member is illegally using a drug or that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

PHA Policy

The PHA will terminate the lease when the PHA determines that a household member is illegally using a drug or the PHA determines that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

A pattern of illegal drug use means more than one incident of any use of illegal drugs during the previous three months.

The PHA will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the use of illegal drugs.

A record or records of arrest will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate the lease, the PHA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate the lease.

Threat to Other Residents [24 CFR 966.4(l)(5)(ii)(A)]

The lease must provide that any criminal activity by a covered person that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including PHA management staff residing on the premises) or by persons residing in the immediate vicinity of the premises is grounds for termination of tenancy.

PHA Policy

The PHA will terminate the lease when a covered person engages in any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including PHA management staff residing on the premises) or by persons residing in the immediate vicinity of the premises.

Immediate vicinity means within a three-block radius of the premises.

The PHA will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to the criminal activity.

A record or records of arrest will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate the lease, the PHA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate the lease.

Alcohol Abuse [24 CFR 966.4(l)(5)(vi)(A)]

PHAs must establish standards that allow termination of tenancy if the PHA determines that a household member has engaged in abuse or pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

PHA Policy

The PHA will terminate the lease if the PHA determines that a household member has engaged in abuse or a pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

A pattern of such alcohol abuse means more than one incident of any such abuse of alcohol during the previous three months.

The PHA will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the abuse of alcohol.

A record or records of arrest will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate the lease, the PHA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate the lease.

Furnishing False or Misleading Information Concerning Illegal Drug Use or Alcohol Abuse or Rehabilitation [24 CFR 966.4(l)(5)(vi)(B)]

PHAs must establish standards that allow termination of tenancy if the PHA determines that a household member has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

PHA Policy

The PHA will terminate the lease if the PHA determines that a household member has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

The PHA will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the use of illegal drugs or the abuse of alcohol, and any records or other documentation (or lack of records or documentation) supporting claims of rehabilitation of illegal drug users or alcohol abusers.

In making its decision to terminate the lease, the PHA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate the lease.

Other Serious or Repeated Violations of Material Terms of the Lease – Mandatory Lease Provisions [24 CFR 966.4(l)(2)(i) and 24 CFR 966.4(f)]

HUD regulations require certain tenant obligations to be incorporated into the lease. Violations of such regulatory obligations are considered to be serious or repeated violations of the lease and grounds for termination. Incidents of actual or threatened domestic violence, dating violence, sexual assault, stalking, or human trafficking may not be construed as serious or repeated violations of the lease by the victim or threatened victim [24 CFR 5.2005(c)(1)].

PHA Policy

The PHA will terminate the lease for the following violations of tenant obligations under the lease:

Failure to make payments due under the lease, including nonpayment of rent (see Chapter 8 for details pertaining to lease requirements for payments due);

Repeated late payment of rent or other charges. Four late payments within a 12-month period shall constitute a repeated late payment.

Failure to fulfill the following household obligations:

- Not to assign the lease or to sublease the dwelling unit. Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.

- Not to provide accommodations for boarders or lodgers

- To use the dwelling unit solely as a private dwelling for the tenant and the tenant's household as identified in the lease, and not to use or permit its use for any other purpose

- To abide by necessary and reasonable regulations promulgated by the PHA for the benefit and well-being of the housing project and the tenants which shall be posted in the project office and incorporated by reference in the lease

- To comply with all obligations imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety

- To keep the dwelling unit and such other areas as may be assigned to the tenant for the tenant's exclusive use in a clean and safe condition

- To dispose of all ashes, garbage, rubbish, and other waste from the dwelling unit in a sanitary and safe manner

To use only in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appurtenances including elevators

To refrain from, and to cause the household and guests to refrain from destroying, defacing, damaging, or removing any part of the dwelling unit or project

To pay reasonable charges (other than for normal wear and tear) for the repair of damages to the dwelling unit, or to the project (including damages to project buildings, facilities or common areas) caused by the tenant, a member of the household or a guest

To act, and cause household members or guests to act, in a manner which will not disturb other residents' peaceful enjoyment of their accommodations and will be conducive to maintaining the project in a decent, safe and sanitary condition

In making its decision to terminate the lease, the PHA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate the lease.

13-III.C. OTHER AUTHORIZED REASONS FOR TERMINATION [24 CFR 966.4(l)(2) and (5)(ii)(B)]

HUD authorizes PHAs to terminate the lease for reasons other than those described in the previous sections. These reasons are referred to as “other good cause.”

Other Good Cause [24 CFR 966.4(l)(2)(ii)(B) and (C)]

HUD regulations state that the PHA may terminate tenancy for other good cause. The regulations provide a few examples of other good cause, but do not limit the PHA to only those examples. The Violence against Women Act prohibits PHAs from considering incidents of actual or threatened domestic violence, dating violence, sexual assault, stalking, or human trafficking as “other good cause” for terminating the assistance, tenancy, or occupancy rights of the victim or threatened victim of such violence [see 24 CFR 5.2005(c)(1)].

PHA Policy

The PHA will terminate the lease for the following reasons.

Fugitive Felon or Parole Violator. If a tenant is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or violating a condition of probation or parole imposed under federal or state law.

Persons subject to sex offender registration requirement. If any member of the household has, during their current public housing tenancy, become subject to a registration requirement under a state sex offender registration program.

Discovery of facts after admission to the program that would have made the tenant ineligible

Discovery of material false statements or fraud by the tenant in connection with an application for assistance or with a reexamination of income

Failure to furnish such information and certifications regarding family composition and income as may be necessary for the PHA to make determinations with respect to rent, eligibility, and the appropriateness of the dwelling unit size

Failure to transfer to an appropriate size dwelling unit based on family composition, upon appropriate notice by the PHA that such a dwelling unit is available

Failure to permit access to the unit by the PHA after proper advance notification for the purpose of performing routine inspections and maintenance, for making improvements or repairs, or to show the dwelling unit for re-leasing, or without advance notice if there is reasonable cause to believe that an emergency exists

Failure to promptly inform the PHA of the birth, adoption or court-awarded custody of a child. In such a case, promptly means within 10 business days of the event.

Failure to abide by the provisions of the PHA pet policy

If the family has breached the terms of a repayment agreement entered into with the PHA

If a family member has violated federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

If a household member has engaged in or threatened violent or abusive behavior toward PHA personnel.

Abusive or violent behavior towards PHA personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to terminate the lease, the PHA will consider alternatives as described in Section 13-III.D and other factors described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate the lease.

Family Absence from Unit [24 CFR 982.551(i)]

It is reasonable that the family may be absent from the public housing unit for brief periods. However, the PHA needs a policy on how long the family may be absent from the unit. Absence in this context means that no member of the family is residing in the unit.

PHA Policy

The family must supply any information or certification requested by the PHA to verify that the family is living in the unit, or relating to family absence from the unit, including any PHA-requested information or certification on the purposes of family absences. The family must cooperate with the PHA for this purpose.

The family must promptly notify the PHA when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. In such a case promptly means within 10 calendar days of the start of the extended absence.

If a family is absent from the public housing unit for more than 180 consecutive days, and the family does not adequately verify that they are living in the unit, the PHA will terminate the lease for other good cause.

Abandonment of the unit. If the family appears to have vacated the unit without giving proper notice, the PHA will follow state and local landlord-tenant law pertaining to abandonment before taking possession of the unit. If necessary, the PHA will secure the unit immediately to prevent vandalism and other criminal activity.

13-III.D. ALTERNATIVES TO TERMINATION OF TENANCY

Exclusion of Culpable Household Member [24 CFR 966.4(l)(5)(vii)(C)]

As an alternative to termination of the lease for criminal activity or alcohol abuse HUD provides that the PHA may consider exclusion of the culpable household member. Such an alternative can be used for any other reason where such a solution appears viable in accordance with PHA policy.

Additionally, under the Violence against Women Act, the PHA may bifurcate a lease in order to terminate the tenancy of an individual who is a tenant or lawful occupant of a unit and engages in criminal activity directly related to domestic violence, dating violence, sexual assault, stalking, or human trafficking.

PHA Policy

The PHA will consider requiring the tenant to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

As a condition of the family's continued occupancy, the head of household must certify that the culpable household member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former household member's current address upon PHA request.

Repayment of Family Debts

PHA Policy

If a family owes amounts to the PHA, as a condition of continued occupancy, the PHA will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from the PHA of the amount owed. See Chapter 16 for policies on repayment agreements.

13-III.E. CRITERIA FOR DECIDING TO TERMINATE TENANCY

A PHA that has grounds to terminate a tenancy is not required to do so, except as explained in Part II of this chapter, and may consider all of the circumstances relevant to a particular case before making a decision.

Evidence [24 CFR 982.553(c)]

For criminal activity, HUD permits the PHA to terminate the lease if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted, and without satisfying the standard of proof used for a criminal conviction.

PHA Policy

The PHA will use the preponderance of the evidence as the standard for making all termination decisions.

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not.

Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Consideration of Circumstances [24 CFR 966.4(l)(5)(vii)(B)]

Although it is required that certain lease provisions exist for criminal activity and alcohol abuse, HUD provides that the PHA may consider all circumstances relevant to a particular case in order to determine whether or not to terminate the lease.

Such relevant circumstances can also be considered when terminating the lease for any other reason.

PHA Policy

The PHA will consider the following facts and circumstances before deciding whether to terminate the lease for any of the HUD required lease provisions or for any other reasons:

The seriousness of the offending action, especially with respect to how it would affect other residents' safety or property

The extent of participation or culpability of the leaseholder, or other household members, in the offending action, including whether the culpable member is a minor, a person with disabilities, or (as discussed further in section 13-III.F) a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking

The effects that the eviction will have on other family members who were not involved in the action or failure to act

The effect on the community of the termination, or of the PHA's failure to terminate the tenancy

The effect of the PHA's decision on the integrity of the public housing program

The demand for housing by eligible families who will adhere to lease responsibilities

The extent to which the leaseholder has shown personal responsibility and whether they have taken all reasonable steps to prevent or mitigate the offending action

The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history, and the likelihood of favorable conduct in the future

While a record or records of arrest will not be used as the sole basis for termination, an arrest may, however, trigger an investigation to determine whether the participant actually engaged in disqualifying criminal activity. As part of its investigation, the PHA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The PHA may also consider:

- Any statements made by witnesses or the participant not included in the police report

- Whether criminal charges were filed

- Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal

- Any other evidence relevant to determining whether or not the participant engaged in disqualifying activity

Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property.

In the case of program abuse, the dollar amount of the underpaid rent and whether or not a false certification was signed by the family

Consideration of Rehabilitation [24 CFR 966.4(l)(5)(vii)(D)]

HUD authorizes PHAs to take into consideration whether a household member who had used illegal drugs or abused alcohol and is no longer engaging in such use or abuse is participating in or has successfully completed a supervised drug or alcohol rehabilitation program.

PHA Policy

In determining whether to terminate the lease for illegal drug use or a pattern of illegal drug use, or for abuse or a pattern of abuse of alcohol, by a household member who is no longer engaging in such use or abuse, the PHA will consider whether such household member has successfully completed a supervised drug or alcohol rehabilitation program.

For this purpose the PHA will require the tenant to submit evidence of the household member's successful completion of a supervised drug or alcohol rehabilitation program.

Reasonable Accommodation [24 CFR 966.7]

If the family includes a person with disabilities, the PHA's decision to terminate the family's lease is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

PHA Policy

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of lease, the PHA will determine whether the behavior is related to the disability. If so, upon the family's request, the PHA will determine whether alternative measures are appropriate as a reasonable accommodation. The PHA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed lease termination. See Chapter 2 for a discussion of reasonable accommodation.

Nondiscrimination Limitation [24 CFR 966.4(l)(5)(vii)(F)]

The PHA's eviction actions must be consistent with fair housing and equal opportunity provisions of 24 CFR 5.105.

13-III.F. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING, OR HUMAN TRAFFICKING

This section addresses the protections against termination of tenancy that the Violence against Women Act (VAWA) provides for public housing residents who are victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking. For general VAWA requirements and PHA policies pertaining to notification, documentation, and confidentiality, see section 16-VII of this ACOP, where definitions of key VAWA terms are also located.

VAWA Protections against Termination [24 CFR 5.2005(c)]

VAWA provides that no person may deny assistance, tenancy, or occupancy rights to public housing to a tenant on the basis or as a direct result of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking that is engaged in by a member of the household of the tenant or any guest or other person under the control of the tenant, if the tenant or affiliated individual is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking [FR Notice 8/6/13].

VAWA further provides that incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking may not be construed either as serious or repeated violations of the lease by the victim or threatened victim of such violence or as good cause for terminating the tenancy or occupancy rights of the victim of such violence [24 CFR 5.2005(c)(1), FR Notice 8/6/13].

- Although the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror HUD's recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.

PHAs and owners may not coerce, intimidate, threaten, interfere with, or retaliate against any person who exercises or assists or encourages a person to exercise any rights or protections under VAWA [FR Notice 1/4/23].

Limits on VAWA Protections [24 CFR 5.2005(d) and (e), FR Notice 8/6/13]

While VAWA prohibits a PHA from using domestic violence, dating violence, sexual assault, stalking, or human trafficking as the cause for a termination or eviction action against a public housing tenant who is the victim of the abuse, the protections it provides are not absolute. Specifically:

- VAWA does not limit a PHA's otherwise available authority to terminate assistance to or evict a victim for lease violations not premised on an act of domestic violence, dating violence, sexual assault, stalking, or human trafficking providing that the PHA does not subject the victim to a more demanding standard than the standard to which it holds other tenants.
- VAWA does not limit a PHA's authority to terminate the tenancy of any public housing tenant if the PHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant's tenancy is not terminated.

HUD regulations define *actual and imminent threat* to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm [24 CFR 5.2005(d)(2) and (e)]. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk
- The nature and severity of the potential harm
- The likelihood that the potential harm will occur
- The length of time before the potential harm would occur [24 CFR 5.2005(e)]

In order to demonstrate an actual and imminent threat, the PHA must have objective evidence of words, gestures, actions, or other indicators. Even when a victim poses an actual and imminent threat, however, HUD regulations authorize a PHA to terminate the victim's assistance "only when there are no other actions that could be taken to reduce or eliminate the threat, including but not limited to transferring the victim to a different unit, barring the perpetrator from the property, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat" [24 CFR 5.2005(d)(3)]. Additionally, HUD regulations state that restrictions "predicated on public safety cannot be based on stereotypes, but must be tailored to particularized concerns about individual residents" [24 CFR 5.2005(d)(3)].

PHA Policy

In determining whether a public housing tenant who is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking is an actual and imminent threat to other tenants or those employed at or providing service to a property, the PHA will consider the following, and any other relevant, factors:

Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking

Whether the threat is a physical danger beyond a speculative threat

Whether the threat is likely to happen within an immediate time frame

Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location, transferring the victim to another unit, or seeking a legal remedy to prevent the perpetrator from acting on the threat

If the tenant wishes to contest the PHA's determination that they are an actual and imminent threat to other tenants or employees, the tenant may do so as part of the grievance hearing or in a court proceeding.

Documentation of Abuse [24 CFR 5.2007]

PHA Policy

When an individual facing termination of tenancy for reasons related to domestic violence, dating violence, sexual assault, stalking, or human trafficking claims protection under VAWA, the PHA will request in writing that the individual provide documentation supporting the claim in accordance with the policies in section 16-VII.D of this ACOP.

The PHA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases the PHA will document the waiver in the individual's file.

Terminating or Evicting a Perpetrator of Domestic Violence

Although VAWA provides protection from termination for victims of domestic violence, it does not provide such protection for perpetrators. In fact, VAWA gives the PHA the explicit authority to bifurcate a lease, or remove a household member from a lease, “in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant of the housing and who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual, without evicting, removing, terminating assistance to, or otherwise penalizing a victim of such criminal activity who is also a tenant or lawful occupant of the housing” [FR Notice 8/6/13]. Moreover, HUD regulations impose on the PHA the obligation to consider lease bifurcation in any circumstances involving domestic violence, dating violence, stalking, or human trafficking [see 24 CFR 966.4(e)(9)].

Specific lease language affirming the PHA’s authority to bifurcate a lease is not necessary, and the authority supersedes any local, state, or federal law to the contrary. However, if the PHA chooses to exercise its authority to bifurcate a lease, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law for eviction, lease termination, or termination of assistance. This means that the PHA must follow the same rules when terminating or evicting an individual as it would when terminating or evicting an entire family [FR Notice 3/16/07]. However, perpetrators should be given no more than 30 days’ notice of termination in most cases [Notice PIH 2017-08].

PHA Policy

The PHA will bifurcate a family’s lease and terminate the tenancy of a family member if the PHA determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the tenancy or program assistance of the remaining, nonculpable family members.

In making its decision, the PHA will consider all credible evidence, including, but not limited to, a signed certification (form HUD-5382) or other documentation of abuse submitted to the PHA by the victim in accordance with this section and section 16-VII.D. The PHA will also consider the factors in section 13.III.E. Upon such consideration, the PHA may, on a case-by-case basis, choose not to bifurcate the lease and terminate the tenancy of the culpable family member.

If the PHA does bifurcate the lease and terminate the tenancy of the culpable family member, it will do so in accordance with the lease, applicable law, and the policies in this ACOP. If the person removed from the lease was the only tenant eligible to receive assistance, the PHA must provide any remaining tenant a chance to establish eligibility for the unit. If the remaining tenant cannot do so, the PHA must provide the tenant reasonable time to find new housing or to establish eligibility for another housing program covered under VAWA.

PART IV: NOTIFICATION REQUIREMENTS, EVICTION PROCEDURES AND RECORD KEEPING

13-IV.A. OVERVIEW

HUD regulations specify the requirements for the notice that must be provided prior to lease termination. This part discusses those requirements and the specific requirements that precede and follow termination for certain criminal activities which are addressed in the regulations. This part also discusses specific requirements pertaining to the actual eviction of families and record keeping.

13-IV.B. CONDUCTING CRIMINAL RECORDS CHECKS [24 CFR 5.903(e)(ii) and 24 CFR 960.259]

HUD authorizes PHAs to conduct criminal records checks on public housing residents for lease enforcement and eviction. PHA policy determines when the PHA will conduct such checks.

PHA Policy

The PHA will conduct criminal records checks when it has come to the attention of the PHA, either from local law enforcement or by other means that an individual has engaged in the destruction of property, engaged in violent activity against another person, or has interfered with the right to peaceful enjoyment of the premises of other residents. Such checks will also include sex offender registration information. In order to obtain such information, all adult household members must sign consent forms for release of criminal conviction and sex offender registration records on an annual basis.

The PHA may not pass along to the tenant the costs of a criminal records check.

13-IV.C. DISCLOSURE OF CRIMINAL RECORDS TO FAMILY [24 CFR 5.903(f), 24 CFR 5.905(d) and 24 CFR 966.4(l)(5)(iv)]

In conducting criminal records checks, if the PHA uses the authority of 24 CFR 5.903 and 5.905 to obtain such information, certain protections must be afforded the tenant before any adverse action is taken. In such cases if the PHA obtains criminal records information from a state or local agency showing that a household member has been convicted of a crime, or is subject to a sex offender registration requirement, relevant to lease enforcement or eviction, the PHA must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of such information, and an opportunity to dispute the accuracy and relevance of the information before an eviction or lease enforcement action is taken.

PHA Policy

In all cases where criminal record or sex offender registration information would result in lease enforcement or eviction, the PHA will notify the household in writing of the proposed adverse action and will provide the subject of the record and the tenant a copy of such information, and an opportunity to dispute the accuracy and relevance of the information before an eviction or lease enforcement action is taken.

The family will be given 10 business days from the date of the PHA notice, to dispute the accuracy and relevance of the information. If the family does not contact the PHA to dispute the information within that 10 calendar day period, the PHA will proceed with the termination action.

Should the tenant not exercise their right to dispute prior to any adverse action, the tenant still has the right to dispute in the grievance hearing or court trial.

13-IV.D. LEASE TERMINATION NOTICE [24 CFR 966.4(l)(3); Notice PIH 2021-29]

Form, Delivery, and Content of the Notice

Notices of lease termination must be in writing. The notice must state the specific grounds for termination, the date the termination will take place, the resident's right to reply to the termination notice, and their right to examine PHA documents directly relevant to the termination or eviction. If the PHA does not make the documents available for examination upon request by the tenant, the PHA may not proceed with the eviction [24 CFR 996.4(m)].

PHA Policy

If the PHA offers remote hearings, the notice will also state that the resident may request a remote hearing.

If the PHA will require that the hearing be conducted remotely, at the time the notice is sent to the resident informing them of the right to request a hearing, the resident will be notified that the hearing will be conducted remotely. The resident will be informed of the processes involved in a remote hearing and that the PHA will provide technical assistance, if needed, before the hearing.

Further, during the period of time for which HUD determines that a national emergency requires additional time for families to secure funding, all termination notifications for nonpayment of rent must include, at a minimum, the language provided in the Appendix of Notice PIH 2021-29.

When the PHA is required to offer the resident an opportunity for a grievance hearing, the notice must also inform the resident of their right to request a hearing in accordance with the PHA's grievance procedure. In these cases, the tenancy shall not terminate until the time for the tenant to request a grievance hearing has expired and the grievance procedure has been completed.

When the PHA is not required to offer the resident an opportunity for a grievance hearing because HUD has made a due process determination and the lease termination is for criminal activity that threatens health, safety or right to peaceful enjoyment or for drug-related criminal activity, the notice of lease termination must state that the tenant is not entitled to a grievance hearing on the termination. It must specify the judicial eviction procedure to be used by the PHA for eviction of the tenant, and state that HUD has determined that the eviction procedure provides the opportunity for a hearing in court that contains the basic elements of due process as defined in HUD regulations. The notice must also state whether the eviction is for a criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of the PHA, or for a drug-related criminal activity on or off the premises.

PHA Policy

The PHA will attempt to deliver notices of lease termination directly to the tenant or an adult member of the household. If such attempt fails, the notice will be sent by first-class mail the same day.

All notices of lease termination will include a copy of the forms HUD-5382 and HUD-5380 to accompany the termination notice. Any tenant who claims that the cause for termination involves domestic violence, dating violence, sexual assault, stalking, or human trafficking of which the tenant or affiliated individual of the tenant is the victim will be given the opportunity to provide documentation in accordance with the policies in sections 13-III.F and 16-VII.D.

Timing of the Notice [24 CFR 966.4(l)(3)(i); 24 CFR 966.8; Notice PIH 2021-29]

The PHA must give written notice of lease termination of:

- During the period of time for which HUD determines that a national emergency requires additional time for families to secure federal funding that is available due to a Presidential declaration of a national emergency, at least 30 calendar days from the date the tenant receives the notice in the case of failure to pay rent
- When such emergency is not present, 14 calendar days in the case of failure to pay rent
- A reasonable period of time considering the seriousness of the situation (but not to exceed 30 calendar days)

If the health or safety of other residents, PHA employees, or persons residing in the immediate vicinity of the premises is threatened

If any member of the household has engaged in any drug-related criminal activity or violent criminal activity

If any member of the household has been convicted of a felony

- 30 calendar days in any other case, except that if a state or local law allows a shorter notice period, such shorter period shall apply

PHA Policy

The PHA will give written notice of 30 calendar days from the date the tenant receives the notice for nonpayment of rent (during nationwide emergency orders) or 14 calendar days from the date the tenant receives the notice for nonpayment of rent (upon expiration of nationwide emergency orders). For all other lease terminations, the PHA will give 30 days written notice or, if state or local law allows less than 30 days, such shorter notice will be given.

The Notice to Vacate that may be required under state or local law may be combined with or run concurrently with the notice of lease termination.

PHA Policy

Any Notice to Vacate or Notice to Quit that is required by state or local law will ***be combined*** with the Notice of Lease Termination under this section.

Notice of Nonrenewal Due to Community Service Noncompliance [24 CFR 966.4(l)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)]

When the PHA finds that a family is in noncompliance with the community service requirement, the tenant and any other noncompliant resident must be notified in writing of this determination. Notices of noncompliance will be issued in accordance with the requirements and policies in Section 11-I.E.

PHA Policy

If after receiving a notice of initial noncompliance the family does not request a grievance hearing, or does not take either corrective action required by the notice within the required timeframe, a termination notice will be issued in accordance with the policies above.

If a family agreed to cure initial noncompliance by signing an agreement and is still in noncompliance after being provided the 12-month opportunity to cure, the family will be issued a notice of continued noncompliance. The notice of continued noncompliance will be sent in accordance with the policies in Section 11-I.E. and will also serve as the notice of termination of tenancy.

Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)]

In cases where termination of tenancy is based on citizenship status, HUD requires the notice of termination to contain additional information. In addition to advising the family of the reasons their assistance is being terminated, the notice must also advise the family of any of the following that apply: the family's eligibility for proration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, the family's right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal, and the family's right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Please see Chapter 14 for the PHA's informal hearing procedures.

13-IV.E. EVICTION [24 CFR 966.4(l)(4) and 966.4(m)]

Eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The PHA may only evict the tenant from the unit by instituting a court action, unless the law of the jurisdiction permits eviction by administrative action, after a due process administrative hearing, and without a court determination of the rights and liabilities of the parties.

PHA Policy

When a family does not vacate the unit after receipt of a termination notice, by the deadline given in the notice, the PHA will follow state and local landlord-tenant law in filing an eviction action with the local court that has jurisdiction in such cases.

If the eviction action is finalized in court and the family remains in occupancy beyond the deadline to vacate given by the court, the PHA will seek the assistance of the court to remove the family from the premises as per state and local law.

The PHA may not proceed with an eviction action if the PHA has not made available the documents to be used in the case against the family, and has not afforded the family the opportunity to examine and copy such documents in accordance with the provisions of 24 CFR 966.4(l)(3) and (m).

13-IV.F. NOTIFICATION TO POST OFFICE [24CFR 966.4(l)(5)(iii)(B)]

When the PHA evicts an individual or family for criminal activity, including drug-related criminal activity, the PHA must notify the local post office serving the dwelling unit that the individual or family is no longer residing in the unit.

13-IV.G. RECORD KEEPING

For more information concerning general record keeping, see Chapter 16.

PHA Policy

A written record of every termination and/or eviction will be maintained by the PHA at the development where the family was residing, and will contain the following information:

- Name of resident, number and identification of unit occupied

- Date of the notice of lease termination and any other notices required by state or local law; these notices may be on the same form and will run concurrently

- Specific reason(s) for the notices, citing the lease section or provision that was violated, and other facts pertinent to the issuing of the notices described in detail (other than any criminal history reports obtained solely through the authorization provided in 24 CFR 5.903 and 5.905)

- Date and method of notifying the resident

- Summaries of any conferences held with the resident including dates, names of conference participants, and conclusions

Chapter 14

GRIEVANCES AND APPEALS

INTRODUCTION

This chapter discusses grievances and appeals pertaining to PHA actions or failures to act that adversely affect public housing applicants or residents. The policies are discussed in the following three parts:

Part I: Informal Hearings for Public Housing Applicants. This part outlines the requirements and procedures for informal hearings for public housing applicants.

Part II: Informal Hearings with Regard to Noncitizens. This part discusses informal hearings regarding citizenship status and where they differ from the requirements for general applicant and tenant grievances.

Part III: Grievance Procedures for Public Housing Residents. This part outlines the requirements and procedures for handling grievances for public housing residents.

Note that this chapter is not the PHA's grievance procedure. The grievance procedure is a document separate from the ACOP. This chapter of the ACOP provides the policies that drive the grievance procedure. A sample grievance procedure is provided as Exhibit 14-1. However, please note that the procedure provided is only a sample and is designed to match up with the default policies in the model ACOP. As such, the PHA would need to modify accordingly should any alternative policy decisions be adopted.

PART I: INFORMAL HEARINGS FOR PUBLIC HOUSING APPLICANTS

14-I.A. OVERVIEW

When the PHA makes a decision that has a negative impact on an applicant family, the family is often entitled to appeal the decision. For applicants, the appeal takes the form of an informal hearing. HUD regulations do not provide a structure for or requirements regarding informal hearings for applicants (except regarding citizenship status, to be covered in Part II). This part discusses the PHA policies necessary to respond to applicant appeals through the informal hearing process.

14-I.B. INFORMAL HEARING PROCESS [24 CFR 960.208(a) and PH Occ GB, p. 58]

Informal hearings are provided for public housing applicants. An applicant is someone who has applied for admission to the public housing program but is not yet a tenant in the program. Informal hearings are intended to provide a means for an applicant to dispute a determination of ineligibility for admission to a project [24 CFR 960.208(a)]. Applicants to public housing are not entitled to the same hearing process afforded tenants under the PHA grievance procedures [24 CFR 966.53(a) and PH Occ GB, p. 58].

Informal hearings provide applicants the opportunity to review the reasons for denial of admission and to present evidence to refute the grounds for denial.

Use of Informal Hearing Process

While the PHA must offer the opportunity of an informal hearing to applicants who have been determined as ineligible for admission, the PHA could make the informal hearing process available to applicants who wish to dispute other PHA actions that adversely affect them.

PHA Policy

The PHA will only offer informal hearings to applicants for the purpose of disputing denials of admission.

Notice of Denial [24 CFR 960.208(a)]

The PHA must give an applicant prompt notice of a decision denying eligibility for admission. The notice must contain a brief statement of the reasons for the PHA decision and must also state that the applicant may request an informal hearing to dispute the decision. The notice must describe how to obtain informal hearing.

PHA Policy

As applicable, the PHA's notice of denial will include information about required or requested informal hearings.

When denying eligibility for admission, the PHA must provide the family a notice of VAWA rights (form HUD-5380) as well as the HUD VAWA self-certification form (form HUD-5382) in accordance with the Violence against Women Act, and as outlined in 16-VII.C. The notice and self-certification form must accompany the written notification of the denial of eligibility determination.

Prior to notification of denial based on information obtained from criminal or sex offender registration records, the family, in some cases, must be given the opportunity to dispute the information in those records which would be the basis of the denial. See Section 3-III.G for details concerning this requirement.

Scheduling an Informal Hearing

PHA Policy

A request for an informal hearing must be made in writing and delivered to the PHA either in person or by mail, by the close of the business day, no later than 10 **calendar** days from the date of the PHA's notification of denial of admission.

The PHA will schedule and send written notice of the informal hearing within 10 **calendar** days of the family's request.

If the PHA informal hearing will be conducted remotely, at the time the notice is sent to the family, the family will be informed:

Regarding the processes involved in a remote informal hearing;

That the PHA will provide technical assistance prior to and during the informal hearing, if needed; and

That if the family or any individual witness has any technological, resource, or accessibility barriers preventing them from fully accessing the remote informal hearing, the family may inform the PHA and the PHA will assist the family in either resolving the issues or allow the family to participate in an in-person informal hearing, as appropriate.

Conducting an Informal Hearing [PH Occ GB, p. 58]

PHA Policy

The informal hearing will be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant will be provided an opportunity to present written or oral objections to the decision of the PHA.

The person conducting the informal hearing will make a recommendation to the PHA, but the PHA is responsible for making the final decision as to whether admission should be granted or denied.

Remote Informal Hearings [Notice PIH 2020-32]

There is no requirement that informal hearings be conducted in-person, and as such, HUD allows PHAs to conduct all or a portion of their informal hearings remotely either over the phone, via video conferencing, or through other virtual platforms. If the PHA chooses to conduct remote informal hearings, applicants may still request an in-person informal hearing, as applicable.

PHA Policy

The PHA has the sole discretion to require that informal hearings be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster.

In addition, the PHA will conduct an informal hearing remotely upon request of the applicant as a reasonable accommodation for a person with a disability, if an applicant does not have childcare or transportation that would enable them to attend the informal hearing, or if the applicant believes an in-person informal hearing would create an undue health risk. The PHA will consider other reasonable requests for a remote informal hearing on a case-by-case basis.

Ensuring Accessibility for Persons with Disabilities and LEP Individuals

As with in-person informal hearings, the platform for conducting remote informal hearings must be accessible to persons with disabilities and the informal hearing must be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual. PHAs may never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote informal hearings.

If no method of conducting a remote informal hearing is available that appropriately accommodates an individual's disability, the PHA may not hold against the individual their inability to participate in the remote informal review, and the PHA should consider whether postponing the remote informal hearing to a later date is appropriate or whether there is a suitable alternative.

Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation, will depend on the specific circumstances and requirements.

As with in-person hearings, Limited English Proficiency (LEP) requirements also apply to remote informal hearings, including the use of interpretation services and document translation. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements, all of which apply in the context of remote informal hearings.

Conducting Remote Informal Hearings [Notice PIH 2020-32]

The PHA must ensure that the lack of technology or inability to use technology for remote informal hearings does not pose a disadvantage to families that may not be apparent to the PHA. The PHA should determine through a survey or other means if these barriers exist prior to conducting the remote informal hearing and, if the family does not have the proper technology to fully participate, either postpone the informal hearing or provide an alternative means of access.

As with in-person informal hearings, the PHA must provide all materials presented, whether paper or electronic, to the family prior to the remote informal hearing. The family must also be provided with an accessible means by which to transmit their own evidence.

The PHA must ensure that the applicant has the right to hear and be heard. All PHA policies and processes for remote informal hearings will be conducted in accordance with due process requirements and will be in compliance with HUD regulations at 24 CFR 966.56 and the guidance for conducting remote hearings specified in Notice PIH 2020-32.

PHA Policy

The PHA will conduct remote informal hearings via a video conferencing platform, when available. If, after attempting to resolve any barriers, applicants are unable to adequately access the video conferencing platform at any point, or upon applicant request, the informal hearing will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in at any point, the remote informal hearing will be postponed, and an in-person alternative will be provided promptly within a reasonable time.

At least five business days prior to scheduling the remote hearing, the PHA will provide the family with login information and/or conferencing call-in information and an electronic copy of all materials being presented via mail and/or email. The notice will advise the family of technological requirements for the hearing and request the family notify the PHA of any known barriers. The PHA will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person hearing.

If the informal hearing is to be conducted remotely, the PHA will require the family to provide any documents directly relevant to the informal hearing at least 48 hours before the scheduled hearing through the mail or email. The PHA will scan and email copies of these documents to the PHA representative and to the person conducting the informal hearing the same day.

Documents will be shared electronically whenever possible.

The PHA will follow up the email with a phone call and/or email to the applicant at least one business day prior to the remote informal hearing to ensure that the applicant received all information and is comfortable accessing the video conferencing or call-in platform.

The PHA will ensure that all electronic information stored or transmitted with respect to the informal hearing is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP.

Informal Hearing Decision [PH Occ GB, p. 58]

PHA Policy

The PHA will notify the applicant of the PHA's final decision, including a brief statement of the reasons for the final decision.

In rendering a decision, the PHA will evaluate the following matters:

Whether or not the grounds for denial were stated factually in the notice

The validity of grounds for denial of admission. If the grounds for denial are not specified in the regulations or in PHA policy, then the decision to deny assistance will be overturned. See Chapter 3 for a detailed discussion of the grounds for applicant denial.

The validity of the evidence. The PHA will evaluate whether the facts presented prove the grounds for denial of admission. If the facts prove that there are grounds for denial, and the denial is required by HUD, the PHA will uphold the decision to deny admission.

If the facts prove the grounds for denial, and the denial is discretionary, the PHA will consider the recommendation of the person conducting the informal hearing in making the final decision whether to deny admission.

The PHA will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 10 **calendar** days of the informal hearing, to the applicant and their representative, if any.

If the informal hearing decision overturns the denial, processing for admission will resume.

If the family fails to appear for their informal hearing, the denial of admission will stand and the family will be so notified.

Reasonable Accommodation for Persons with Disabilities [24 CFR 966.7]

Persons with disabilities may request reasonable accommodations to participate in the informal hearing process and the PHA must consider such accommodations. The PHA must also consider reasonable accommodation requests pertaining to the reasons for denial if related to the person's disability. See Chapter 2 for more detail pertaining to reasonable accommodation requests.

PART II: INFORMAL HEARINGS WITH REGARD TO NONCITIZENS

14-II.A. HEARING AND APPEAL PROVISIONS FOR NONCITIZENS [24 CFR 5.514]

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. These special hearings are referred to in the regulations as informal hearings, but the requirements for such hearings are different from the informal hearings used to deny applicants for reasons other than immigration status.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the PHA hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the PHA informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]

As discussed in Chapters 3 and 13, the notice of denial or termination of assistance for noncitizens must advise the family of any of the following that apply:

- That financial assistance will be denied or terminated and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a tenant, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

United States Citizenship and Immigration Services Appeal Process [24 CFR 5.514(e)]

When the PHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the PHA must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide the PHA with a copy of the written request for appeal and proof of mailing.

PHA Policy

The PHA will notify the family in writing of the results of the USCIS secondary verification within 10 **calendar** days of receiving the results.

The family must provide the PHA with a copy of the written request for appeal and proof of mailing within 10 **calendar** days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to the PHA, of its decision. When the USCIS notifies the PHA of the decision, the PHA must notify the family of its right to request an informal hearing.

PHA Policy

The PHA will send written notice to the family of its right to request an informal hearing within 10 **calendar** days of receiving notice of the USCIS decision regarding the family's immigration status.

Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, an applicant family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA notice of denial, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

Informal Hearing Officer

The PHA must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision.

Evidence

The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of the PHA pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

PHA Policy

The family will be allowed to copy any documents related to the hearing at no cost to the family.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by the PHA, and to confront and cross-examine all witnesses on whose testimony or information the PHA relies.

Representation and Interpretive Services

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to request an interpreter. The PHA is obligated to provide a competent interpreter, free of charge, upon request. The family may also or instead provide its own interpreter, at the expense of the family.

Recording of the Hearing

The family is entitled to have the hearing recorded by audiotape. The PHA may, but is not required to, provide a transcript of the hearing.

PHA Policy

The PHA will not provide a transcript of an audio taped informal hearing.

Hearing Decision

The PHA must provide the family with a written notice of the final decision, based solely on the facts presented at the hearing, within 10 calendar days of the date of the informal hearing. The notice must state the basis for the decision.

Retention of Documents [24 CFR 5.514(h)]

The PHA must retain for a minimum of 5 years the following documents that may have been submitted to the PHA by the family, or provided to the PHA as part of the USCIS appeal or the PHA informal hearing process:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision

Informal Hearing Procedures for Residents [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, a resident family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA notice of termination, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for resident families whose tenancy is being terminated based on immigration status is the same as for any grievance under the grievance procedures for resident families found in Part III below.

PART III: GRIEVANCE PROCEDURES FOR PUBLIC HOUSING RESIDENTS

14-III.A. REQUIREMENTS [24 CFR 966.52]

PHAs must have a grievance procedure in place through which residents of public housing are provided an opportunity to grieve any PHA action or failure to act involving the lease or PHA policies which adversely affect their rights, duties, welfare, or status. The PHA must not only meet the minimal procedural due process requirements provided under the regulations but must also meet any additional requirements imposed by local, state or federal law.

The PHA grievance procedure must be included in, or incorporated by reference in, the lease.

PHA Policy

The PHA grievance procedure will be incorporated by reference in the tenant lease.

The PHA must provide at least 30 days' notice to tenants and resident organizations setting forth proposed changes in the PHA grievance procedure and provide an opportunity to present written comments. Comments submitted must be considered by the PHA before adoption of any changes to the grievance procedure by the PHA.

PHA Policy

Residents and resident organizations will have 30 calendar days from the date they are notified by the PHA of any proposed changes in the PHA grievance procedure, to submit written comments to the PHA.

The PHA must furnish a copy of the grievance procedure to each tenant and to resident organizations.

14-III.B. DEFINITIONS [24 CFR 966.53; 24 CFR 966.51(a)(2)(i)]

There are several terms used by HUD with regard to public housing grievance procedures, which take on specific meanings different from their common usage. These terms are as follows:

- **Grievance** – any dispute which a tenant may have with respect to PHA action or failure to act in accordance with the individual tenant’s lease or PHA regulations which adversely affect the individual tenant’s rights, duties, welfare or status
- **Complainant** – any tenant whose grievance is presented to the PHA or at the project management office
- **Due Process Determination** – a determination by HUD that law of the jurisdiction requires that the tenant must be given the opportunity for a hearing in court which provides the basic elements of due process before eviction from the dwelling unit
- **Expedited Grievance** – a procedure established by the PHA for any grievance or termination that involves:
 - Any criminal activity that threatens the health, safety, or right to peaceful enjoyment or the PHA’s public housing premises by other residents or employees of the PHA; or
 - Any drug-related criminal activity on or off the premises
- **Elements of Due Process** – an eviction action or a termination of tenancy in a state or local court in which the following procedural safeguards are required:
 - Adequate notice to the tenant of the grounds for terminating the tenancy and for eviction
 - Right of the tenant to be represented by counsel
 - Opportunity for the tenant to refute the evidence presented by the PHA including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the tenant may have
 - A decision on the merits
- **Hearing Officer** – an impartial person or selected by the PHA, other than the person who made or approved the decision under review, or a subordinate of that person. The individual or individuals do not need legal training.
- **Tenant** – the adult person (or persons) (other than a live-in aide)
 - Who resides in the unit, and who executed the lease with the PHA as lessee of the dwelling unit, or, if no such person now resides in the unit,
 - Who resides in the unit, and who is the remaining head of household of the tenant family residing in the dwelling unit
- **Resident Organization** – includes a resident management corporation

14-III.C. APPLICABILITY [24 CFR 966.51]

Grievances could potentially address most aspects of a PHA's operation. However, there are some situations for which the grievance procedure is not applicable.

The grievance procedure is applicable only to individual tenant issues relating to the PHA. It is not applicable to disputes between tenants not involving the PHA. Class grievances are not subject to the grievance procedure and the grievance procedure is not to be used as a forum for initiating or negotiating policy changes of the PHA.

If HUD has issued a due process determination, a PHA may exclude from the PHA grievance procedure any grievance concerning a termination of tenancy or eviction that involves:

- Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of the PHA;
- Any violent or drug-related criminal activity on or off such premises; or
- Any criminal activity that resulted in felony conviction of a household member

In states without due process determinations, PHAs must grant opportunity for grievance hearings for all lease terminations, regardless of cause, with the following exception: PHAs may use expedited grievance procedures for the excluded categories listed above. These expedited grievance procedures are described in Section 14-III.E. below.

If HUD has issued a due process determination, the PHA may evict through the state/local judicial eviction procedures. In this case, the PHA is not required to provide the opportunity for a hearing under the PHA's grievance procedure as described above.

PHA Policy

The PHA is in a HUD-declared due process state. Therefore, the PHA will not offer grievance hearings for lease terminations involving criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of the PHA, for violent or drug-related criminal activity on or off the premises, or for any criminal activity that resulted in felony conviction of a household member.

See Chapter 13 for related policies on the content of termination notices.

14-III.D. INFORMAL SETTLEMENT OF GRIEVANCE [24 CFR 966.54]

HUD regulations state that any grievance must be personally presented, either orally or in writing, to the PHA office or to the office of the housing development in which the complainant resides so that the grievance may be discussed informally and settled without a hearing.

PHA Policy

The PHA will accept requests for an informal settlement of a grievance in writing (including emailed requests), to the PHA office within 10 **calendar** days of the grievable event. Within 10 **calendar** days of receipt of the request the PHA will arrange a meeting with the tenant at a mutually agreeable time and confirm such a meeting in writing to the tenant. The informal settlement may be conducted remotely as required by the PHA or may be conducted remotely upon consideration of the request of the tenant. See 14-III.G for information on how and under what circumstances remote informal settlements may be conducted.

If a tenant fails to attend the scheduled meeting without prior notice, the PHA will reschedule the appointment only if the tenant can show good cause for failing to appear, or if it is needed as reasonable accommodation for a person with disabilities.

Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family.

HUD regulations require that a summary of such discussion be prepared within a reasonable time and one copy will be given to the tenant and one retained in the PHA's tenant file.

The summary must specify the names of the participants, dates of meeting, the nature of the proposed disposition of the complaint and the specific reasons therefore and will specify the procedures by which a hearing may be obtained if the complainant is not satisfied.

PHA Policy

The PHA will prepare a summary of the informal settlement within 10 **calendar** days; one copy to be given to the tenant and one copy to be retained in the PHA's tenant file.

For PHAs who have the option to establish an expedited grievance procedure, and who exercise this option, the informal settlement of grievances is not applicable to those grievances for which the expedited grievance procedure applies.

14-III.E. PROCEDURES TO OBTAIN A HEARING

Requests for Hearing and Failure to Request

PHA Policy

The resident must submit a written request (including emailed requests) for a grievance hearing to the PHA within five business days of the tenant's receipt of the summary of the informal settlement.

If the complainant does not request a hearing, the PHA's disposition of the grievance under the informal settlement process will become final. However, failure to request a hearing does not constitute a waiver by the complainant of the right to contest the PHA's action in disposing of the complaint in an appropriate judicial proceeding.

Scheduling of Hearings [24 CFR 966.56(a)]

If the complainant has complied with all requirements for requesting a hearing as described above, a hearing must be scheduled by the hearing officer promptly for a time and place reasonably convenient to both the complainant and the PHA. A written notification specifying the time, place and the procedures governing the hearing must be delivered to the complainant and the appropriate PHA official.

PHA Policy

Within 10 **calendar** days of receiving a written request for a hearing, the hearing officer will schedule and send written notice of the hearing to both the complainant and the PHA.

If the PHA hearing will be conducted remotely, at the time the notice is sent to the family, the family will be notified:

Regarding the processes involved in a remote grievance hearing;

That the PHA will provide technical assistance prior to and during the hearing, if needed; and

That if the family or any individual witness has any technological, resource, or accessibility barriers, the family may inform the PHA and the PHA will assist the family in either resolving the issue or allow the family to participate in an in-person hearing, as appropriate.

The PHA may wish to permit the tenant to request to reschedule a hearing for good cause.

PHA Policy

The tenant may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, the PHA may request documentation of the "good cause" prior to rescheduling the hearing.

Expedited Grievance Procedure [24 CFR 966.52(a)]

The PHA may establish an expedited grievance procedure for any grievance concerning a termination of tenancy or eviction that involves:

- Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or employees of the PHA;
- Any drug-related criminal activity on or near such premises; or
- Any criminal activity that resulted in felony conviction of a household member.

In such expedited grievances, the informal settlement of grievances as discussed in 14-III.D is not applicable.

The PHA may adopt special procedures concerning expedited hearings, including provisions for expedited notice or scheduling, or provisions for expedited decision on the grievance.

PHA Policy

The PHA will not offer expedited grievance procedures.

14-III.F. SELECTION OF HEARING OFFICER [24 CFR 966.53(e)]

The grievance hearing must be conducted by an impartial person or persons appointed by the PHA, other than the person who made or approved the PHA action under review, or a subordinate of such person. The PHA must describe their policies for selection of a hearing officer in their lease.

PHA Policy

PHA grievance hearings will be conducted by a single hearing officer and not a panel.

The PHA will appoint a staff member who was not involved in the decision under appeal. If a designated staff member (such as the program manager) was involved in the decision, or is a subordinate of such person, an alternate hearing officer will be selected.

The PHA may select designated staff members who were not involved in the decision under appeal in certain circumstances, such as appeals involving discrimination claims or denials of requests for reasonable accommodations.

PHAs must describe their policies for selection of a hearing officer in their lease forms. Changes to the public housing lease are subject to a 30-day comment period [24 CFR 966.4].

14-III.G. REMOTE HEARINGS [Notice PIH 2020-32]

There is no requirement that grievance hearings be conducted in-person, and as such, HUD allows PHAs to conduct all or a portion of their grievance hearings remotely either over the phone, via video conferencing, or through other virtual platforms. If the PHA chooses to conduct remote grievance hearings, applicants may still request an in-person hearing, as applicable.

PHA Policy

The PHA has the sole discretion to require that hearings be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster.

In addition, the PHA will conduct a hearing remotely upon request as a reasonable accommodation for a person with a disability, if a tenant does not have childcare or transportation that would enable them to attend the hearing, or if the tenant believes an in-person hearing would create an undue health risk. The PHA will consider other reasonable requests for a remote hearing on a case-by-case basis.

Discovery of Documents Before the Remote Hearing

PHA Policy

If the hearing is conducted remotely, the PHA will compile a hearing packet, consisting of all documents the PHA intends to produce at the hearing. The PHA will mail copies of the hearing packet to the tenant, the tenant's representatives, if any, and the hearing officer at least three days before the scheduled remote hearing. The original hearing packet will be in the possession of the PHA representative and retained by the PHA.

If the hearing is to be conducted remotely, the PHA will require the resident to provide any documents directly relevant to the hearing at least 24 hours before the scheduled hearing through the mail, via email, or text. The PHA will scan and email copies of these documents to the hearing officer and the PHA representative the same day they are received.

Documents will be shared electronically whenever possible.

Ensuring Accessibility for Persons with Disabilities and LEP Individuals

As with in-person grievance hearings, the platform for conducting remote grievance hearings must be accessible to persons with disabilities and the grievance hearings must be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual. PHAs may never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote grievance hearings.

If no method of conducting a remote grievance hearing is available that appropriately accommodates an individual's disability, the PHA may not hold against the individual their inability to participate in the remote grievance hearing, and the PHA should consider whether postponing the remote hearing to a later date is appropriate or whether there is a suitable alternative.

Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation will depend on the specific circumstances and requirements.

As with in-person reviews, Limited English Proficiency (LEP) requirements also apply to remote grievance hearings, including the use of interpretation services and document translation. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements, all of which apply in the context of remote grievance hearings.

Conducting Hearings Remotely

The PHA must ensure that the lack of technology or inability to use technology for remote grievance hearings does not pose a disadvantage to families that may not be apparent to the PHA. The PHA should determine through a survey or other means if these barriers exist prior to conducting the remote grievance hearing and, if the family does not have the proper technology to fully participate, either postpone the hearing or provide an alternative means of access.

As with in-person grievance hearings, the PHA must provide all materials presented, whether paper or electronic, to the family prior to the remote grievance hearing. The family must also be provided with an accessible means by which to transmit their own evidence.

The PHA's essential responsibility is to ensure grievance hearings meet the requirements of due process and comply with HUD regulations. Therefore, all PHA policies and processes for remote grievance hearings will be conducted in accordance with due process requirements and will follow HUD regulations at 24 CFR 966.56 and the guidance for conducting remote hearings specified in Notice PIH 2020-32.

PHA Policy

The PHA will conduct remote grievance hearings via a video conferencing platform, when available. If, after attempting to resolve any barriers, participants are unable to adequately access the video conferencing platform at any point, or upon request, the grievance hearing will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in at any point, the remote grievance hearing will be postponed, and an in-person alternative will be provided promptly within a reasonable time.

At least 10 calendar days prior to scheduling the remote hearing, the PHA will provide the family with login information and/or conferencing call-in information and an electronic copy of all materials being presented via first class mail and/or email. The notice will advise the family of technological requirements for the hearing and request the family notify the PHA of any known barriers. The PHA will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person hearing.

The PHA will follow up with a phone call and/or email to the family at least one business day prior to the remote grievance hearing to ensure that the family received all information and is comfortable accessing the video conferencing or call-in platform.

The PHA will ensure that all electronic information stored or transmitted with respect to the grievance hearing is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP.

14-III.H. PROCEDURES GOVERNING THE HEARING [24 CFR 966.56]

Rights of Complainant [24 CFR 966.56(b)]

The complainant will be afforded a fair hearing. This includes:

- The opportunity to examine before the grievance hearing any PHA documents, including records and regulations that are directly relevant to the hearing. The tenant must be allowed to copy any such document at the tenant's expense. If the PHA does not make the document available for examination upon request by the complainant, the PHA may not rely on such document at the grievance hearing.

PHA Policy

The tenant will be allowed to copy any documents related to the hearing at no cost to the family. There will be no charge for documents emailed by the PHA. The family must request discovery of PHA documents no later than 12:00 p.m. on the business day prior to the hearing.

- The right to be represented by counsel or other person chosen to represent the tenant, and to have such person make statements on the tenant's behalf.

PHA Policy

Hearings may be attended by the following applicable persons:

The PHA representatives and any witnesses for the PHA

The tenant and any witnesses for the tenant

The tenant's counsel or other representative

Any other person approved by the PHA as a reasonable accommodation for a person with a disability

- The right to a private hearing unless the complainant requests a public hearing.
- The right to present evidence and arguments in support of the tenant's complaint, to controvert evidence relied on by the PHA or project management, and to confront and cross-examine all witnesses upon whose testimony or information the PHA or project management relies.
- A decision based solely and exclusively upon the facts presented at the hearing.

Failure to Appear [24 CFR 966.56(c)]

If the complainant or the PHA fails to appear at a scheduled hearing, the hearing officer may make a determination to postpone the hearing for no more than five business days or may make a determination that the party has waived their right to a hearing. Both the complainant and the PHA must be notified of the determination by the hearing officer: Provided, That a determination that the complainant has waived their right to a hearing will not constitute a waiver of any right the complainant may have to contest the PHA's disposition of the grievance in an appropriate judicial proceeding.

There may be times when a complainant does not appear due to unforeseen circumstances which are out of their control and are no fault of their own.

PHA Policy

If the tenant does not appear at the scheduled time of the hearing, the hearing officer will wait up to 30 minutes. If the tenant appears within 30 minutes of the scheduled time, the hearing will be held. If the tenant does not arrive within 30 minutes of the scheduled time, they will be considered to have failed to appear.

If the tenant fails to appear and is unable to reschedule the hearing in advance, the tenant must contact the PHA within 24 hours of the scheduled hearing date, excluding weekends and holidays. The hearing officer will reschedule the hearing only if the tenant can show good cause for the failure to appear, or it is needed as reasonable accommodation for a person with disabilities.

“Good cause” is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family.

General Procedures [24 CFR 966.56(d), (e)]

At the hearing, the complainant must first make a showing of an entitlement to the relief sought and thereafter the PHA must sustain the burden of justifying the PHA action or failure to act against which the complaint is directed [24 CFR 966.56(d)].

The hearing is conducted informally by the hearing officer. The PHA and the tenant must be given the opportunity to present oral or documentary evidence pertinent to the facts and issues raised by the complaint, and to question any witnesses.

PHA Policy

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

Oral evidence: the testimony of witnesses

Documentary evidence: a writing which is relevant to the case, for example, a letter written to the PHA. Writings include all forms of recorded communication or representation, including letters, emails, words, pictures, sounds, videotapes or symbols or combinations thereof.

Demonstrative evidence: Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.

Real evidence: A tangible item relating directly to the case.

Hearsay Evidence is evidence based not on a witness' personal knowledge. In and of itself, hearsay evidence carries no weight when making a finding of fact. The hearing officer may include hearsay evidence when considering their decision if it is corroborated by other evidence. Even though hearsay evidence is generally admissible in a hearing, the hearing officer will not base a hearing decision on hearsay alone unless there is clear probative value and credibility of the evidence, and the party seeking the change has met the burden of proof.

If the PHA fails to comply with the discovery requirements (providing the tenant with the opportunity to examine PHA documents prior to the grievance hearing), the hearing officer will refuse to admit such evidence.

Other than the failure of the PHA to comply with discovery requirements, the hearing officer has the authority to overrule any objections to evidence.

The complainant or the PHA may arrange, in advance and at the expense of the party making the arrangement, for a transcript of the hearing. Any interested party may purchase a copy of such transcript [24 CFR 966.56(e)].

PHA Policy

If the complainant would like the PHA to record the proceedings by audiotape, the request must be made to the PHA by 12:00 p.m. on the business day prior to the hearing.

The PHA will consider that an audio tape recording of the proceedings is a transcript.

Accommodations of Persons with Disabilities [24 CFR 966.56(f)]

The PHA must provide reasonable accommodation for persons with disabilities to participate in the hearing. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants.

If the tenant is visually impaired, any notice to the tenant which is required in the grievance process must be in an accessible format.

See Chapter 2 for a thorough discussion of the PHA's responsibilities pertaining to reasonable accommodation.

Limited English Proficiency (24 CFR 966.56(g))

The PHA must comply with HUD's LEP Final Rule in providing language services throughout the grievance process.

14-III.I. DECISION OF THE HEARING OFFICER [24 CFR 966.57]

The hearing officer must issue a written decision, stating the reasons for the decision, within a reasonable time after the hearing. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the decision must be sent to the complainant and the PHA. The PHA must retain a copy of the decision in the tenant's folder. A log of all hearing officer decisions must also be maintained by the PHA and made available for inspection by a prospective complainant, their representative, or the hearing officer [24 CFR 966.57(a)].

PHA Policy

In rendering a decision, the hearing officer will consider the following matters:

PHA Notice to the Family: The hearing officer will determine if the reasons for the PHA's decision are factually stated in the notice.

Discovery: The hearing officer will determine if the family was given the opportunity to examine any relevant documents in accordance with PHA policy.

PHA Evidence to Support the PHA Decision: The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support the PHA's conclusion.

Validity of Grounds for Termination of Tenancy (when applicable): The hearing officer will determine if the termination of tenancy is for one of the grounds specified in the HUD regulations and PHA policies. If the grounds for termination are not specified in the regulations or in compliance with PHA policies, then the decision of the PHA will be overturned.

The hearing officer will issue a written decision to the family and the PHA no later than 10 **calendar** days after the hearing. The report will contain the following information:

Hearing information:

Name of the complainant

Date, time and place of the hearing

Name of the hearing officer

Name of the PHA representatives

Name of family representative (if any)

Names of witnesses (if any)

Background: A brief, impartial statement of the reason for the hearing and the date(s) on which the informal settlement was held, who held it, and a summary of the results of the informal settlement. Also includes the date the complainant requested the grievance hearing.

Summary of the Evidence: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of their testimony and that are admitted into evidence.

Findings of Fact: The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Conclusions: The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the PHA's decision.

Order: The hearing report will include a statement of whether the PHA's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the PHA to change the decision in accordance with the hearing officer's determination. In the case of termination of tenancy, the hearing officer will instruct the PHA to restore the family's status.

Procedures for Further Hearing

PHA Policy

The hearing officer may ask the family for additional information and/or might adjourn the hearing to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of the PHA will take effect and another hearing will not be granted.

Final Decision [24 CFR 966.57(b)]

The decision of the hearing officer is binding on the PHA which must take the action, or refrain from taking the action cited in the decision unless the PHA Board of Commissioners determines within a reasonable time, and notifies the complainant that:

- The grievance does not concern PHA action or failure to act in accordance with or involving the complainant's lease on PHA policies which adversely affect the complainant's rights, duties, welfare, or status; or
- The decision of the hearing officer is contrary to federal, state, or local law, HUD regulations or requirements of the annual contributions contract between HUD and the PHA

PHA Policy

When the PHA considers the decision of the hearing officer to be invalid due to the reasons stated above, it will present the matter to the PHA Board of Commissioners within 10 **calendar** days of the date of the hearing officer's decision. The Board has 30 calendar days to consider the decision. If the Board decides to reverse the hearing officer's decision, it must notify the complainant within 10 **calendar** days of this decision.

A decision by the hearing officer or Board of Commissioners in favor of the PHA or which denies the relief requested by the complainant in whole or in part must not constitute a waiver of any rights, nor effect in any manner whatever, any rights the complainant may have to a subsequent trial or judicial review in court [24 CFR 966.57(c)].

EXHIBIT 14-1: GRIEVANCE PROCEDURE

The sample procedure provided below is a sample only and is designed to match up with the default policies in the model ACOP. If your PHA has made further policy decisions after NMA has provided you with this chapter, you would need Definitions applicable to the grievance procedure [24 CFR 966.53].

I. Introduction

Public housing tenants have the right to request a grievance hearing for any PHA action or failure to act in accordance with the tenant's lease.

Grievance procedures do not apply in the following circumstances:

- A. Disputes between tenants not involving the PHA or class grievances [24 CFR 966.51(b)].
- B. The grievance procedure is not intended as a forum for initiating or negotiating policy changes between a group or groups of tenants and the PHA's Board of Commissioners [24 CFR 966.51(b)].
- C. When the PHA is in a HUD-declared due process state, HUD allows the PHA to exclude from the PHA grievance procedure any grievance concerning a termination of tenancy or eviction that involves:
 - i. Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of the PHA;
 - ii. Any violent or drug-related criminal activity on or off such premises; or
 - iii. Any criminal activity that resulted in felony conviction of a household member [24 CFR 966.51(a)(2)].

II. Definitions [24 CFR 966.53]

- A. **Grievance:** Any dispute a tenant may have with respect to PHA action or failure to act in accordance with the individual tenant's lease or PHA regulations that adversely affects the individual tenant's rights, duties, welfare, or status.
- B. **Complainant:** Any tenant (as defined below) whose grievance is presented to the PHA or at the project management office in accordance with the requirements presented in this procedure.
- C. **Elements of due process:** An eviction action or a termination of tenancy in a state or local court in which the following procedural safeguards are required:
 - i. Adequate notice to the tenant of the grounds for terminating the tenancy and for eviction
 - ii. Right of the tenant to be represented by counsel
 - iii. Opportunity for the tenant to refute the evidence presented by the PHA, including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense that the tenant may have
 - iv. A decision on the merits of the case
- D. **Hearing officer:** An impartial person or persons selected by the PHA other than the person who made or approved the decision under review, or a subordinate of that person. Such individuals do not need legal training.
- E. **Tenant:** The adult person (or persons other than a live-in aide) who resides in the unit and who executed the lease with the PHA as lessee of the dwelling unit, or if no such person now resides in the unit, the person who resides in the unit and is the remaining head of the household of the tenant family residing in the dwelling unit.
- F. **Resident organization:** An organization of residents, which also may include a resident management corporation.

III. This grievance procedure [24 CFR 966.51]

This grievance procedure is included by reference in all tenant dwelling leases and will be furnished to each tenant and all resident organizations [24 CFR 966.52 (b) and (d)].

Any changes proposed in this grievance procedure must provide for at least 30 days' notice to tenants and resident organizations, explaining the proposed changes and providing an opportunity to present written comments. Comments will be considered by the PHA before any revisions are made to the grievance procedure [24 CFR 966.52(c)].

IV. Informal settlement of a grievance [24 CFR 966.54]

Any grievance request must be personally presented, either orally or in writing (including email), to the PHA's central office or the management office of the development in which the tenant resides within 10 **calendar** days after the violation.

As soon as the grievance request is received, it will be reviewed by the PHA to ensure it meets the requirements for a grievance hearing. If the tenant is not entitled to a grievance, the PHA will notify the tenant that they may instead seek judicial review and the procedures for requesting such a review [24 CFR 966.4(l)(3)(i)(C)(v)(B)].

Otherwise, within 10 **calendar** days, the tenant will be contacted to arrange a mutually convenient time to meet so the grievance may be discussed and settled without a hearing. At the informal settlement, the tenant will present their grievance.

Within 10 **calendar** days following the informal settlement, the PHA will prepare and either hand deliver, mail, or email to the tenant a summary of the discussion. The summary will specify the names of the participants; the date of the meeting; the nature of the proposed resolution of the complaint, with specific reason(s); and will specify the procedures by which a formal hearing under this procedure may be obtained if the tenant is not satisfied [24 CFR 966.54]. A copy of this summary will also be placed in the tenant's file.

V. Requesting a formal grievance hearing

If the tenant is not satisfied with the outcome of the informal settlement, the tenant must submit a written request for a hearing to the management office of the development where the tenant lives no later than five business days after receiving the summary of the informal settlement.

The written request must specify the reasons for the request and the action or relief sought from the PHA.

VI. Selecting the hearing officer

A grievance hearing will be conducted by an impartial person appointed by the PHA as described below:

- A. The hearing officer will be appointed directly by the executive director.
- B. The hearing officer will be someone who did not make or approve the decision under review and who is not a subordinate of such persons [24 CFR 066.54(e)].
- C. The PHA's method for selecting a hearing officer will be included in the lease [24 CFR 966.54(e)].

VII. Scheduling hearings [24 CFR 966.56(a)]

When a tenant submits a timely request for a grievance hearing, the PHA will immediately appoint an impartial hearing officer.

Once the hearing has been scheduled, the tenant will receive written notice of the hearing, sent by mail or email, return receipt requested.

Within 10 **calendar** days of receiving the written request, the hearing will be scheduled. The tenant, PHA, and hearing officer will be notified in writing of the date, time and location of the hearing. If the hearing is held remotely, the PHA will also include information on the remote hearing process.

The tenant may request to reschedule a hearing once. Should the tenant need to reschedule a second time, they may only do so for good cause, or if needed as a reasonable accommodation for a person with disabilities. *Good cause* is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family. Requests to reschedule a hearing must be made orally or in writing at least one day prior to the hearing date.

VIII. Procedures governing the hearing [24 CFR 966.56]

The hearing will be held before a hearing officer as described above in Section VI. The tenant will be afforded a fair hearing, which will include:

- A. The opportunity to examine any PHA documents before the hearing, including records and regulations, that are directly relevant to the hearing.

The tenant must request to view and copy PHA documents relevant to the hearing by noon of the day before the hearing. The tenant is allowed to copy any such document at no cost to the tenant.

If the PHA does not make the document available for examination upon request by the tenant, the PHA may not rely on such document at the grievance hearing.

- B. The right to be represented by counsel or any other person chosen as the tenant's representative, at the tenant's expense, and to have such person make statements on the tenant's behalf.
- C. The right to a private hearing unless the tenant requests a public hearing.
- D. The right to present evidence and arguments in support of the tenant's complaint, to refute evidence relied on by the PHA or project management, and to confront and cross-examine all witnesses upon whose testimony or information the PHA or project management relies.
- E. A decision based solely and exclusively upon the facts presented at the hearing [24 CFR 966.56(b)].

The hearing is conducted informally by the hearing officer. The PHA and the tenant must be given the opportunity to present oral or documentary evidence that is relevant to the facts and issues raised, and to question any witnesses.

The hearing decision will be based on the preponderance of the evidence, defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

The tenant or the PHA may arrange in advance for a transcript or recording of the hearing at the expense of the party making the arrangement.

The PHA must provide reasonable accommodation for persons with disabilities to participate in the hearing. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants. If the tenant is visually impaired, any notice to the tenant that is required under this procedure must be in an accessible format [24 CFR 966.56(f)].

The PHA must comply with HUD's requirements regarding limited English proficiency (LEP). The tenant has the right to request competent oral interpretation, free of charge. LEP requirements can be found at:

https://www.hud.gov/program_offices/fair_housing_equal_opp/promotingfh/lep-faq

IX. Remote Hearings

The PHA has the authority to require that hearings be conducted remotely in certain situations.

X. Failure to appear at the hearing

If the tenant does not arrive within 15 minutes of the scheduled time, it will be considered a failure to appear, which means they have given up their right to a hearing.

Both the tenant and the PHA must be notified of the determination by the hearing officer. A determination that the tenant has waived their right to a hearing will not constitute a waiver of any right the tenant may have to contest the PHA's disposition of the grievance in an appropriate judicial setting [24 CFR 966.56(c)].

XI. Decision of the hearing officer [24 CFR 966.57]

The hearing officer will prepare a written decision together with the reasons for the decision within 10 calendar days after the hearing. A copy of the decision will be sent to the tenant and the PHA.

The PHA will retain a copy of the decision in the tenant's file.

The hearing officer may ask the family for additional information and/or might adjourn the hearing to reconvene at a later date before reaching a decision. If the family misses a deadline ordered by the hearing officer, the hearing officer will make a decision based on the evidence presented.

The decision of the hearing officer will be binding on the PHA unless the PHA's Board of Commissioners determines within a reasonable time and notifies the tenant of its determination that:

- A. The grievance does not concern PHA action or failure to act in accordance with or involving the tenant's lease or PHA regulations, which adversely affect the tenant's rights, duties, welfare, or status; or
- B. The decision of the hearing officer is contrary to applicable federal, state, or local law, HUD regulations, or requirements of the annual contributions contract (ACC) between HUD and the PHA.

When the PHA considers the decision of the hearing officer to be invalid for either of the reasons stated above, it will present the matter to the PHA Board of Commissioners within 10 business days of the date of the hearing officer's decision. The Board will have 30 calendar days to consider the decision. If the Board decides to reverse the hearing officer's decision, it must notify the tenant within 10 business days of this decision.

A decision by the hearing officer or Board of Commissioners in favor of the PHA or which denies the relief requested by the tenant, in whole or in part, will not constitute a waiver of nor affect in any way the tenant's right to a trial or judicial review in any court proceedings, which may be brought in the matter later [24 CFR 966.57].

Chapter 15

PROGRAM INTEGRITY

INTRODUCTION

The PHA is committed to ensuring that funds made available to the PHA are spent in accordance with HUD requirements.

This chapter covers HUD and PHA policies designed to prevent, detect, investigate and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

Part I: Preventing, Detecting, and Investigating Errors and Program Abuse. This part presents PHA policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures the PHA must and may take when errors or program abuses are found.

PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

15-I.A. PREVENTING ERRORS AND PROGRAM ABUSE

HUD created the Enterprise Income Verification (EIV) system to provide PHAs with a powerful tool for preventing errors and program abuse. PHAs are required to use the EIV system in its entirety in accordance with HUD administrative guidance [24 CFR 5.233]. PHAs are further required to:

- Provide applicants and residents with form HUD-52675, “**Debts Owed to PHAs and Terminations**”
- Require all adult members of an applicant or participant family to acknowledge receipt of form HUD-52675 by signing a copy of the form for retention in the family file

PHA Policy

The PHA anticipates that the vast majority of families and PHA employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure that the PHA’s program is administered effectively and according to the highest ethical and legal standards, the PHA will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

The PHA will provide each applicant and resident with a copy of “**Is Fraud Worth It?**” (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse.

The PHA will provide each applicant and resident with a copy of “**What You Should Know about EIV**,” a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12. In addition, the PHA will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.

The PHA will require mandatory orientation sessions for all prospective residents either prior to or upon execution of the lease. The PHA will discuss program compliance and integrity issues. At the conclusion of all program orientation sessions, the family representative will be required to sign a program briefing certificate to confirm that all rules and pertinent regulations were explained to them.

The PHA will routinely provide resident counseling as part of every reexamination interview in order to clarify any confusion pertaining to program rules and requirements.

PHA staff will be required to review and explain the contents of all HUD- and PHA-required forms prior to requesting family member signatures.

The PHA will place a warning statement about the penalties for fraud (as described in 18 U.S.C. 1001 and 1010) on key PHA forms and form letters that request information from a family member.

The PHA will provide each PHA employee with the necessary training on program rules and the organization's standards of conduct and ethics.

At every regular reexamination the PHA staff will explain any changes in HUD regulations or PHA policy that affect residents.

For purposes of this chapter the term *error* refers to an unintentional error or omission. *Program abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

15-I.B. DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, the PHA will use a variety of activities to detect errors and program abuse.

Quality Control and Analysis of Data

PHA Policy

The PHA will employ a variety of methods to detect errors and program abuse, including:

The PHA routinely will use EIV and other non-HUD sources of up-front income verification. This includes the Work Number and any other private or public databases available to the PHA.

At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.

The PHA will compare family-reported income and expenditures to detect possible unreported income.

Independent Audits and HUD Monitoring

Notice PIH 2015-16 requires all PHAs that expend \$750,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of PHA activities and notifies the PHA of errors and potential cases of program abuse.

PHA Policy

The PHA will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of the PHA's error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

PHA Policy

The PHA will encourage staff, residents, and the public to report possible program abuse.

15-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When the PHA Will Investigate

PHA Policy

The PHA will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for the PHA to investigate, the allegation must contain at least one independently-verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

The PHA will investigate when inconsistent or contradictory information is detected through file reviews and the verification process.

Consent to Release of Information [24 CFR 960.259]

The PHA may investigate possible instances of error or abuse using all available PHA and public records. If necessary, the PHA will require families to sign consent forms for the release of additional information.

Analysis and Findings

PHA Policy

The PHA will base its evaluation on a preponderance of the evidence collected during its investigation.

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence that as a whole shows that the fact sought to be proved is more probable than not. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

For each investigation the PHA will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed the PHA, and (3) what corrective measures or penalties will be assessed.

Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. Whether the PHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

PHA Policy

In the case of family-caused errors or program abuse, the PHA will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, (4) the effects of a particular remedy on family members who were not involved in the offense.

Notice and Appeals

PHA Policy

The PHA will inform the relevant party in writing of its findings and remedies within 10 **calendar** days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which the PHA determined the error or program abuses, (3) the remedies to be employed, and (4) the family's right to appeal the results through an informal hearing or grievance hearing (see Chapter 14).

PART II: CORRECTIVE MEASURES AND PENALTIES

15-II.A. UNDER- OR OVERPAYMENT

An under- or overpayment includes an incorrect tenant rent payment by the family, or an incorrect utility reimbursement to a family.

Corrections

Whether the incorrect rental determination is an overpayment or underpayment, the PHA must promptly correct the tenant rent and any utility reimbursement prospectively.

PHA Policy

Increases in the tenant rent will be implemented on the first of the month following a written 30-day notice.

Any decreases in tenant rent will become effective on the first of the month following the discovery of the error.

Reimbursement

Whether the family is required to reimburse the PHA or the PHA is required to reimburse the family depends upon which party is responsible for the incorrect payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

15-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE

General administrative requirements for participating in the program are discussed throughout the ACOP. This section deals specifically with errors and program abuse by family members.

An incorrect rent determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows the PHA to use incorrect information provided by a third party.

Family Reimbursement to PHA

PHA Policy

In the case of family-caused errors or program abuse, the family will be required to repay any amounts of rent underpaid. The PHA may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the amount owed, the PHA will terminate the family's lease in accordance with the policies in Chapter 13.

PHA Reimbursement to Family

PHA Policy

The PHA will not reimburse the family for any overpayment of rent when the overpayment clearly is caused by the family.

De Minimis Errors

Regulations: 24 CFR §§ 5.609(c)(4); 5.657(f); 960.257(f); 982.516(f); 882.515(f); 882.808(i)(5); 891.105; and 891.655

Summary: PHAs will not be considered out of compliance solely due to de minimis errors in calculating family income. De minimis errors occur when a PHA determination of a family's income deviates from the correct income determination by no more than \$30 per month in monthly adjusted income (or \$360 in annual adjusted income). HUD may revise the threshold amount that constitutes a "de minimis error" through rulemaking. PHAs will not be issued a finding by HUD for de minimis errors in income calculation.

PHA Policy

As PHAs become aware of the existence of an income calculation error, they are obligated to correct the error(s) retroactive to the effective date of the action the error was made regardless of the dollar amount associated with the error.

PHAs must take corrective action to credit or repay a family if the family was overcharged tenant rent, including when PHAs make de minimis errors in the income determination.

Families will not be required to repay the PHA in instances where the PHA miscalculated income resulting in a family being undercharged for rent.

Prohibited Actions

An applicant or resident in the public housing program must not knowingly:

- Make a false statement to the PHA [Title 18 U.S.C. Section 1001].
- Provide incomplete or false information to the PHA [24 CFR 960.259(a)(4)].
- Commit fraud, or make false statements in connection with an application for assistance or with reexamination of income [24 CFR 966.4(l)(2)(iii)(C)].

PHA Policy

Any of the following will be considered evidence of family program abuse:

Offering bribes or illegal gratuities to the PHA Board of Commissioners, employees, contractors, or other PHA representatives

Offering payments or other incentives to a third party as an inducement for the third party to make false or misleading statements to the PHA on the family's behalf

Use of a false name or the use of falsified, forged, or altered documents

Intentional misreporting of family information or circumstances (e.g., misreporting of income or family composition)

Omitted facts that were obviously known by a family member (e.g., not reporting employment income)

Admission of program abuse by an adult family member

The PHA may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

Penalties for Program Abuse

In the case of program abuse caused by a family the PHA may, at its discretion, impose any of the following remedies.

- The PHA may require the family to repay any amounts owed to the program (see 15-II.B., Family Reimbursement to PHA).
- The PHA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 13 (for residents).
- The PHA may deny admission or terminate the family's lease following the policies set forth in Chapter 3 and Chapter 13 respectively.
- The PHA may refer the family for state or federal criminal prosecution as described in section 15-II.D.

15-II.C. PHA-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of PHA staff with respect to normal program administration are discussed throughout the ACOP. This section specifically addresses actions of a PHA staff member that are considered errors or program abuse related to the public housing program. Additional standards of conduct may be provided in the PHA personnel policy.

PHA-caused incorrect rental determinations include (1) failing to correctly apply public housing rules regarding family composition, income, assets, and expenses, and (2) errors in calculation.

Repayment to the PHA

The family is not required to repay an underpayment of rent if the error or program abuse is caused by PHA staff.

PHA Reimbursement to Family

PHA Policy

The PHA will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff-caused error or staff program abuse.

Prohibited Activities

PHA Policy

Any of the following will be considered evidence of program abuse by PHA staff:

Failing to comply with any public housing program requirements for personal gain

Failing to comply with any public housing program requirements as a result of a conflict of interest relationship with any applicant or resident

Seeking or accepting anything of material value from applicants, residents, vendors, contractors, or other persons who provide services or materials to the PHA

Disclosing confidential or proprietary information to outside parties

Gaining profit as a result of insider knowledge of PHA activities, policies, or practices

Misappropriating or misusing public housing funds

Destroying, concealing, removing, or inappropriately using any records related to the public housing program

Committing any other corrupt or criminal act in connection with any federal housing program

Committing sexual harassment or other harassment based on race, color, religion, national origin, familial status, disability, sexual orientation, or gender identity, either quid pro quo (supervisory harassment) or hostile environment

Allowing sexual harassment or other harassment based on race, color, religion, national origin, familial status, disability, sexual orientation, or gender identity, either quid pro quo (supervisory harassment) or hostile environment, where the PHA knew or should have known such harassment was occurring

Retaliating against any applicant, resident, or staff reporting sexual harassment or other harassment based on race, color, religion, national origin, familial status, disability, sexual orientation, or gender identity, either quid pro quo (supervisory harassment) or hostile environment

15-II.D. CRIMINAL PROSECUTION

PHA Policy

When the PHA determines that program abuse by a family or PHA staff member has occurred and the amount of underpaid rent meets or exceeds the threshold for prosecution under local or state law, the PHA will refer the matter to the appropriate entity for prosecution. When the amount of underpaid rent meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the public housing program will be referred to the appropriate local, state, or federal entity.

15-II.E. FRAUD AND PROGRAM ABUSE RECOVERIES

PHAs who enter into a repayment agreement with a family to collect rent owed, initiate litigation against the family to recover rent owed, or begin eviction proceedings against a family may retain 100 percent of program funds that the PHA recovers [Notice PIH 2007-27 (HA)].

If the PHA does none of the above, all amounts that constitute an underpayment of rent must be returned to HUD.

The family must be afforded the opportunity for a hearing through the PHA's grievance process.

Chapter 16

PROGRAM ADMINISTRATION

INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this ACOP. The policies are discussed in seven parts as described below:

Part I: Setting Utility Allowances. This part describes how utility allowances are established and revised. Also discussed are the requirements to establish surcharges for excess consumption of PHA-furnished utilities.

Part II: Establishing Flat Rents. This part describes the requirements and policies related to establishing and updating flat rent amounts.

Part III: Repayment of Family Debts. This part contains policies for recovery of monies that have been underpaid by families and describes the circumstances under which the PHA will offer repayment agreements to families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part IV: Public Housing Assessment System (PHAS). This part describes the PHAS indicators, how PHAs are scored under PHAS, and how those scores affect a PHA.

Part V: Record Keeping. All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies the PHA will follow.

Part VI: Reporting and Record Keeping for Children with Elevated Blood Lead Level. This part describes the PHA's reporting responsibilities related to children with elevated blood lead levels that are living in public housing.

Part VII: Violence against Women Act (VAWA): Notification, Documentation, and Confidentiality. This part contains key terms used in VAWA and describes requirements related to notifying families about their rights and responsibilities under VAWA; requesting documentation from victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking; and maintaining the confidentiality of information obtained from victims.

PART I: SETTING UTILITY ALLOWANCES [24 CFR 965 Subpart E]

16-I.A. OVERVIEW

PHAs must establish allowances for PHA-furnished utilities for all check metered utilities and for resident-purchased utilities for all utilities purchased directly by residents from a utility supplier [24 CFR 965.502(a)].

PHAs must also establish surcharges for excess consumption of PHA-furnished utilities [24 CFR 965.506].

The PHA must maintain a record that documents the basis on which utility allowances and scheduled surcharges are established and revised, and the record must be made available for inspection by residents [24 CFR 965.502(b)].

16-I.B. UTILITY ALLOWANCES

The PHA must establish separate allowances for each utility and for each category of dwelling units the PHA determines to be reasonably comparable as to factors affecting utility usage [24 CFR 965.503].

The objective of a PHA in establishing utility allowances for each dwelling unit category and unit size is to approximate a reasonable consumption of utilities by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment [24 CFR 965.505].

Utilities include gas, electricity, fuel for heating, water, sewerage, and solid waste disposal for a dwelling unit. In addition, if the PHA does not furnish a range and refrigerator, the family must be granted a utility allowance for the range and refrigerator they provide [24 CFR 965.505].

Costs for telephone, cable/satellite TV, and internet services are not considered utilities [PH Occ GB, p. 138].

Utility allowance amounts will vary by the rates in effect, size and type of unit, climatic location and sitting of the unit, type of construction, energy efficiency of the dwelling unit, and other factors related to the physical condition of the unit. Utility allowance amounts will also vary by residential demographic characteristics affecting home energy usage [PH Occ GB, p. 138].

Chapter 14 of the *PH Occupancy Guidebook* provides detailed guidance to the PHA about establishing utility allowances.

Air-Conditioning

“If a PHA installs air conditioning, it shall provide, to the maximum extent economically feasible, systems that give residents the option of choosing to use air conditioning in their units. The design of systems that offer each resident the option to choose air conditioning shall include retail meters or check meters, and residents shall pay for the energy used in its operation. For systems that offer residents the option to choose air conditioning but cannot be check metered, residents are to be surcharged in accordance with 965.506. If an air conditioning system does not provide for resident option, residents are not to be charged, and these systems should be avoided whenever possible.” [24 CFR 965.505(e)]

PHA Policy

The PHA **does not supply or install** air-conditioning.

Utility Allowance Revisions [24 CFR 965.507]

The PHA must review at least annually the basis on which utility allowances have been established and must revise the allowances if necessary in order to adhere to the standards for establishing utility allowances that are contained in 24 CFR 965.505. The review must include all changes in circumstances (including completion of modernization and/or other energy conservation measures implemented by the PHA) indicating probability of a significant change in reasonable requirements and changes in utility rates [24 CFR 965.507(a)].

The PHA must revise its allowances for resident-purchased utilities if there is a rate change, and is required to do so if such change, by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rate on which the allowance was based.

Adjustments to resident payments as a result of such changes must be retroactive to the first day of the month following the month in which the last rate change taken into account became effective. **Such rate changes are not subject to the 60-day notice [24 CFR 965.507(b)].**

PHA Policy

Between annual reviews of utility allowances, the PHA will only revise its utility allowances due to a rate change, when required to by the regulation.

16-I.C. SURCHARGES FOR PHA-FURNISHED UTILITIES [24 CFR 965.506]

For dwelling units subject to allowances for PHA-furnished utilities where check meters have been installed, the PHA must establish surcharges for utility consumption in excess of the allowances. Surcharges may be computed on a straight per unit of purchase basis or for stated blocks of excess consumption, and must be based on the PHA's average utility rate. The basis for calculating the surcharges must be described in the PHA's schedule of allowances. Changes in the amount of surcharges based directly on changes in the PHA's average utility rate are not subject to the advance notice requirements discussed under 16-I.D.

For dwelling units served by PHA-furnished utilities where check meters have not been installed, the PHA must establish schedules of surcharges indicating additional dollar amounts residents will be required to pay by reason of estimated utility consumption attributable to resident-owned major appliances or to optional functions of PHA-furnished equipment. The surcharge schedule must state the resident-owned equipment (or functions of PHA-furnished equipment) for which surcharges will be made and the amounts of such charges. Surcharges must be based on the cost to the PHA of the utility consumption estimated to be attributable to reasonable usage of such equipment.

PHA Policy

The PHA does have PHA-furnished utilities.

16-I.D. NOTICE REQUIREMENTS [965.502]

The PHA must give notice to all residents of proposed allowances and scheduled surcharges, and revisions thereof. The notice must be given in the manner provided in the lease and must:

- Be provided at least 60 days before the proposed effective date of the allowances, scheduled surcharges, or revisions.
- Describe the basis for determination of the allowances, scheduled surcharges, or revisions, including a statement of the specific items of equipment and function whose utility consumption requirements were included in determining the amounts of the allowances and schedule of surcharges.
- Notify residents of the place where the PHA's documentation on which allowances and surcharges are based is available for inspection.
- Provide all residents an opportunity to submit written comments during a period expiring not less than 30 days before the proposed effective date of the allowances, scheduled surcharges, or revisions.

16-I.E. REASONABLE ACCOMMODATION AND INDIVIDUAL RELIEF [24 CFR 965.508]

On request from a family, PHAs must approve a utility allowance that is higher than the applicable amount for the dwelling unit if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family with a disability [24 CFR 8 and 100, PH Occ GB, p. 172].

Likewise, residents with disabilities may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability [24 CFR 8 and 100, PH Occ GB, p. 172].

See Chapter 2 for policies regarding the request and approval of reasonable accommodations.

Further, the PHA may grant requests for relief from charges in excess of the utility allowance on reasonable grounds, such as special needs of the elderly, ill, or residents with disabilities, or special factors not within control of the resident, as the PHA deems appropriate. The family must request the higher allowance and provide the PHA with information about the additional allowance required.

PHAs should develop criteria for granting individual relief and to notify residents about the availability of individual relief, and also to notify participants about the availability of individual relief programs (sometimes referred to as “Medical Baseline discounts”) offered by the local utility company [Utility Allowance GB, p. 19, 24 CFR 965.508].

PART II: ESTABLISHING FLAT RENTS

16-II.A. OVERVIEW

Flat rents are designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient.

Flat rents are also used to prorate assistance for a mixed family. A mixed family is one whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigrations status [24 CFR 5.504].

This part discusses how the PHA establishes and updates flat rents. Policies related to the use of flat rents, family choice of rent, flat rent hardships, and proration of rent for a mixed family are discussed in Chapter 6.

16-II.B. FLAT RENTS [24 CFR 960.253(b) and Notice PIH 2022-33]

Establishing Flat Rents

The 2015 Appropriations Act requires that flat rents must be set at no less than 80 percent of the applicable fair market rent (FMR). Alternatively, the PHA may set flat rents at no less than 80 percent of the applicable small area FMR(SAFMR) for metropolitan areas, or 80 percent of the applicable unadjusted rents for nonmetropolitan areas.

For areas where HUD has not determined a SAFMR or an unadjusted rent, PHAs must set flat rents at no less than 80 percent of the FMR or apply for an exception flat rent.

The 2015 Appropriations Act permits PHAs to apply for an exception flat rent that is lower than either 80 percent of the FMR or SAFMR/unadjusted rent if the PHA can demonstrate, through the submission of a market analysis, that these FMRs do not reflect the market value of a particular property or unit and HUD agrees with the PHA's analysis. The market analysis must be submitted using form HUD-5880, "Flat Rent Market Analysis Summary."

PHAs must receive written HUD approval before implementing exception flat rents. PHAs with a previously approved flat rent exception request may submit a written request to extend the approved flat rents for up to two additional years, provided local market conditions remain unchanged. Detailed information on how to request exception flat rents can be found in Notice PIH 2022-33.

PHAs are now required to apply a utility allowance to flat rents as necessary. Flat rents set at 80 percent of the FMR must be reduced by the amount of the unit's utility allowance, if any.

Review of Flat Rents

No later than 90 days after the effective date of the new annual FMRs/SAFMRs/unadjusted rent, PHAs must implement new flat rents as necessary based changes to the FMR/SAFMR/unadjusted rent or request an exception.

If the FMR falls from year to year, the PHA may, but is not required to, lower the flat rent to 80 percent of the current FMR/SAFMR/unadjusted rent.

PHA Policy

If the FMR/SAFMR/unadjusted rent is lower than the previous year, the PHA will reduce flat rents to 80 percent of the current FMR/SAFMR.

Applying Flat Rents

PHA Policy

The PHA will apply updated flat rents at each family's next annual reexamination or flat rent update after implementation of the new flat rents.

Posting of Flat Rents

PHA Policy

The PHA will publicly post the schedule of flat rents in a conspicuous manner in the applicable PHA or project office.

Documentation of Flat Rents [24 CFR 960.253(b)(5)]

The PHA must maintain records that document the method used to determine flat rents, and that show how flat rents were determined by the PHA in accordance with this method.

PART III: FAMILY DEBTS TO THE PHA

16-III.A. OVERVIEW

Families are required to reimburse the PHA if they were charged less rent than required because the family either underreported or failed to report income. PHAs are required to determine retroactive rent amounts as far back as the PHA has documentation of family unreported income [Notice PIH 2018-18].

This part describes the PHA's policies for recovery of monies owed to the PHA by families.

PHA Policy

When an action or inaction of a resident family results in the underpayment of rent or other amounts, the PHA holds the family liable to return any underpayments to the PHA.

The PHA will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments.

16-III.B. REPAYMENT POLICY

Family Debts to the PHA

PHA Policy

Any amount owed to the PHA by a public housing family must be repaid. If the family is unable to repay the debt within 30 days, the PHA will offer to enter into a repayment agreement in accordance with the policies below.

Refusal to Enter into An Agreement

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the PHA will terminate the family's tenancy.

PHA Policy

When a family refuses to repay monies owed to the PHA, in addition to termination of program assistance, the PHA will utilize other available collection alternatives including, but not limited to, the following:

- Collection agencies

- Small claims court

- Civil lawsuit

- State income tax set-off program

Repayment Agreement [24 CFR 792.103]

The term *repayment agreement* refers to a formal written document signed by a tenant or owner and provided to the PHA in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

General Repayment Agreement Guidelines

Down Payment Requirement

PHA Policy

Before executing a repayment agreement with a family, the PHA will generally require a down payment of **one third (1/3)** of the total amount owed.

Payment Thresholds

Notice PIH 2018-18 recommends that the total amount that a family must pay each month—the family’s monthly share of rent plus the monthly debt repayment amount—should not exceed 40 percent of the family’s monthly adjusted income, which is considered “affordable.” Moreover, Notice PIH 2018-18 acknowledges that PHAs have the discretion to establish “thresholds and policies” for repayment agreements with families [24 CFR 982.552(c)(1)(vii)].

PHA Policy

If a family is paying less than 40 percent of its monthly adjusted income (MAI) in rent, the minimum monthly payment amount will be the greater of the following two amounts:

The difference between 40 percent of the family’s MAI and the TTP at the time the agreement is executed

\$25

If a family can provide evidence satisfactory to the PHA that a monthly payment amount of \$25 would impose an undue hardship, the PHA may, in its sole discretion, require a lower monthly payment amount.

If the family’s income increases or decreases during the term of a repayment agreement, either the PHA or the family may request that the monthly payment amount be adjusted accordingly.

Execution of the Agreement

All repayment agreements must be in writing, dated, and signed by both the family and the PHA [Notice PIH 2018-18].

PHA Policy

Any repayment agreement between the PHA and a family must be signed and dated by the PHA and by the head of household and spouse/cohead (if applicable).

Due Dates

PHA Policy

All payments are due by the close of business on the 15th day of the month. If the 15th does not fall on a business day, the due date is the close of business on the first business day after the 15th.

Late or Missed Payments

PHA Policy

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by the PHA, the PHA will send the family a delinquency notice giving the family 15 calendar days to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and the PHA will terminate tenancy in accordance with the policies in Chapter 13.

If a family receives one delinquency notice for unexcused late payments, the repayment agreement will be considered in default, and the PHA will terminate tenancy in accordance with the policies in Chapter 13.

No Offer of Repayment Agreement

PHA Policy

The PHA generally will not enter into a repayment agreement with a family if there is already a repayment agreement in place with the family, unless the first agreement has been satisfied, or if the amount owed by the family exceeds the federal or state threshold for criminal prosecution.

Repayment Agreement Terms

All repayment agreements must be in writing, dated, signed by both the family and the PHA, include the total retroactive rent amount owed, amount of lump sum payment made at time of execution, if applicable, and the monthly repayment amount. Notice PIH 2018-18 requires certain provisions to be included in any repayment agreement involving amounts owed by a family because it underreported or failed to report income:

- A reference to the items in the public housing lease that state the family's obligation to provide true and complete information at every reexamination and the grounds on which the PHA may terminate assistance because of a family's action or failure to act
- A statement clarifying that each month the family not only must pay to the PHA the monthly payment amount specified in the agreement but must also pay to the PHA the monthly tenant rent
- A statement that the terms of the repayment agreement may be renegotiated if the family's income decreases or increases
- A statement that late or missed payments constitute default of the repayment agreement and may result in termination of tenancy

PART IV: PUBLIC HOUSING ASSESSMENT SYSTEM (PHAS)

16-IV.A. OVERVIEW

The purpose of the Public Housing Assessment System (PHAS) is to improve the delivery of services in public housing and enhance trust in the public housing system among PHAs, public housing residents, HUD and the general public by providing a management tool for effectively and fairly measuring the performance of a public housing agency in essential housing operations.

16-IV.B. PHAS INDICATORS [24 CFR 902 Subparts A, B, C, D, and E]

The table below lists each of the PHAS indicators, the points possible under each indicator, and a brief description of each indicator. A PHA's performance is based on a combination of all four indicators.

Indicator 1: Physical condition of the PHA's projects
Maximum Score: 40
<ul style="list-style-type: none">• The objective of this indicator is to determine the level to which a PHA is maintaining its public housing in accordance with the standard of decent, safe, sanitary, and in good repair.• To determine the physical condition of a PHA's projects, inspections are performed of the following five major areas of each public housing project: site, building exterior, building systems, dwelling units, and common areas. The inspections are performed by an independent inspector arranged by HUD, and include a statistically valid sample of the units in each project in the PHA's public housing portfolio.
Indicator 2: Financial condition of the PHA's projects
Maximum Score: 25
<ul style="list-style-type: none">• The objective of this indicator is to measure the financial condition of the PHA's public housing projects for the purpose of evaluating whether the PHA has sufficient financial resources and is capable of managing those financial resources effectively to support the provision of housing that is decent, safe, sanitary, and in good repair.• A PHA's financial condition is determined by measuring each public housing project's performance in each of the following subindicators: quick ratio, months expendable net assets ratio, and debt service coverage ratio.

Indicator 3: Management operations of the PHA's projects**Maximum Score: 25**

- The objective of this indicator is to measure certain key management operations and responsibilities of a PHA's projects for the purpose of assessing the PHA's management operations capabilities.
- Each project's management operations are assessed based on the following sub-indicators: occupancy, tenant accounts receivable, and accounts payable.
- An on-site management review may be conducted as a diagnostic and feedback tool for problem performance areas, and for compliance. Management reviews are not scored.

Indicator 4: Capital Fund**Maximum Score: 10**

- The objective of this indicator is to measure how long it takes the PHA to obligate capital funds and to occupy units.
- The PHA's score for this indicator is measured at the PHA level and is based on the following sub-indicators: timeliness of fund obligation and occupancy rate.

16-IV.C. PHAS SCORING [24 CFR 902 Subpart F]

HUD's Real Estate Assessment Center (REAC) issues overall PHAS scores, which are based on the scores of the four PHAS indicators, and the subindicators under each indicator. The PHA's indicator scores are based on a weighted average of the PHA's public housing projects' scores. PHAS scores translate into a designation for each PHA as high performing, standard, substandard, or troubled.

A high performer is a PHA that achieves an overall PHAS score of 90 or greater, and achieves a score of at least 60 percent of the points available under the physical, financial, and management indicators and at least 50 percent of the points available under the capital fund indicator.

A standard performer is a PHA that has an overall PHAS score between 60 and 89, and achieves a score of at least 60 percent of the points available under the physical, financial, and management indicators and at least 50 percent of the points available under the capital fund indicator.

A substandard performer is a PHA that has an overall PHAS score of at least 60 percent and achieves a score of less than 60 percent under one or more of the physical, financial, or management indicators.

A troubled performer is a PHA that achieves an overall PHAS score of less than 60, or achieves less than 50 percent of the total points available under the capital fund indicator.

These designations can affect a PHA in several ways:

- High-performing PHAs are eligible for incentives including relief from specific HUD requirements and bonus points in funding competitions [24 CFR 902.71].
- PHAs that are standard performers may be required to submit and operate under a corrective action plan to eliminate deficiencies in the PHA's performance [24 CFR 902.73(a)(1)].
- PHAs that are substandard performers will be required to submit and operate under a corrective action plan to eliminate deficiencies in the PHA's performance [24 CFR 902.73(a)(2)].
- PHAs with an overall rating of "troubled" are subject to additional HUD oversight, and are required to enter into a memorandum of agreement (MOA) with HUD to improve PHA performance [24 CFR 902.75].
- PHAs that fail to execute or meet MOA requirements may be referred to the Assistant Secretary to determine remedial actions, including, but not limited to, remedies available for substantial default [24 CFR 902.75(g) and 24 CFR Part 907].

PHAs must post a notice of its final PHAS score and status in appropriate conspicuous and accessible locations in its offices within two weeks of receipt of its final score and designation [24 CFR 902.64(b)(2)].

PART V: RECORD KEEPING

16-V.A. OVERVIEW

The PHA must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, the PHA must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights, and that comply with VAWA confidentiality requirements.

16-V.B. RECORD RETENTION

The PHA must keep the last three years of the Form HUD-50058 and supporting documentation during the term of each assisted lease, and for a period of at least three years from the end of participation (EOP) date [24 CFR 908.101].

The PHA must maintain Enterprise Income Verification (EIV) system Income Reports in the tenant file for the duration of the tenancy but for a period not to exceed three years from the EOP date [Notice PIH 2018-18].

Notice PIH 2014-20 requires the PHA to keep records of all complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act or the equal access final rule.

The PHA must keep confidential records of all emergency transfer requested under the PHA's Emergency Transfer Plan, and the outcomes of such requests, and retain the records for a period of three years, or for a period of time as specific in program regulations [24 CFR 5.2002(e)(12)].

PHA Policy

The PHA will keep the last three years of the Form HUD-50058 and supporting documentation, and for at least three years after end of participation all documents related to a family's eligibility, tenancy, and termination.

The PHA will keep Enterprise Income Verification (EIV) system Income Reports in the tenant file for the duration of the tenancy and for three years from the end of participation date.

In addition, the PHA will keep the following records for at least three years:

- An application from each ineligible family and notice that the applicant is not eligible

- Lead-based paint records as required by 24 CFR 35, Subpart B

- Documentation supporting the establishment of flat rents

- Documentation supporting the establishment of utility allowances and surcharges

- Documentation related to PHAS

- Accounts and other records supporting PHA budget and financial statements for the program

Complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act, the equal access final rule, or VAWA

Confidential records of all emergency transfers related to VAWA requested under the PHA's Emergency Transfer Plan and the outcomes of such requests

Other records as determined by the PHA or as required by HUD

If a hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 14-II.A.

16-V.C. RECORDS MANAGEMENT

PHAs must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

PHA Policy

All applicant and participant information will be kept in a secure location and access will be limited to authorized PHA staff.

PHA staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

Privacy Act Requirements [24 CFR 5.212 and Form-9886]

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or the PHA may release the information collected.

Upfront Income Verification (UIV) Records

PHAs that access UIV data through HUD's Enterprise Income Verification (EIV) system are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD-issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification (UIV) Data*.

PHA Policy

Prior to utilizing HUD's EIV system, the PHA will adopt and implement EIV security procedures required by HUD.

Criminal Records

The PHA may only disclose the criminal conviction records which the PHA receives from a law enforcement agency to officers or employees of the PHA, or to authorized representatives of the PHA who have a job-related need to have access to the information [24 CFR 5.903(e)].

The PHA must establish and implement a system of records management that ensures that any criminal record received by the PHA from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

The PHA must establish and implement a system of records management that ensures that any sex offender registration information received by the PHA from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation. However, a record of the screening, including the type of screening and the date performed must be retained [Notice PIH 2012-28]. This requirement does not apply to information that is public information, or is obtained by a PHA other than under 24 CFR 5.905.

Medical/Disability Records

PHAs are not permitted to inquire about the nature or extent of a person's disability. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA should not place this information in the tenant file. The PHA should destroy the document.

Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking Records

For requirements and PHA policies related to management of documentation obtained from victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking, see section 16-VII.E.

PART VI: REPORTING REQUIREMENTS FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL

16-VI.A. REPORTING REQUIREMENTS [24 CFR 35.1130(e); Notice PIH 2017-13]

The PHA has certain responsibilities relative to children with elevated blood lead levels that are living in public housing.

The PHA must report the name and address of a child identified as having an elevated blood lead level (EBLL) to the public health department within five business days of being so notified by any other medical health care professional. The PHA must also report each known case of a child with an EBLL to the HUD field office.

PHA Policy

The PHA will provide the public health department written notice of the name and address of any child identified as having an elevated blood lead level.

The PHA will provide written notice of each known case of a child with an EBLL to the HUD field office, and to HUD's Office of Lead Hazard Control (OLHCHH), within five business days of receiving the information.

PART VII: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, AND CONFIDENTIALITY

16-VII.A. OVERVIEW

The Violence against Women Act (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking who are applying for or receiving assistance under the public housing program. If your state or local laws provide greater protection for such victims, those apply in conjunction with VAWA.

- Although the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror HUD's recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and PHA policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and PHA policies are located in Chapter 3, "Eligibility" (sections 3-I.C and 3-III.F); Chapter 5, "Occupancy Standards and Unit Offers" (section 5-II.D); Chapter 8, "Leasing and Inspections" (section 8-I.B); Chapter 12, "Transfer Policy" (sections 12-III.C, 12-III.F, and 12-IV.D); and Chapter 13, "Lease Terminations" (sections 13-III.F and 13-IV.D).

16-VII.B. DEFINITIONS [24 CFR 5.2003, FR Notice 8/6/13]

As used in VAWA:

- The term *affiliated individual* means, with respect to a person:
 - A spouse, parent, brother or sister, or child of that individual, or an individual to whom that person stands in the position or place of a parent; or
 - Any individual, tenant or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.
- The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - The length of the relationship
 - The type of relationship
 - The frequency of interaction between the persons involved in the relationship

- The term *domestic violence* includes felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding, and in the case of victim services, includes the user or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who is:
 - The current or former spouse or intimate partner of the victim, or person similarly situated to a spouse or intimate partner of the victim
 - A person who is cohabitating or has cohabitated with the victim as a spouse or intimate partner
 - A person with whom the victim shares a child in common
 - A person who commits acts against an youth or adult victim who is protected from those acts under the domestic or family violence laws of the jurisdiction
- The term *economic abuse* means behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, and manipulation to:
 - Restrict a person's access to money, assets, credit, or financial information
 - Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage
 - Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or to whom one has a fiduciary duty
- The term *sexual assault* means:
 - Any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks the capacity to consent
- The term *stalking* means:
 - To engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.

- The term *technological abuse* means an act or pattern of behavior that occurs within domestic violence, dating violence, sexual assault, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor another person, except as otherwise permitted by law, that occurs using any form of technology, including but not limited to:
 - Internet enabled devices
 - Online spaces and platforms
 - Computers
 - Mobile devices
 - Cameras and imaging programs
 - Apps
 - Location tracking devices
 - Communication technologies
 - Any other emergency technologies

16-VII.C. NOTIFICATION [24 CFR 5.2005(a)]

Notification to Public

The PHA adopts the following policy to help ensure that all actual and potential beneficiaries of its public housing program are aware of their rights under VAWA.

PHA Policy

The PHA will post the following information regarding VAWA in its offices and on its website. It will also make the information readily available to anyone who requests it.

A notice of occupancy rights under VAWA to public housing program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (Form HUD-5380, see Exhibit 16-1)

A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation (see Exhibit 16-2)

A copy of the PHA's emergency transfer plan (Exhibit 16-3)

A copy of HUD's Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5383 (Exhibit 16-4)

The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in Exhibit 16-1)

Contact information for local victim advocacy groups or service providers

Notification to Applicants and Tenants [24 CFR 5.2005(a)(1)]

PHAs are required to inform public housing applicants and tenants of their rights under VAWA, including their right to confidentiality and the limits thereof, when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing benefits.

The PHA must distribute a notice of VAWA rights, along with the VAWA self-certification form (HUD-5382) at each of these three junctures.

The PHA is not limited to providing VAWA information at the times specified in the above policy. If the PHA decides to provide VAWA information to a tenant following an incident of domestic violence, Notice PIH 2017-08 cautions against sending the information by mail, since the abuser may be monitoring the mail. The notice recommends that in such cases the PHA make alternative delivery arrangements that will not put the victim at risk.

PHA Policy

The PHA will provide VAWA information to applicants and tenants when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing benefits.

Whenever the PHA has reason to suspect that providing information about VAWA to a public housing tenant might place a victim of domestic violence at risk, it will attempt to deliver the information by hand directly to the victim or by having the victim come to an office or other space that may be safer for the individual, making reasonable accommodations as necessary. For example, the PHA may decide not to send mail regarding VAWA protections to the victim's unit if the PHA believes the perpetrator may have access to the victim's mail, unless requested by the victim.

When discussing VAWA with the victim, the PHA will take reasonable precautions to ensure that no one can overhear the conversation such as having conversations in a private room.

The victim may, but is not required to, designate an attorney, advocate, or other secure contact for communications regarding VAWA protections.

16-VII.D. DOCUMENTATION [24 CFR 5.2007]

A PHA presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, sexual assault, stalking, human trafficking, or criminal activity related to any of these forms of abuse may—but is not required to—request that the individual making the claim document the abuse. Any request for documentation must be in writing, and the individual must be allowed at least 14 business days after receipt of the request to submit the documentation. The PHA may extend this time period at its discretion. [24 CFR 5.2007(a)]

The individual may satisfy the PHA's request by providing any one of the following three forms of documentation [24 CFR 5.2007(b)]:

- (1) A completed and signed HUD-approved certification form (HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), which must include the name of the perpetrator only if the name of the perpetrator is safe to provide and is known to the victim. The form may be filled out and submitted on behalf of the victim.
- (2) A federal, state, tribal, territorial, or local police report or court record, or an administrative record
- (3) Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault, stalking, or human trafficking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; a mental health professional; or a medical professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

The PHA may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under "Conflicting Documentation," nor may it require certification in addition to third-party documentation [FR Notice 11/16/16].

PHA Policy

Any request for documentation of domestic violence, dating violence, sexual assault, stalking, or human trafficking will be in writing, will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

The PHA may, in its discretion, extend the deadline for 10 business days. In determining whether to extend the deadline, the PHA will consider factors that may contribute to the victim's inability to provide documentation in a timely manner, including cognitive limitations, disabilities, limited English proficiency, absence from the unit, administrative delays, the danger of further violence, and the victim's need to address health or safety issues. Any extension granted by the PHA will be in writing.

Once the victim provides documentation, the PHA will acknowledge receipt of the documentation within 10 business days.

Conflicting Documentation [24 CFR 5.2007(e)]

In cases where the PHA receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, the PHA may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3). The PHA may also request third-party documentation when submitted documentation contains information that conflicts with existing information already available to the PHA. The PHA must honor any court orders issued to protect the victim or to address the distribution of property. Individuals have 30 calendar days to return third-party verification to the PHA. If the PHA does not receive third-party documentation, and the PHA will deny or terminate assistance as a result, the PHA must hold separate hearings for the tenants [Notice PIH 2017-08].

PHA Policy

If presented with conflicting certification documents from members of the same household, the PHA will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(e) and by following any HUD guidance on how such determinations should be made. When requesting third-party documents, the PHA will provide contact information for local domestic violence and legal aid offices. In such cases, applicants or tenants will be given 30 calendar days from the date of the request to provide such documentation.

If the PHA does not receive third-party documentation within the required timeframe (and any extensions) the PHA will deny VAWA protections and will notify the applicant or tenant in writing of the denial. If, as a result, the applicant or tenant is denied or terminated from the program, the PHA will hold separate hearings for the applicants or tenants.

Discretion to Require No Formal Documentation [24 CFR 5.2007(d)]

The PHA has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence—i.e., without requiring formal documentation of abuse in accordance with 24 CFR 5.2007(b). HUD recommends documentation in a confidential manner when a verbal statement or other evidence is accepted.

PHA Policy

If the PHA accepts an individual's statement or other corroborating evidence (as determined by the victim) of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the PHA will document acceptance of the statement or evidence in the individual's file.

Failure to Provide Documentation [24 CFR 5.2007(c)]

In order to deny relief for protection under VAWA, a PHA must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within 14 business days from the date of receipt, or such longer time as the PHA may allow, the PHA may deny relief for protection under VAWA.

16-VII.E. CONFIDENTIALITY [24 CFR 5.2007(b)(4)]

All information provided to the PHA regarding domestic violence, dating violence, sexual assault, stalking, or human trafficking, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, must be retained in confidence. This means that the PHA (1) may not enter the information into any shared database, (2) may not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work, and (3) may not provide the information to any other entity or individual, except to the extent that the disclosure is (a) requested or consented to by the individual in writing, (b) required for use in an eviction proceeding, or (c) otherwise required by applicable law.

PHA Policy

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the PHA will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

EXHIBIT 16-1: SAMPLE NOTICE OF OCCUPANCY RIGHTS UNDER THE VIOLENCE AGAINST WOMEN ACT, FORM HUD-5380
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Bethlehem Housing Authority

Notice of Occupancy Rights under the Violence Against Women Act¹

To all Tenants and Applicants

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women, but are available equally to all individuals regardless of sex, gender identity, or sexual orientation.² The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees that public housing is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA.”

Protections for Applicants

If you otherwise qualify for assistance under public housing, you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Protections for Tenants

If you are receiving assistance under public housing, you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights under public housing solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

¹ Despite the name of this law, VAWA protection is available regardless of sex, gender identity, or sexual orientation.

² Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

Removing the Abuser or Perpetrator from the Household

The PHA may divide (bifurcate) your lease in order to evict the individual or terminate the assistance of the individual who has engaged in criminal activity (the abuser or perpetrator) directly relating to domestic violence, dating violence, sexual assault, or stalking.

If the PHA chooses to remove the abuser or perpetrator, the PHA may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, the PHA must allow the tenant who is or has been a victim and other household members to remain in the unit for 30 days, in order to establish eligibility under the program or under another HUD housing program covered by VAWA, or, find alternative housing.

In removing the abuser or perpetrator from the household, the PHA must follow Federal, State, and local eviction procedures. In order to divide a lease, the PHA may, but is not required to, ask you for documentation or certification of the incidences of domestic violence, dating violence, sexual assault, or stalking.

Moving to Another Unit

Upon your request, the PHA may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, the PHA may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking. If the request is a request for emergency transfer, the PHA may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA. The criteria are:

- 1. You are a victim of domestic violence, dating violence, sexual assault, or stalking.** If your PHA does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation, as described in the documentation section below.
- 2. You expressly request the emergency transfer.** Your PHA may choose to require that you submit a form, or may accept another written or oral request.
- 3. You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

OR

You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer. If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you expressly request the transfer.

The PHA will keep confidential requests for emergency transfers by victims of domestic violence, dating violence, sexual assault, or stalking, and the location of any move by such victims and their families.

The PHA's emergency transfer plan provides further information on emergency transfers, and the PHA must make a copy of its emergency transfer plan available to you if you ask to see it.

Documenting You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking

The PHA can, but is not required to, ask you to provide documentation to "certify" that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Such request from the PHA must be in writing, and the PHA must give you at least 14 business days (Saturdays, Sundays, and federal holidays do not count) from the day you receive the request to provide the documentation. The PHA may, but does not have to, extend the deadline for the submission of documentation upon your request.

You can provide one of the following to the PHA as documentation. It is your choice which of the following to submit if HP asks you to provide documentation that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

- A complete HUD-approved certification form given to you by the PHA with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. The form will ask for your name, the date, time, and location of the incident of domestic violence, dating violence, sexual assault, or stalking, and a description of the incident. The certification form provides for including the name of the abuser or perpetrator if the name of the abuser or perpetrator is known and is safe to provide.
- A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others.
- A statement, which you must sign, along with the signature of an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional (collectively, "professional") from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that they believe that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.
- Any other statement or evidence that the PHA has agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, the PHA does not have to provide you with the protections contained in this notice.

If the PHA receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser or perpetrator), the PHA has the right to request that you provide third-party documentation within thirty 30 calendar days in order to resolve the conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, the PHA does not have to provide you with the protections contained in this notice.

Confidentiality

The PHA must keep confidential any information you provide related to the exercise of your rights under VAWA, including the fact that you are exercising your rights under VAWA.

The PHA must not allow any individual administering assistance or other services on behalf of the PHA (for example, employees and contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable federal, state, or local law.

The PHA must not enter your information into any shared database or disclose your information to any other entity or individual. The PHA, however, may disclose the information provided if:

- You give written permission to the PHA to release the information on a time limited basis.
- The PHA needs to use the information in an eviction or termination proceeding, such as to evict your abuser or perpetrator or terminate your abuser or perpetrator from assistance under this program.
- A law requires the PHA to release the information.

VAWA does not limit the PHA's duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

Reasons a Tenant Eligible for Occupancy Rights under VAWA May Be Evicted or Assistance May Be Terminated

You can be evicted and your assistance can be terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking committed against you. However, the PHA cannot hold tenants who have been victims of domestic violence, dating violence, sexual assault, or stalking to a more demanding set of rules than it applies to tenants who have not been victims of domestic violence, dating violence, sexual assault, or stalking.

The protections described in this notice might not apply, and you could be evicted and your assistance terminated, if the PHA can demonstrate that not evicting you or terminating your assistance would present a real physical danger that:

1. Would occur within an immediate time frame, and
2. Could result in death or serious bodily harm to other tenants or those who work on the property.

If the PHA can demonstrate the above, the PHA should only terminate your assistance or evict you if there are no other actions that could be taken to reduce or eliminate the threat.

Other Laws

VAWA does not replace any Federal, State, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

Non-Compliance with The Requirements of This Notice

You may report your PHA for violations of these rights and seek additional assistance, if needed, by contacting or filing a complaint with **[insert contact information for any intermediary, if applicable]** or **[insert HUD field office]**.

For Additional Information

You may view a copy of HUD's final VAWA rule at: <https://www.gpo.gov/fdsys/pkg/FR-2016-11-16/pdf/2016-25888.pdf>.

Additionally, the PHA must make a copy of HUD's VAWA regulations available to you if you ask to see them.

For questions regarding VAWA, please contact **[insert name of program or rental assistance contact information able to answer questions on VAWA]**.

For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY). You may also contact **[Insert contact information for relevant local organizations]**.

For tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

For help regarding sexual assault, you may contact **[Insert contact information for relevant organizations]**

Victims of stalking seeking help may contact **[Insert contact information for relevant organizations]**.

Attachment: Certification form HUD-5382 **[form approved for this program to be included]**

EXHIBIT 16-2: CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING AND ALTERNATE DOCUMENTATION, FORM HUD-5382
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**CERTIFICATION OF
DOMESTIC VIOLENCE,
DATING VIOLENCE,
SEXUAL ASSAULT, OR STALKING,
AND ALTERNATE DOCUMENTATION**

**U.S. Department of Housing
and Urban Development**

OMB Approval No. 2577-0286

Exp. 06/30/2017

Purpose of Form: The Violence Against Women Act (“VAWA”) protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

Use of This Optional Form: If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:

- (1) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, “professional”) from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of “domestic violence,” “dating violence,” “sexual assault,” or “stalking” in HUD’s regulations at 24 CFR 5.2003.
- (2) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
- (3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

Submission of Documentation: The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation, if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

Confidentiality: All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

**TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE,
DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

1. Date the written request is received by victim: _____

2. Name of victim: _____

3. Your name (if different from victim's): _____

4. Name(s) of other family member(s) listed on the lease: _____

5. Residence of victim: _____

6. Name of the accused perpetrator (if known and can be safely disclosed): _____

7. Relationship of the accused perpetrator to the victim: _____

8. Date(s) and times(s) of incident(s) (if known): _____

10. Location of incident(s): _____

In your own words, briefly describe the incident(s):

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature _____ Signed on (Date) _____

Public Reporting Burden: The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

EXHIBIT 16-3: EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

Attachment: Certification form HUD-5382

[Insert name of covered housing provider]

**Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual
Assault, or Stalking
Public Housing Program**

Emergency Transfers

The PHA is concerned about the safety of its tenants, and such concern extends to tenants who are victims of domestic violence, dating violence, sexual assault, or stalking. In accordance with the Violence Against Women Act (VAWA),³ the PHA allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's current unit to another unit. The ability to request a transfer is available regardless of sex, gender identity, or sexual orientation.⁴ The ability of the PHA to honor such request for tenants currently receiving assistance, however, may depend upon a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether the PHA has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

This plan identifies tenants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance to tenants on safety and security. This plan is based on a model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD), the federal agency that oversees that the public housing and housing choice voucher (HCV) programs are in compliance with VAWA.

Eligibility for Emergency Transfers

A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD's regulations at 24 CFR part 5, subpart L, is eligible for an emergency transfer, if the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit. If the tenant is a victim of sexual assault, the tenant may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer.

³Despite the name of this law, VAWA protection is available to all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

⁴Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

A tenant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan.

Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

Emergency Transfer Request Documentation

To request an emergency transfer, the tenant shall notify the PHA's management office and submit a written request for a transfer to **any PHA office**. The PHA will provide reasonable accommodations to this policy for individuals with disabilities. The tenant's written request for an emergency transfer should include either:

1. A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under the PHA's program; OR
2. A statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant's request for an emergency transfer.

Confidentiality

The PHA will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives the PHA written permission to release the information on a time-limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person or persons that committed an act of domestic violence, dating violence, sexual assault, or stalking against the tenant. See the Notice of Occupancy Rights under the Violence against Women Act for All Tenants for more information about the PHA's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

Emergency Transfer Timing and Availability

The PHA cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. The PHA will, however, act as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit. If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred. The PHA may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

If the PHA has no safe and available units for which a tenant who needs an emergency transfer is eligible, the PHA will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move. At the tenant's request, the PHA will also assist tenants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

Emergency Transfers: Public Housing (PH) Program

If you are a public housing resident and request an emergency transfer as described in this plan, the PHA will attempt to assist you in moving to a safe unit quickly. The PHA will make exceptions as required to policies restricting moves.

Emergency transfers for which you are not required to apply for assistance include the following:

- Public housing unit in a different development
- Public housing unit in the same development, if you determine that the unit is safe

At your request, the PHA will refer you to organizations that may be able to further assist you.

You may also request an emergency transfer to the following programs for which you are required to apply for assistance:

- HCV tenant-based program
- HCV project-based assistance
- Other programs administered by the PHA (such as state housing programs)

Emergency transfers will not take priority over waiting list admissions for these types of assistance. At your request, the PHA will refer you to organizations that may be able to further assist you.

Safety and Security of Tenants

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe.

Tenants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

Tenants who have been victims of sexual assault may call the Rape, Abuse, and Incest National Network's National Sexual Assault Hotline at 1-800-656-HOPE, or visit the online hotline at <https://ohl.rainn.org/online/>.

Tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

Attachment: Local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking.

EXHIBIT 16-4: EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, FORM HUD-5383

**EMERGENCY TRANSFER
REQUEST FOR CERTAIN
VICTIMS OF DOMESTIC
VIOLENCE, DATING VIOLENCE,
SEXUAL ASSAULT, OR STALKING**

**U.S. Department of Housing
and Urban Development**

OMB Approval No. 2577-0286
Exp. 06/30/2017

Purpose of Form: If you are a victim of domestic violence, dating violence, sexual assault, or stalking, and you are seeking an emergency transfer, you may use this form to request an emergency transfer and certify that you meet the requirements of eligibility for an emergency transfer under the Violence Against Women Act (VAWA). Although the statutory name references women, VAWA rights and protections apply to all victims of domestic violence, dating violence, sexual assault or stalking. Using this form does not necessarily mean that you will receive an emergency transfer. See your housing provider's emergency transfer plan for more information about the availability of emergency transfers.

The requirements you must meet are:

(1) You are a victim of domestic violence, dating violence, sexual assault, or stalking.

If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation. In response, you may submit Form HUD-5382, or any one of the other types of documentation listed on that Form.

(2) You expressly request the emergency transfer. Submission of this form confirms that you have expressly requested a transfer. Your housing provider may choose to require that you submit this form, or may accept another written or oral request. Please see your housing provider's emergency transfer plan for more details.

(3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit. This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

OR

You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer. If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you submit this form or otherwise expressly request the transfer.

Submission of Documentation: If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you should submit that documentation to your housing provider if it is safe for you to do so. Examples of third party documentation include, but are not limited to: a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom you have sought assistance; a current restraining order; a recent court order or other court records; a law enforcement report or records; communication records from the perpetrator of the violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts.

Confidentiality: All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking, and concerning your request for an emergency transfer shall be kept confidential. Such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections or an emergency transfer to you. Such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

TO BE COMPLETED BY OR ON BEHALF OF THE PERSON REQUESTING A TRANSFER

1. Name of victim requesting an emergency transfer: _____

2. Your name (if different from victim's) _____

3. Name(s) of other family member(s) listed on the lease: _____

4. Name(s) of other family member(s) who would transfer with the victim: _____

5. Address of location from which the victim seeks to transfer: _____

6. Address or phone number for contacting the victim: _____

7. Name of the accused perpetrator (if known and can be safely disclosed): _____

8. Relationship of the accused perpetrator to the victim: _____

9. Date(s), Time(s) and location(s) of incident(s): _____

10. Is the person requesting the transfer a victim of a sexual assault that occurred in the past 90 days on the premises of the property from which the victim is seeking a transfer? If yes, skip question 11. If no, fill out question 11. _____

11. Describe why the victim believes they are threatened with imminent harm from further violence if they remain in their current unit.

12. If voluntarily provided, list any third-party documentation you are providing along with this notice: _____

This is to certify that the information provided on this form is true and correct to the best of my knowledge, and that the individual named above in Item 1 meets the requirement laid out on this form for an emergency transfer. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature _____ Signed on (Date) _____

GLOSSARY

A. ACRONYMS USED IN PUBLIC HOUSING

ACC	Annual contributions contract
ACOP	Admissions and continued occupancy policy
ADA	Americans with Disabilities Act of 1990
AIDS	Acquired immune deficiency syndrome
AMI	Area median income
AMP	Asset management project
BR	Bedroom
CDBG	Community Development Block Grant (Program)
CFP	Capital fund program
CFR	Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as “the regulations”)
COCC	Central office cost center
CPI	Consumer price index (published monthly by the Department of Labor as an inflation indicator)
EID	Earned income disallowance
EIV	Enterprise Income Verification
FDIC	Federal Deposit Insurance Corporation
FHA	Federal Housing Administration (HUD Office of Housing)
FHEO	Fair Housing and Equal Opportunity (HUD Office of)
FICA	Federal Insurance Contributions Act (established Social Security taxes)
FMR	Fair market rent
FR	Federal Register
FSS	Family Self-Sufficiency (Program)
FY	Fiscal year
FYE	Fiscal year end
GAO	Government Accountability Office

HA	Housing authority or housing agency
HCV	Housing choice voucher
HERA	Housing and Economic Recovery Act of 2008
HOPE VI	Revitalization of Severely Distressed Public Housing Program
HUD	Department of Housing and Urban Development
HUDCLIPS	HUD Client Information and Policy System
IMS	Inventory Management System
IPA	Independent public accountant
IRA	Individual retirement account
IRS	Internal Revenue Service
IVT	Income Validation Tool
JTPA	Job Training Partnership Act
LBP	Lead-based paint
LEP	Limited English proficiency
LIHTC	Low-income housing tax credit
MTW	Moving to Work
NOFA	Notice of funding availability
OGC	HUD's Office of General Counsel
OIG	HUD's Office of Inspector General
OMB	Office of Management and Budget
PASS	Plan to Achieve Self-Support
PHA	Public housing agency
PHAS	Public Housing Assessment System
PIC	PIH Information Center
PIH	(HUD Office of) Public and Indian Housing
QC	Quality control
QHWRA	Quality Housing and Work Responsibility Act of 1998 (also known as the Public Housing Reform Act)

RAD	Rental Assistance Demonstration Program
REAC	(HUD) Real Estate Assessment Center
RFP	Request for proposals
RIGI	Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level)
ROSS	Resident Opportunity and Supportive Services
SSA	Social Security Administration
SSI	Supplemental security income
SWICA	State wage information collection agency
TANF	Temporary assistance for needy families
TR	Tenant rent
TTP	Total tenant payment
UA	Utility allowance
UFAS	Uniform Federal Accessibility Standards
UIV	Upfront income verification
UPCS	Uniform Physical Condition Standards
URP	Utility reimbursement payment
VAWA	Violence Against Women Act
VCA	Voluntary Compliance Agreement

B. GLOSSARY OF PUBLIC HOUSING TERMS

Accessible. The facility or portion of the facility can be approached, entered, and used by persons with disabilities.

Adjusted income. Annual income, less allowable HUD deductions and allowances.

Affiliated individual. With respect to an individual, a spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in loco parentis (in the position or place of a parent), or any individual, tenant, or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.

Alternative non-public housing rent. A monthly rent equal to the greater of:

- The applicable fair market rent, as defined in 24 CFR part 888, subpart A, for the unit; or
- The amount of the monthly subsidy provided for the unit, which will be determined by adding the per unit assistance provided to a public housing property as calculated through the applicable formulas for the Public Housing Capital Fund and Public Housing Operating Fund.

Annual contributions contract (ACC). The written contract between HUD and a PHA under which HUD agrees to provide funding for a program under the 1937 Act, and the PHA agrees to comply with HUD requirements for the program.

Annual income. The anticipated total income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.

Applicant (applicant family). A family that has applied for admission to a program but is not yet a participant in the program.

As-paid states. States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

Assets. (See *net family assets*.)

Auxiliary aids. Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving federal financial assistance.

Bifurcate. With respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.

Ceiling rent. The highest rent amount the PHA will require a family to pay, for a particular unit size, when the family is paying an income-based rent.

Child. A member of the family other than the family head or spouse who is under 18 years of age.

Child care expenses. Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further their education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

Citizen. A citizen or national of the United States.

Cohead. An individual in the household who is equally responsible for the lease with the head of household. A family may have a cohead or spouse but not both. A cohead never qualifies as a dependent. The cohead must have legal capacity to enter into a lease.

Confirmatory review. An on-site review performed by HUD to verify the management performance of a PHA.

Consent form. Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

Covered families. Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which federal, state, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

Dating violence. Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

Dependent. A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

Dependent child. In the context of the student eligibility restrictions, a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the definition of *dependent* as specified above.

Disability assistance expenses. Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member, and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

Disabled family. A family whose head, cohead, spouse, or sole member is a person with disabilities; two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

Disabled person. See *person with disabilities*.

Disallowance. Exclusion from annual income.

Displaced family. A family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to federal disaster relief laws.

Domestic violence. Felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding, and in the case of victim services, includes the user or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who is:

- The current or former spouse or intimate partner of the victim, or person similarly situated to a spouse or intimate partner of the victim
- A person who is cohabitating or has cohabitated with the victim as a spouse or intimate partner
- A person with whom the victim shares a child in common
- A person who commits acts against a youth or adult victim who is protected from those acts under the domestic or family violence laws of the jurisdiction

Domicile. The legal residence of the household head or spouse as determined in accordance with state and local law.

Drug-related criminal activity. The illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute, or use the drug.

Economic abuse. Behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, and manipulation to:

- Restrict a person's access to money, assets, credit, or financial information
- Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage
- Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or to whom one has a fiduciary duty

Economic self-sufficiency program. Any program designed to encourage, assist, train, or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see 24 CFR 5.603(c).

Effective date. The "effective date" of an examination or reexamination refers to: (i) in the case of an examination for admission, the date of initial occupancy and (ii) in the case of reexamination of an existing tenant, the date the redetermined rent becomes effective.

Elderly family. A family whose head, cohead, spouse, or sole member is a person who is at least 62 years of age; two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

Elderly person. An individual who is at least 62 years of age.

Eligible family (Family). A family that is income eligible and meets the other requirements of the 1937 Act and Part 5 of 24 CFR.

Employer identification number (EIN). The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.

Evidence of citizenship or eligible status. The documents which must be submitted as evidence of citizenship or eligible immigration status. (See 24 CFR 5.508(b).)

Extremely low-income family. A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area as determined by HUD, whichever number is higher, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30 percent of median income if HUD finds such variations are necessary due to unusually high or low family incomes. (See 24 CFR 5.603.)

Facility. All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock, or other real or personal property or interest in the property.

Fair Housing Act. Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

Fair market rent (FMR). The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe, and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the *Federal Register* in accordance with 24 CFR Part 888.

Family. Includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, and can be further defined in PHA policy.

- A family with or without children (the temporary absence of a child from the home due to placement in foster care is not considered in determining family composition and family size)
- An elderly family or a near-elderly family
- A displaced family
- The remaining member of a tenant family
- A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

Family self-sufficiency program (FSS program). The program established by a PHA within its jurisdiction to promote self-sufficiency among participating families, including the coordination of supportive services to these families (24 CFR 984.103).

Federal agency. A department of the executive branch of the federal government.

Flat rent. Rent that is based on the market rent charged for comparable units in the private unassisted rental market, set at no less than 80 percent of the current fair market rent (FMR), 80 percent of the small area fair market rent (SAFMR), or 80 percent of the unadjusted rent, with utility allowances applied as necessary. The unadjusted rent is the FMR estimated directly from source data that HUD uses to calculate FMRs in nonmetropolitan areas.

Foster child care payment. A payment to eligible households by state, local, or private agencies appointed by the state to administer payments for the care of foster children.

Full-time student. A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended). (See 24 CFR 5.603)

Gender identity. Actual or perceived gender-related characteristics.

Handicap. Any condition or characteristic that renders a person an individual with handicaps. (See *person with disabilities*.)

Head of household. The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

Household. A household includes additional people other than the family who, with the PHA's permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.

Housing agency (HA). See *public housing agency*.

HUD. The U.S. Department of Housing and Urban Development.

Human trafficking. A crime involving the exploitation of a person for labor, services, or commercial sex. The Trafficking Victims Protection Act of 2000 and its subsequent reauthorizations recognize and define two primary forms of human trafficking:

- Sex trafficking is the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age. See 22 U.S.C. § 7102(11)(A).
- Forced labor is the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. See 22 U.S.C. § 7102(11)(B).

Imputed asset. An asset disposed of for less than fair market value during the two years preceding examination or reexamination.

Imputed asset income. The PHA-established passbook rate multiplied by the total cash value of assets. The calculation is used when net family assets exceed \$5,000.

Imputed welfare income. An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction, but is included in the family's annual income and therefore reflected in the family's rental contribution.

Income. Income from all sources of each member of the household, as determined in accordance with criteria established by HUD.

Income-based rent. A tenant rent that is based on the family's income and the PHA's rent policies for determination of such rents.

Income information means information relating to an individual's income, including:

- All employment income information known to current or previous employers or other income sources
- All information about wages, as defined in the state's unemployment compensation law, including any social security number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, employer identification number of an employer reporting wages under a state unemployment compensation law
- Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received
- Unearned IRS income and self-employment wages and retirement income
- Wage, social security, and supplemental security income data obtained from the Social Security Administration.

Income Validation Tool (IVT) Accessible through HUD's EIV system, provides validation of tenant reported wages, unemployment compensation, and Social Security benefits by comparing the income reported in IMS-PIC via form HUD-50058 to information received from the Department of Health and Human Services' (HHS) National Directory of New Hires (NDNH), and the Social Security Administration (SSA) data sharing agreements.

Individual with handicaps. See *person with disabilities*.

Jurisdiction. The area in which the PHA has authority under state and local law to administer the program.

Lease. A written agreement between the PHA and a tenant family for the leasing a public housing unit. The lease establishes the legal relationship between the PHA and the tenant family.

Live-in aide. A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

- Is determined to be essential to the care and well-being of the persons;
- Is not obligated for the support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services.

Local preference. A preference used by the PHA to select among applicant families.

Low-income family. A family whose income does not exceed 80 percent of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80 percent for areas with unusually high or low incomes.

Medical expenses. Medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance (a deduction for elderly or disabled families only). These allowances are given when calculating adjusted income for medical expenses in excess of 3 percent of annual income.

Minimum rent. An amount established by the PHA of zero to \$50.

Minor. A member of the family household other than the family head or spouse, who is under 18 years of age.

Mixed family. A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

Monthly adjusted income. One twelfth of adjusted income.

Monthly income. One twelfth of annual income.

National. A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

Near-elderly family. A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

Net family assets. (1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

- In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under §5.609.
- In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

Noncitizen. A person who is neither a citizen nor national of the United States.

Non-public housing over-income family. A family whose income exceeds the over-income limit for 24 consecutive months and is paying the alternative non-public housing rent.

Over-income family. A family whose income exceeds the over-income limit.

Over-income limit. The over-income limit is determined by multiplying the applicable income limit for a very low-income family, as defined in 24 CFR 5.603(b), by a factor of 2.4.

PHA Plan. The annual plan and the 5-year plan as adopted by the PHA and approved by HUD.

Participant (participant family). A family that has been admitted to the PHA program and is currently assisted in the program.

Person with disabilities. *For the purposes of program eligibility.* A person who has a disability as defined under the Social Security Act or Developmental Disabilities Care Act, or a person who has a physical or mental impairment expected to be of long and indefinite duration and whose ability to live independently is substantially impeded by that impairment but could be improved by more suitable housing conditions. This includes persons with AIDS or conditions arising from AIDS but excludes persons whose disability is based solely on drug or alcohol dependence. *For the purposes of reasonable accommodation.* A person with a physical or mental impairment that substantially limits one or more major life activities, a person regarded as having such an impairment, or a person with a record of such an impairment.

Premises. The building or complex in which the dwelling unit is located, including common areas and grounds.

Previously unemployed. With regard to the earned income disallowance, a person who has earned, in the 12 months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

Public assistance. Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by federal, state, or local governments.

Public housing agency (PHA). Any state, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

Qualified family. A family residing in public housing:

- Whose annual income increases as a result of employment of a family member who was unemployed for one or more years previous to employment;
- Whose annual income increases as a result of increased earnings by a family member during participation in any economic self-sufficiency or other job training program; or
- Whose annual income increases, as a result of new employment or increased earnings of a family member, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the PHA in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance, provided that the total amount over a six-month period is at least \$500.

Reasonable accommodation. A change, exception, or adjustment to a rule, policy, practice, or service to allow a person with disabilities to fully access the PHA's programs or services.

Recertification. Sometimes called *reexamination*. The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.

Remaining member of the tenant family. The person left in assisted housing who may or may not normally qualify for assistance on their own circumstances (i.e., an elderly spouse dies, leaving widow age 47 who is not disabled).

Residency preference. A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area (See *residency preference area*).

Residency preference area. The specified area where families must reside to qualify for a residency preference.

Responsible entity. For the public housing program, the PHA administering the program under an ACC with HUD. ***Secretary.*** The Secretary of Housing and Urban Development.

Section 8. Section 8 of the United States Housing Act of 1937; refers to the housing choice voucher program.

Security deposit. A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the PHA upon termination of the lease.

Sexual assault. Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent (42 U.S.C. 13925(a))

Sexual orientation. Homosexuality, heterosexuality or bisexuality.

Single person. A person living alone or intending to live alone.

Social security number (SSN). The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person's earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

Specified welfare benefit reduction. Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

Spouse. The marriage partner of the head of household.

Stalking. To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

State wage information collection agency (SWICA). The state agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the state, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

Technological abuse. An act or pattern of behavior that occurs within domestic violence, dating violence, sexual assault, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor another person, except as otherwise permitted by law, that occurs using any form of technology, including but not limited to:

- Internet enabled devices
- Online spaces and platforms
- Computers
- Mobile devices
- Cameras and imaging programs
- Apps
- Location tracking devices
- Communication technologies
- Any other emergency technologies

Tenant. The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

Tenant rent. The amount payable monthly by the family as rent to the PHA.

Total tenant payment (TTP). The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

Utilities. Water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection, and sewage services. Telephone service is not included.

Utility allowance. If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

Utility reimbursement. The amount, if any, by which the utility allowance for the unit, if applicable, exceeds the total tenant payment (TTP) for the family occupying the unit.

Veteran. A person who has served in the active military or naval service of the United States at any time and who shall have been discharged or released therefrom under conditions other than dishonorable.

Violence Against Women Act (VAWA). Prohibits denying admission to, denying assistance under, or evicting from a public housing unit an otherwise qualified applicant or tenant on the basis that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

Violent criminal activity. Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

Waiting list. A list of families organized according to HUD regulations and PHA policy who are waiting for a unit to become available.

Welfare assistance. Income assistance from federal or state welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families. For the FSS program (24 CFR 984.103), *welfare assistance* includes only cash maintenance payments designed to meet a family's ongoing basic needs. Does not include nonrecurring short term benefits designed to address individual crisis situations, work subsidies, supportive services such as child care and transportation provided to families who are employed, refundable earned income tax credits, contributions to and distributions from Individual Development Accounts under TANF, services such as counseling, case management, peer support, child care information and referral, financial empowerment, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support, amounts solely directed to meeting housing expenses, amounts for health care, Supplemental Nutrition Assistance Program (SNAP) and emergency rental and utilities assistance, SSI, SSDI, or social security, and child-only or non-needy TANF grants made to or on behalf of a dependent child solely on the basis of the child's need and not the need of the child's current non-parental caretaker.

Bethlehem Housing Authority

ACOP APPENDIX

October 17, 2024

Since compliance with certain income and assets requirements of Sections 102 and 104 requires access to the HOTMA-compliant HUD-50058 in HIP, PHAs cannot determine the date they will come into compliance with all 102 and 104 provisions before they know when they will be able to transmit HOTMA-compliant transactions to HUD.

According to the PIH HOTMA Implementation FAQs for PHAs Updated September 13, 2024, PHAs may create an appendix to an Administrative Plan or Admission and Continued Occupancy Policies (ACOP) that contain the HOTMA policies that will be incorporated later.

This ACOP Appendix for BHA's revised ACOP dated July 8, 2024, list the following HOTMA policies noted on the PIH 2023-27 issued February 2, 2024, that will be incorporated, at a later date:

- **Attachment A: Asset Limitation** – Eligibility restriction on net family assets.
- **Attachment B: Calculating Income** – 1) New Admission and Interim Reexaminations. 2) Annual Reexamination
- **Attachment C:** Deductions and Expenses
- **Attachment F:** Income
- **Attachment G:** Income Exclusion
- **Attachment H:** Inflationary Adjustment
- **Attachment I:** Interim Reexamination

Once HUD provides the PHAs with a new HOTMA compliance date, BHA will inform all program participants of the date at which the HOTMA policies noted above and on the BHA's revised ACOP dated July 8, 2024, will become effective. Program participants will be informed of the date BHA will transition to HOTMA policies before BHA starts to conduct reexaminations using those HOTMA policies.

Nevertheless, BHA has stop enrolling families into the Earned Income Disregard (EID) on January 1, 2024 (regardless of the HOTMA compliance date). The HOTMA Final Rule states, "HOTMA...removed the statutory authority for EID, so HUD cannot retain the disallowance once the statutory change is in effect, which will be upon the effective date of this final rule." Therefore, the EID will not apply to any family that was not eligible for and already participating in the disallowance as of December 31, 2023 (pursuant to 24 CFR 5.617 and 24 CFR 960.255 of the HOTMA final rule). Further, PHAs can stop enrolling families in EID before transitioning to HIP.

All other ACOP policies have been implemented, including the following policies from PIH Notice 2023-27 that have been implemented before migrating to the Housing Information Portal (HIP) with the ability to submit the revised HUD-50058A:

- **Consent Form.** Section J.1 (24 CFR 5.230) of Notice PIH 2023-27 (Authorization for the Release of Information (Forms HUD-9886-A) provides that PHAs may begin having families sign the new HUD-9886-A on January 1, 2024. Refer to the BHA's revised ACOP dated July 8, 2024, for more information on this topic.
- **Verification Hierarchy.** In Section J.5, HUD updated the guide for Level 4 documentation (Written, Third-Party Verification) to include an original or authentic document generated by a third-party source dated within 120 days of the date received by the PHA. Updated September 13, 2024. PHAs may accept a statement dated within the appropriate benefit year for fixed income sources (Section J.5). Refer to the BHA's revised ACOP dated July 8, 2024, for more information on this topic.
- **Verification of Social Security Number (SSN).** In Section J.6, HUD noted that it is adjusting what the Department considers acceptable documentation of SSN under 24 CFR 5.216(g)(1). If the individual is not able to provide documentation of SSN, the PHA may accept a self-certification of SSN along with a third-party document (e.g., bank statement or cell phone bill) displaying the name of the individual. Refer to the BHA's revised ACOP dated July 8, 2024, for more information on this topic.
- **Zero Income Reviews.** In Section J.8, HUD clarified that PHAs are not required to conduct periodic zero income reviews. HUD also clarified that PHAs may accept self-certification as the highest form of verification for zero income. Refer to the BHA's revised ACOP dated July 8, 2024, for more information on this topic.

HUD has determined that these policies are not dependent on systems and easily isolated from other HOTMA policy changes. HUD will soon issue guidance on additional HOTMA provisions which can be implemented.

Concerning Annual Reexaminations, Interim Reexaminations, Calculating Income, Deduction and Expenses, Income and Assets, Income Exclusions, BHA will continue to exercise policies noted on its ACOP dated September 1, 2008. These policies will be used, until HUD provides the PHAs a new HOTMA Section 102 and 104 compliance date.