

**RIVER ROUGE HOUSING COMMISSION**

River Rouge, Michigan

**ADMISSIONS AND CONTINUED OCCUPANCY POLICY**

**Adopted by PHA Board of Commissioners**

**Resolution No.:** \_\_\_\_\_

**Date of Adoption:** \_\_\_\_\_

**Effective Date of Implementation:** \_\_\_\_\_

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## **Admissions and Continued Occupancy Policy Implementation Schedule**

**Staff Training Date, if needed:** \_\_\_\_\_

### **Distribution to Functional Areas**

**This policy has been distributed to staff in the following departments:**

- Public Housing Managers**
- Admissions/Occupancy Staff**
- Financial Staff**
- Maintenance Staff**
- Other Specify:** \_\_\_\_\_

**Date Policy Prepared: May 1, 2023**

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## INTRODUCTION AND STATEMENT OF LOCAL OBJECTIVES

The River Rouge Housing Commission, hereinafter referred to as PHA, serves as a public housing authority for the purpose of receiving funds from the U.S. Department of Housing and Urban Development (HUD) for the operation and administration of the low-rent public housing program (hereinafter referred to as the public housing program). The PHA enters into an Annual Contributions Contract (ACC) with HUD to administer and provide decent, safe, and sanitary rental housing for eligible low-income families, the elderly, and persons with disabilities.

The PHA has developed an Admission and Continued Occupancy Policy (ACOP) to provide for written policies pertaining to the admission of applicants and continued occupancy of residents. The ACOP is organized basically in the order of concerns that the PHA encounters in selection of applicants from the waiting list to reexamining residents for continued assistance.

The PHA shall administer the public housing program in compliance with Fair Housing and Equal Opportunities (FHEO), Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, the Americans with Disabilities Act (ADA), HUD regulations, notices/guidance, including Rental Housing Improved Integrity Program (RHIP), the PHA Plan, the ACOP, the PHA's Procedures Manual, the PHA Personnel Policy, and state, and local housing laws.

## OVERVIEW OF THE PHA

The PHA was established in 1948 and empowered with the responsibility and authority to maintain the public housing program for the City of River Rouge, Michigan.

### A. Legal Jurisdiction

The area of operation of the PHA is geographically defined as the City of River Rouge, MI.

### B. Mission Statement

#### PHA's Mission Statement

The PHA is dedicated to assisting its residents and participants in achieving a positive and productive quality of life by providing access to community resources and safe, sanitary affordable housing.

### C. Statement of Local Objectives

In addition to the general statement above, the ACOP is designed to achieve the following objectives:

- To provide improved living conditions for very low-income families while maintaining their rent payments at an affordable level;
- To operate a socially and fiscally sound public housing authority that provides drug-free, decent, safe, and sanitary housing with a suitable living environment for residents and their families;

- To avoid concentrations of economically and socially disadvantaged families in any one or all of the PHA's public housing developments; and
- To deny the admission of applicants or the continued occupancy of residents, within HUD regulations, whose habits and practices may reasonably be expected to adversely affect the health, safety, comfort, or welfare of other residents, or the physical environment of the neighborhood, or create a danger to PHA employees.

#### **D. Organizational Structure**

The following are the positions/titles of staff members who are responsible for the administration and implementation of the public housing program:

Executive Director

Public Housing Site Manager

#### **E. Customer Relations**

The PHA considers all applicants, residents, contractors, subcontractors, HUD, etc., as its customers. The goal of the PHA is to respond promptly to the needs of its customers. All contact with the customer and the general public will be handled in a professional and courteous manner.

#### **F. Code of Conduct**

In accordance with the Annual Contributions Contract, Section 16, Conflict of Interest, the PHA has established written ethical standards of conduct with core values covering conflicts of interest and governing the performance of its employees engaged in the selection, award, and administration of contracts for which program receipts will be or are expended.

The PHA shall adhere to its code of conduct and shall sanction and/or terminate any officer, employee, or agent for violations consistent with applicable federal, state, or local law.

The conflict of interest prohibition under this section may be waived by the HUD Field Office for good cause.

## **CHAPTER 1: PUBLIC HOUSING PROGRAM BACKGROUND AND KEY EVENTS**

Public housing was established to provide decent and safe rental housing for eligible low-income families, the elderly, and persons with disabilities. Public housing comes in all sizes and types, from scattered single-family houses to high rise apartments for elderly families.

### **A. National Housing Act**

Amidst widespread unemployment and financial collapse resulting from the 1929 stock market crash, Congress passed the Emergency Relief and Construction Act of 1932, creating the Reconstruction Finance Corporation (RFC) and authorizing loans to private corporations providing housing for low-income families.

As the Great Depression eased and the prospect of improved financial status for individual families increased, the National Housing Act of 1934 was passed to relieve unemployment and stimulate the release of private credit in the hands of banks and lending institutions for home repairs and construction.

These early measures stimulated housing construction, and the United States Housing Act of 1937 authorized loans to local public housing agencies for lower-rent public housing construction expenses.

### **B. United States Housing Act of 1937**

The U.S. Housing Act of 1937 authorized local PHAs established by individual states. The 1937 Act also initiated the public housing program. Local PHAs owned and managed public housing and, at the time the public housing program began, PHAs adopted a production approach to providing affordable housing for low-income families because of the Depression Era emphasis on job creation and slum elimination.

For nearly 30 years, public housing that was owned and managed by local PHAs was the primary source of housing assistance for low-income families. Over time, the federal government strategy for housing assistance shifted from sole involvement by PHAs toward involvement by the private housing sector.

### **C. Housing Act of 1949**

The increase in housing construction following World War II, led to the growth of suburban areas and to new housing programs for declining urban areas authorized by the Housing Act of 1949.

The Act authorized funds to localities to assist in slum clearance and urban redevelopment, new construction, and activities not directly related to housing construction (open space land, neighborhood facilities, and basic water and sewer facilities).

#### **D. The Housing Act of 1954**

The Housing Act of 1954 amended that of 1949 to provide funding, not just for new construction and demolition, but also for the rehabilitation and conservation of deteriorating areas. This began a gradual shift in emphasis from new construction to conservation, now reflected in current housing policies that encourage rehabilitation. With the 1954 amendment, the term "urban renewal" was introduced to refer to public efforts to revitalize aging and decaying inner cities and some suburban communities.

The Housing Act of 1956 added special provisions under Sections 203 and 207 and the public housing programs to give preference to the elderly and amended the 1949 Act to authorize relocation payments to persons displaced by urban renewal.

Federal involvement in housing rapidly expanded to include the financing of new construction, measures to preserve existing housing resources, and urban renewal.

#### **E. The Housing and Urban Development Act of 1965**

Executive Order 11063, Equal Opportunity in Housing, issued in 1962, represented the first major federal effort to apply civil rights to housing. Title VII of the Civil Rights Act of 1964 assured nondiscrimination in federally assisted programs. Equality in housing opportunity was legislated by Title VIII of the Civil Rights Act of 1968, the Fair Housing Act, which prohibited discrimination in the sale, rental, and financing of housing.

The Housing and Urban Development Act of 1965 created HUD as a cabinet-level agency and initiated a leased housing program to make privately owned housing available to low-income families.

#### **F. Community Development Block Grant (CDBG)**

HUD's Office of Policy Development and Research (PD&R), created in 1973, was tasked with conducting research on priority housing and community development issues.

In January 1973, President Nixon declared an 18-month moratorium on approvals for subsidized housing programs, including Sections 235 and 236. The moratorium also applied (as of July 1) to funding for urban renewal, Model Cities, and FHA programs. The moratorium was rescinded in the summer of 1974.

The Housing and Community Develop Act of 1974 made significant changes to housing programs, marked by blocked grants, and created the Community Development Block Grant.

#### **G. McKinney-Vento Act of 1987**

Changes in the American economy, deinstitutionalization of individuals with mental illnesses, and a decline in housing and other support for low-income families resulted in an increase in homelessness. The McKinney Act of 1987 (later renamed the McKinney-Vento Act) created new housing and social services programs within HUD, specifically designed to address homelessness.

Other significant measures to ensure housing opportunities for all addressed the housing needs of Native Americans and Alaskan Indians. The Low-Income Housing Tax Credits (LIHTC) program created affordable housing opportunities for low- and moderate-income families. The scope of fair housing provisions of the Civil Rights Act of 1968 was expanded, giving HUD additional enforcement responsibilities.

## **H. Hope VI and Faircloth Amendment**

Several new programs were designed to ensure survival of affordable units and the viability of subsidized housing programs. The Low-Income Housing Preservation and Resident Homeownership Act of 1990 attempted to maintain the supply of affordable housing by offering project incentives to preserve low-income rental properties.

The HOPE VI Program was developed as a result of recommendations by National Commission on Severely Distressed Public Housing, which was charged with proposing a National Action Plan to eradicate severely distressed public housing.

Section 9(g)(3) of the Housing Act of 1937 ("Faircloth Amendment") limits the construction of new public housing units. The Faircloth Amendment stipulates that HUD cannot fund the construction or operation of new public housing units with Capital or Operating Funds if the construction of those units would result in a net increase in the number of units the PHA owned, assisted or operated as of October 1, 1999. This requirement is referred to as the "Faircloth Limit."

## **I. Quality Housing and Work Responsibility Act of 1998 (QHWRA)**

QHWRA was signed by President Clinton on October 21, 1998 and is found in Title V of HUD's FY1999 appropriations act (P.L. 105-276). QHWRA is landmark legislation which will make public housing reform a reality by:

- Reducing the concentration of poverty in public housing
- Protecting access to housing assistance for the poorest families
- Supporting families making the transition from welfare to work
- Raising performance standards for public housing agencies, and rewarding high performance
- Transforming the public housing stock through new policies and procedures for demolition and replacement and mixed-finance projects, and through authorizing the HOPE VI revitalization program
- Merging and reforming the Section 8 certificate and voucher programs, and allowing public housing agencies to implement a Section 8 homeownership program
- Supporting HUD management reform efficiencies through deregulation and streamlining and program consolidation

## J. Rental Assistance Demonstration (RAD)

HUD worked with public agencies, private partners, nonprofit, faith-based, and community organizations to expand the availability of affordable housing, to improve structural and living conditions in HUD-insured and assisted rental housing projects, to promote wider affordable rental housing opportunities, and to stabilize and sustain communities.

RAD was created in order to give PHAs a powerful tool to preserve and improve public housing properties and address the nationwide backlog of deferred maintenance. RAD allows PHAs to convert from public housing to long-term project-based Section 8 assistance.

## K. Applicable Regulations

The applicable regulations to the public housing program include:

- 24 CFR Part 5: General HUD Program Requirements; Waivers
- 24 CFR Part 8: Nondiscrimination Based on Handicap in Federally Assisted Programs and Activities of the Department of Housing and Urban Development
- 24 CFR Part 75: Economic Opportunities for Low- and Very Low-Income Persons
- 24 CFR Part 100 -199: Fair Housing Act
- 24 CFR Part 902: Public Housing Assessment System
- 24 CFR Part 903: Public Housing Agency Plans
- 24 CFR Part 904: Public Housing Homeownership Programs
- 24 CFR Part 945: Designated Housing - Public Housing Designated for Occupancy by Disabled, Elderly, or Disabled and Elderly Families
- 24 CFR Part 960: Admission to, and Occupancy of, Public Housing
- 24 CFR Part 964: Tenant Participation and Tenant Opportunities in Public Housing
- 24 CFR Part 965: PHA-Owned or Leased Projects – General Provisions
- 24 CFR Part 966: Public Housing Lease and Grievance Procedure
- 24 CFR Part 970: Public Housing Program – Demolition or Disposition of Public Housing Projects
- 24 CFR Part 972: Conversion of Public Housing to Tenant-Based Assistance
- 24 CFR Part 984: Section 8 and Public Housing Family Self-Sufficiency Program
- All issues not addressed in this document related to the public housing program are governed by the Code of Federal Regulations, the Federal Register, HUD notices/guidance, handbooks and guidebooks, memorandums, and other applicable federal, state, or local laws.

## **CHAPTER 2: RELATIONSHIP BETWEEN HUD, THE PHA, AND THE FAMILY**

The PHA enters into contractual relationship with HUD. The roles and responsibilities of HUD, the PHA, and the family are defined in the federal regulations and in the legal documents that the parties execute to participate in the program.

### **A. Annual Contributions Contract**

The Annual Contributions Contract (ACC) between HUD and the PHA provides the PHA with funding for housing assistance to very low-income households and establishes the PHA's responsibilities in administering this funding.

### **B. Roles and Responsibilities**

#### 1. Role of HUD:

HUD has four major responsibilities:

- a. Develop policy, regulations, handbooks, notices, and guidance to implement housing legislation;
- b. Allocate housing assistance funds;
- c. Provide technical assistance and training to PHAs; and
- d. Monitor PHA compliance with program requirements and performance goals.

#### 2. Role of the PHA:

The PHA's responsibilities are defined in the consolidated ACC, and in applicable regulations. The PHA administers the public housing program under contract with HUD and has the following responsibilities:

- a. Establishing local policies;
- b. Determining family eligibility and reexamining of family income;
- c. Maintaining the waiting list and selecting families for admission;
- d. Calculation of the tenant rent;
- e. Establishing of utility allowances;
- f. Assisting persons with disabilities;
- g. Conducting informal settlements and grievance hearings;
- h. Administering the FSS program; and
- i. Complying with Fair Housing and Equal Opportunity (FHEO) requirements, HUD regulations and requirements, the consolidated ACC, HUD-approved applications for program funding, the PHA's ACOP, and federal, state and local laws.

#### 3. Tenant Obligations

The Tenant Obligations are stated in lease between the tenant and the PHA. The Tenant Obligations include:

- a. Supplying true and complete required information including:
  - 1) Any information that the PHA or HUD determines necessary in the administration of the program, including evidence of citizenship or eligible immigration status;
  - 2) Information as requested for regular or interim reexaminations of family income and composition;
  - 3) Disclosure and verification social security numbers (SSNs); and
  - 4) Signing consent forms for obtaining and verifying information.
- b. Violation of Lease:
  - 1) The family may not commit any serious or repeated violation of the lease.
  - 2) An incident or incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking will not be construed as a serious or repeated lease violation by the victim, or threatened victim, of the domestic violence, dating violence, sexual assault, or stalking, or as good cause to terminate the tenancy, occupancy rights, or assistance of the victim.
- c. Family Notice to Move or Lease Termination:

The family must notify the PHA before the family moves out the unit or terminates the lease on notice to the PHA.
- d. Use and Occupancy of Unit
  - 1) The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
  - 2) The composition of the assisted family residing in the unit must be approved by the PHA.
    - a) The family must promptly inform the PHA of the birth, adoption or court-awarded custody of a child.
    - b) The family must request PHA approval to add any other family member as an occupant of the unit.
    - c) No other person (i.e., nobody but members of the assisted family) may reside in the unit.
  - 3) If the PHA has given consent, a foster child/adult or a live-in-aide may reside in the unit.
  - 4) The family must promptly notify the PHA if any family member no longer resides in the unit.
  - 5) With the consent of the PHA, members of the household may engage in legal profit-making activities within the unit, but only if those activities are incidental to the primary use of the unit as a residence.
  - 6) The family must not sublease or sublet the unit



- 7) The family must not provide accommodations for boarders or lodgers.
  - 8) The family must not assign the lease or transfer the unit.
  - e. Absence from the unit:
    - 1) 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.
    - 2) The family must cooperate with the PHA for this purpose.
    - 3) The family must promptly notify the PHA of absence from the unit.
  - f. Fraud and Other Program Violation:

The members of the family must not commit fraud, bribery, any other corrupt or criminal act in connection with assisted housing programs.
  - g. Other Housing Assistance:

An assisted family, or members of the family, may not receive public housing assistance while receiving another housing subsidy, for the same unit or for a different unit, under any duplicative (as determined by HUD or in accordance with HUD requirements) federal, state, or local housing assistance program.
  - h. Crime by Household Members.
    - 1) The members of the household may not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety, or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.
    - 2) Criminal activity directly related to domestic violence, dating violence, sexual assault, or stalking, engaged in by a member of a family's household, or any guest or other person under the tenant's control, shall not be cause for termination of tenancy, occupancy rights, or assistance of the victim, if the tenant or an affiliated individual of the family, is the victim.
  - i. Alcohol Abuse by Household Members.

The members of the household must not abuse alcohol in a way that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.
4. Release of Information and Consent by Applicants and Participants
- As a condition of admission to or continued occupancy in the public housing program, the PHA will require the family's head of household and spouse, regardless of age, and each member of the family who is at least 18 years of age to sign one or more consent forms.

a. Consent Authorization

- 1) The assistance applicant shall submit the signed consent forms to the PHA when eligibility is being determined.
- 2) A participant shall sign and submit consent forms at the next regularly scheduled or interim income reexamination.
- 3) Both applicants and participants shall be responsible for signing and submitting consent forms by each applicable family member.

b. HUD-9886: Authorization for the Release of Information/Privacy Act Notice

Adults 18 years of age and older will be required to sign the form HUD-9886, Authorization for Release of Information/Privacy Act Notice at time of application, admission, annual, or interim reexamination.

- 1) Authorizes HUD and the PHA to request verification of salary and wages from current or previous employers.
- 2) Authorizes HUD and the PHA to request wage and unemployment compensation claim information from the state agency responsible for keeping that information.
- 3) Authorizes HUD to request certain tax return information from the U.S. Social Security Administration (SSA) and the U.S. Internal Revenue Service.
- 4) Authorizes HUD and the PHA to request information from financial institutions to verify eligibility and level of benefits.
- 5) Form HUD-9886 is valid for 15 months from the date of signature.

c. Criminal Background Check

The PHA will use available resources to obtain criminal background records. These may include federal, state and local law enforcement agencies, and consumer reporting agencies.

- 1) The PHA is authorized to obtain criminal conviction records from a law enforcement agency and may use the criminal conviction records obtained from the law enforcement agency to screen applicants for admission to or continued occupancy in the public housing program.
- 2) Sex Offender Registration
  - a) The PHA must carry out background checks necessary to determine whether a member of a household applying for admission to the public housing program is subject to a lifetime sex offender registration requirement under a State Sex Offender Registration program.
  - b) This sex offender check must be carried out with respect to the state in which the PHA is located and with respect to states where members of the applicant household are known to have resided.

- 3) If at any time during the application process or during program participation, the PHA has a documented reasonable cause (e.g., newspaper articles, credible informants, police reports, etc.) to believe that a household member is engaged in drug-related or violent criminal activity which would pose a threat to the health, safety, or right to peaceful enjoyment of the premises by other residents or PHA employees, the PHA is authorized to obtain a criminal background check of that household member.
- 4) The family will not incur any costs for the drug and criminal background check.
- d. Other PHA Release of Information and Consent Forms
  - 1) The PHA may develop other release of information and consent forms to be used to verify information other than the limited sources permitted by the form HUD-9886.
  - 2) The PHA's release of information and consent forms may be used to obtain income, expense, and other information directly from third parties (e.g., date hired, rate of pay, commissions, bonus, etc.).
- e. Subsequent Authorization to Release Information and Consent Forms
  - 1) Each head of household, spouse, or co-head, regardless of age, and each family member who is at least 18 years of age must sign form HUD-9886 annually authorizing HUD and the PHA to request information as specified in this section.
  - 2) Participants are required to sign and submit consent forms, including form HUD-9886, at the next annual or interim reexamination under the following circumstances:
    - a) When a household member turns 18 years of age;
    - b) When an adult 18 years old or older is requested to be added to the household composition; and
    - c) As required by HUD or the PHA.
- f. Penalties from Failing to Sign Consent Forms

If an applicant or participant, or any member of the applicant's or participant's family fails to sign and submit consent forms as required, the PHA shall deny assistance to and admission of the applicant or terminate the assistance and tenancy of the participant.
5. Family Privacy Rights

It is the PHA's policy to guard the privacy of individual applicants and residents in accordance with the Privacy Act of 1974, and to ensure the protection of those individuals' records maintained by the PHA.

  - a. The PHA will not release information to other persons or entities unless the family has signed a release of information or consent form authorizing the PHA to release specific information to the person(s) or entity.

- b. The PHA may release information on amounts owed for claims paid and not reimbursed by the family.
- c. The PHA may release information as required by law to a federal or state agency, law enforcement personnel, or if the PHA has received a court subpoena.
- d. The PHA must limit use and disclosure of family information obtained through release and consent to purposes directly connected with the program administration (i.e., an adult's Enterprise Income Verification (EIV) data will be released only to that adult. A minor's EIV data may be released to adult responsible for the minor.).

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### **CHAPTER 3: THE ADMISSIONS AND CONTINUED OCCUPANCY POLICY**

The purpose of the Admissions and Continued Occupancy Policy (ACOP) is for the PHA to establish policies on matters for which the PHA has discretion to establish local policies where federal regulations or laws do not direct the PHA's actions or decisions.

The PHA will comply with the City of River Rouge, MI State Consolidated Plan and the PHA's Agency Plan. The ACOP is a supporting document to the PHA's Agency Plan and shall be available for public review.

The ACOP shall also comply with the regulations, requirements, notices, and guidance set forth by the HUD, the ACC, the Housing Act of 1937, as amended, Title VI of the Civil Rights Act of 1964 and other civil rights requirements, Fair Housing regulations, the PHA Personnel Policy, applicable Standard Operating Procedures, and all federal, state and local housing laws.

#### **A. Adoption of the ACOP**

The ACOP is a formal document which must be formally adopted by the PHA's Board of Commissioners or other governing body. The ACOP becomes the PHA's official policy governing the public housing program once adopted by the Board of Commissioners.

The PHA shall submit a copy of the ACOP to HUD. HUD may require the PHA to change its policies in the ACOP if the policies are inconsistent with program regulations or requirements. Implementation of the ACOP does not require prior HUD approval.

#### **B. Contents of the ACOP**

The PHA ACOP will cover PHA policies on these subjects:

1. Selection and admission of applicants from the PHA waiting list, including any PHA admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening the PHA waiting list.
2. Offering a unit to the family.
3. Any special rules for use of available funds when HUD provides funding to the PHA for a special purpose (e.g., desegregation), including funding for specified families or a specified category of families.
4. Occupancy policies, including:
  - a. Definition of what group of persons may qualify as a "family."
  - b. Standards for denying admission or terminating assistance based on criminal activity or alcohol abuse.
5. Assisting a family that claims illegal discrimination.
6. The PHA's occupancy standards.
7. Family absence from the dwelling unit.
8. How to determine who remains in the program if a family breaks up.

9. Informal hearing and PHA's grievance procedures.
10. The method of determining and choice of tenant rent.
11. Policies concerning payment by a family to the PHA of amounts the family owes the PHA.
12. Interim redeterminations of family income and composition.
13. Procedural guidelines and performance standards for conducting required inspections.
14. PHA screening of applicants for family behavior or suitability for tenancy.

### **C. Organization of this ACOP**

This ACOP chronologically introduces the sequence of events experienced by a family participating in the public housing program.

The ACOP begins with outreach and program plans, and proceeds to program participation, including applications and eligibility, leasing, inspections, reexaminations, debts owed to the PHA, program integrity, and termination of assistance by the PHA.

This ACOP also includes policies about terminations and evictions, transfers and transfer waiting list, the PHA's grievance procedures, and housekeeping standards.

The Table of Contents provides a detailed listing of chapter titles and contents.

### **D. Changes in Laws and Regulations**

This ACOP will be interpreted and applied in accordance with applicable federal statutes and HUD regulations and policy guidance. Any conflict between the language of this ACOP and such federal statutes and/or regulations will be resolved in accord with federal law and policy. Additionally, since the provisions of this ACOP are based on local, state and federal law and regulation, this ACOP will be deemed automatically revised should any of those laws or regulations change.

In the event an applicable HUD law or regulation is modified or eliminated, the revised law or regulation shall, to the extent inconsistent with this ACOP, automatically supersede this ACOP. To the extent that the change is mandatory (allowing no PHA discretion), the text of this ACOP will be revised without requirement for administrative processing. By approving this provision, the Board of Commissioners understands that they are approving future automatic revisions responding to mandatory changes.

## CHAPTER 4: NONDISCRIMINATION AND EQUAL HOUSING OPPORTUNITIES

In making decisions concerning admissions and occupancy of dwelling units, the PHA must comply with Fair Housing, Equal Housing Opportunities, and civil rights requirements. The PHA is required to make the public housing program available and accessible to all eligible families. The following outlines the PHA's general policy concerning the requirements and specific actions to be taken in the admission and occupancy process.

### A. General Policy

The PHA will not discriminate against any person or family because of race, color, sex, religion, creed, national origin, age, familial status, disability/handicap, actual or perceived sexual orientation, gender identity, or marital status in the performance of its obligations during any phase of the occupancy process.

The occupancy process includes, but is not limited to, application processing, selection from the waiting list, determination of eligibility, leasing, transfers, delivery of management and maintenance services, access to common facilities, treatment of residents, and denial or termination of tenancy.

1. The PHA will abide by the nondiscrimination requirements of:
  - a. The Fair Housing Act of 1988, as amended, 24 CFR Part 100.
  - b. Title VI of the Civil Rights Act of 1964, (42 U.S.C 2000d-1), prohibits discrimination based on race, color, and national origin in programs and activities receiving federal financial assistance.
  - c. Section 504 of the Rehabilitation Act of 1973, as amended, (29 U.S.C. 794), prohibits discrimination on the basis of disability in federally assisted program or activities.
  - d. Title II of the Americans with Disabilities Act of 1990, (42 U.S.C. 12131-12165), prohibits discrimination based on disability in programs and activities provided or made available by public entities. HUD enforces Title II with respect to housing-related programs and activities of public entities, including public housing, housing assistance and housing referrals.
  - e. Title III of the American with Disabilities Act of 1990, (42 U.S.C. 12181-12189), prohibits discrimination based on disability in the goods, services, facilities, privileges, advantages, and accommodations of places of public accommodations owned, leased, or operated by private entities. The Department of Justice enforces Title III of the ADA, but certain HUD recipients and private entities operating housing and community development programs are covered by Title III of the ADA.
  - f. Age Discrimination Act of 1975 (42 U.S.C. 6101-6107), prohibits discrimination based on age in programs and activities receiving federal financial assistance.
  - g. Executive Order 11063, Equal Opportunity in Housing, issued on November 20, 1962, prohibits discrimination in the sale, leasing, rental, or other disposition of properties and facilities owned or operated by the federal government or provided with federal

- funds.
- h. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (LEP), issued on August 11, 2000, requires each federal agency to take steps to ensure that eligible persons with limited English proficiency are provided meaningful access to all federally assisted and federally conducted programs and activities.
  - i. Executive Order 12892, Leadership and Coordination of Fair Housing in Federal Programs: Affirmatively Furthering Fair Housing, issued on January 17, 1994, requires federal agencies to affirmatively further fair housing in their programs and activities, and provides that the Secretary of HUD will be responsible for coordinating the effort.
2. The PHA will not, on the grounds of race, color, creed, sex, religion, age, disability, national origin, actual or perceived sexual orientation, gender identity, marital status, or familial status:
- a. Deny an eligible person or family admission to housing.
  - b. Provide housing assistance, which is different than that provided to others, except for elderly and/or disabled where accessibility features may be required.
  - c. Subject a person or family to segregation or separate treatment.
  - d. Restrict a person's or family's access to any benefit enjoyed by others in connection with housing programs.
  - e. Treat a person or family differently in determining eligibility or other requirements for admission.
  - f. Deny any person or family access to the same level of services provided to others.
  - g. Deny a person the opportunity to participate in a planning or advisory group that is an integral part of the housing programs.

## **B. Specific Actions**

1. Race, color, or national origin of the family or of PHA staff will not be a factor in the assignment of PHA staff responsible for the administration of the public housing program. The PHA will not assign employees in a way that would result in discrimination against applicants or resident families.
2. The PHA will ensure that all employees of the PHA are familiar with discrimination and nondiscrimination requirements.
3. Posters and housing information with the Equal Housing Opportunity logo shall be displayed in locations throughout the PHA office in such a manner as to be easily readable by persons with disabilities.
4. The PHA will not intimidate, threaten, or take any retaliatory action against any applicant or participant because of a person's participation in civil rights activities, or for having asserted any civil rights under statute, regulations, or requirements pursuant thereto.



5. The PHA will not deny an individual with physical disabilities an opportunity to apply for housing assistance due to inaccessible application offices.
6. The PHA will maintain information on the race, ethnicity (Hispanic or non-Hispanic), sex and age of the head of the household of all applicants and participants.
7. The PHA will not discriminate in the rental of, or otherwise make unavailable or deny, a unit to any person because of a disability of that person, a person residing in or intending to reside in that dwelling after it is rented, or made available, or any person associated with that person.
8. The PHA will not discriminate against any person in the terms, conditions, or privileges of the rental of a unit, or in the provision of services or facilities in connection with such dwelling, because of a disability of that person, a person residing in or intending to reside in that dwelling after it is rented, or made available, or any person associated with that person.
9. The PHA will not make inquiry to determine whether a person who is applying for housing assistance, a person intending to reside in the assisted unit after it is rented or made available, or any person associated with that person, has a disability, or make an inquiry as to the nature of severity of a disability of such a person.
10. Furthermore, the PHA will not inquire whether a person is "capable of living independently." However, this paragraph does not prohibit the PHA from making the following inquiries, provided that these inquiries are made of all persons, whether or not they are persons with disabilities.
  - a. Inquiry into a person's ability to meet the requirements of tenancy;
  - b. Inquiry to determine whether a person is qualified for a dwelling available only to persons with disabilities or persons with a particular type of disability;
  - c. Inquiry to determine whether a person for a unit is qualified for a priority available to persons with particular type of disability should such priority be a part of the PHA's policy;
  - d. Inquiry to determine whether a person for a dwelling is a current illegal abuser or addict of a controlled substance, except that such persons who claim eligibility as disabled due to drug or alcohol abuse alone are not eligible for housing; or
  - e. Inquiry to determine whether a person has been convicted of the illegal manufacture or distribution of a controlled substance, or of any violent crime.
11. The PHA will not require that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals, or whose tenancy would result in substantial physical damage to the property of others.
12. The PHA will ensure that all PHA-property, including buildings, common areas, offices, and office spaces are accessible to persons with disabilities.

13. The PHA will post the TDD/TDY telephone number to facilitate accessibility for the hearing impaired.
14. To further the commitment to full compliance with applicable civil rights laws, the PHA will provide information to public housing program applicants and residents on how to complete and file a housing discrimination complaint if the applicant or resident claims illegal discrimination because of race, color, religion, sex, national origin, age, familial status, or disability.
  - a. A Fair Housing and Equal Opportunity poster that contains information on filing complaints with HUD will be prominently posted in the PHA office.
  - b. Individuals who believe that they have been discriminated against with respect to housing may receive assistance from PHA staff in filing such complaints.
15. The PHA will review its policies and procedures, at least annually, to assure compliance with all civil rights requirements.

### **C. Reasonable Accommodation and Reasonable Modifications**

The PHA will provide a reasonable accommodation, which includes a reasonable modification, as required by Section 504 of the Rehabilitation Act of 1973, the Fair Housing Act of 1988 and Titles I and II of the Americans with Disability Act of 1990.

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination on the basis of disability in programs and activities conducted by HUD or any federal agency that receives financial assistance. When the program is viewed as a whole, it must be usable and accessible to persons with disabilities. The PHA will ensure that persons with disabilities have full access to the PHA's programs and services.

1. Reasonable Accommodation
  - a. An exception, change, adaptation, or modification to policies, rules, practices or services that may be needed by a person with a disability in order to benefit from housing, participate in activities, or perform a job.
  - b. There must be a nexus (relationship) between the requested accommodation and the individual's disability.
2. Reasonable Modification
  - a. A physical or structural change needed by a person with a disability to use and enjoy housing or perform a job.
  - b. A reasonable modification can be requested for individual units, the workplace, or for public/common use areas.
3. Disability in Respect for Reasonable Accommodations:
  - a. A person who has a physical or mental impairment that substantially limits one or more major life activities of such individual;

- 1) The term “substantially limits” suggests that the limitation is “significant” or “to a large degree” and cannot be insubstantial.
- 2) Physical or mental impairment includes but is not limited to
  - 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; or
  - b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
  - c) 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 (other than addiction caused by current, illegal use of a controlled substance), alcoholism, and Human Immunodeficiency Virus infection.
- 3) Major life activities are those activities/functions that are of central importance to daily life, such as seeing, hearing, walking, breathing, performing manual tasks, caring for oneself, learning, speaking, and working.
- b. Has a record of such an impairment; or  
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.
- c. Is regarded as having such an impairment.
  - 1) 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;
  - 2) 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; or
  - 3) Has none of the impairments defined in paragraph (a) of this section but is treated by a recipient as having such an impairment.
4. Requesting a Reasonable Accommodation  
There must be a nexus (relationship) between the individual’s disability and the reasonable accommodation requested.
  - a. The PHA will recognize that an individual making a reasonable accommodation request does not need to mention Section 504 of the Rehabilitation Act of 1973 or use the words “reasonable accommodation.”
    - 1) The individual making the request for reasonable accommodation must make the request in a manner that a reasonable person would understand it to be a request

- for a reasonable accommodation.
- 2) The PHA is not obligated to make a reasonable accommodation when it is not requested, even if the need is apparent.
- b. The PHA will recognize reasonable accommodation requests made orally or in writing.
    - 1) If the request is made orally, the PHA will document that a request for reasonable accommodation was made (clearly noting what is being requested and the request is because of a disability) and provide a copy of the documented request to the individual.
    - 2) The PHA will give appropriate consideration to reasonable accommodation requests made orally or requested not using the PHA's preferred forms or procedures for making such requests.
  - c. A request for reasonable accommodations can be made at any time during the application process or during occupancy in the public housing program.
  - d. A request for reasonable accommodations can be made by the individual with disabilities or by someone on behalf of the individual with disabilities.
5. Determination of a Reasonable Accommodation Request

The PHA shall make a reasonable accommodation to the known physical or mental limitations of an otherwise qualified applicant or participant with disabilities unless the PHA can demonstrate that the accommodation would impose an undue financial and administrative burden on the operation of PHA's program or fundamentally alter the nature of the program.

a. Verification Procedures

The PHA is entitled to obtain information that is necessary to evaluate if a requested reasonable accommodation may be necessary because of a disability.

- 1) If the disability is obvious, or otherwise known to the PHA, and if the need for the requested accommodation is also readily apparent or known, then the PHA may not request any additional information about the requester's disability or the disability-related need for the accommodation.
- 2) If the disability is not obvious, or otherwise known, the PHA may request reliable disability-related information that:
  - a) Is necessary to verify that the person meets the Section 504 definition of disability;
  - b) Describes the needed accommodation; and
  - c) Shows the relationship between the person's disability and the need for the requested accommodation.
- 3) The PHA may accept a statement by the person with disabilities.

- 4) The PHA may request a statement from a medical or mental health professional who treats the person for their disability:
    - a) A doctor or licensed medical/health professional
    - b) A peer support group
    - c) A social service/disability agency or counselor
    - d) A case manager
  - 5) The PHA may not impose expensive or burdensome requirements to “prove” either a disability or need for an accommodation.
  - 6) The PHA will keep information regarding a person’s disability confidential and will not share the information with other persons unless it is needed to make or assess a decision to grant or deny a reasonable accommodation or unless its disclosure is required by law.
- b. Determining an undue financial and administrative burden must be made on a case-by-case basis involving various factors, such as:
    - 1) The cost of the requested accommodation;
    - 2) The financial resources of the PHA;
    - 3) The benefits that the accommodation would provide to the requester; and
    - 4) The availability of alternative accommodations that would effectively meet the requester's disability-related needs.
  - c. In determining whether an accommodation would impose an undue hardship on the operation of the PHA's program, factors to be considered include:
    - 1) The overall size of the PHA's program with respect to number of employees, number and type of facilities, and size of budget;
    - 2) The type of the PHA's operation, including the composition and structure of the PHA's workforce; and
    - 3) The nature and cost of the accommodation needed.
6. Approval or Denial of a Request for Reasonable Accommodation
    - a. Approval of Requests for Reasonable Accommodation
      - 1) The PHA must approve the reasonable accommodation and/or make the modification unless doing so is:
        - a) Unreasonable;
        - b) An undue financial and administrative burden on the PHA's programs; or
        - c) Would result in a fundamental alteration in the nature of the PHA program.

- 2) The PHA will meet with the family to discuss the approval:
  - a) How the accommodating will be provided.
  - b) When it will be provided.
  - c) Advise of any variations to the original request.
  - d) Sign a Reasonable Accommodation Agreement form.
  - e) Mail determination of notice to the family.
- b. Denial of Requests for Reasonable Accommodation
  - 1) The PHA may deny a request for reasonable accommodation or modification if the request:
    - a) Was not made by or on behalf of a person with disabilities; or
    - b) There is no disability-related need for the accommodation or modification; or
    - c) The request is unreasonable.
  - 2) The PHA will meet with the family to discuss the denial:
    - a) How the determination was made.
    - b) Administrative solutions.
    - c) Explanation of the process of filing a grievance or filing a complaint.
    - d) Mail the determination notice to the family.

#### **D. Effective Communication**

To ensure effective communication with persons with limited English proficiency (LEP) or persons with disabilities who require another form of communication, such as braille or American Sign Language (ASL), the PHA will consider the following factors:

##### 1. Translation of Documents

The PHA will conduct a four-factor analysis as a framework to identify LEP persons who need language services and to what extent, what languages require document translation and interpretation services, and what languages require only interpretation services.

##### 2. Communication Accessibility

- a. The PHA will have TDD/TTY machines or an equally effective communication system accessible for persons who are hearing impaired.
- b. The PHA will provide ASL interpreters for persons who are hearing impaired if requested as a reasonable accommodation.
- c. The PHA will provide copies of legal documents and informational materials in **large type or available in audio** for persons who are visually impaired if requested as a reasonable accommodation.

3. All PHA mailings will be made available in an accessible format upon request as a reasonable accommodation.
4. The PHA will assist by orally reading and explaining documents for persons who are unable to read.
5. The PHA will assist in completing forms and other required documents for persons who are unable to write.
6. The PHA will ensure that all PHA documents and the following information are written and/or provided in an accessible, clear, and concise format:
  - a. Marketing and informational material.
  - b. Information regarding the application process.
  - c. Applications for admission and reexaminations (annual and interim).
  - d. All form letters and notices to the families.
  - e. The PHA's general policy regarding reasonable accommodation.
  - f. New resident orientation materials.
  - g. The lease and any applicable house rules.
  - h. Guidance/instructions on care of the dwelling unit.
  - i. Information regarding opening, closing, and updating the waiting list.
  - j. All information related to the family's responsibilities and rights.
  - k. The PHA grievance procedures.

#### **E. Voluntary Compliance Agreement**

Should the PHA be required to enter into a Voluntary Compliance Agreement (VCA or Agreement) with HUD, upon execution of the VCA, the PHA will comply with all general provisions, specific provisions, reporting requirements, and recordkeeping requirements noted in the VCA.

## **CHAPTER 5: VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2013 (VAWA)**

Protects tenants and applicants, and affiliated individuals who are victims of domestic violence, dating violence, sexual assault, or stalking (collectively VAWA crimes) from being denied, evicted, or terminated from housing assistance based on acts of such violence against them.

### **A. Who is Eligible for VAWA Protections**

For the purposes of VAWA, the term “tenant” shall refer to the assisted family and members of the household on the lease.

1. Only tenants who are assisted by the PHA can invoke VAWA protections that apply solely to tenants.
2. VAWA protections are not limited to women.
3. Victims of a VAWA crime are eligible for protections without regard to sex, gender identity, or sexual orientation.
4. Victims cannot be discriminated against based on any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age.
5. As per the HUD’s Equal Access Rule, the VAWA protections also cover eligible individuals and families regardless of actual or perceived sexual orientation, gender identity, or marital status.
6. VAWA protections are provided to tenants regardless of citizenship or eligible immigration status.
7. Youth under the age of 18 years old living in an assisted household may invoke VAWA protections if the youth is a victim of a VAWA crime.
8. Affiliated Individual (replaced family member)
  - a. A spouse, parent, brother, sister, a child of that person, and/or an individual to whom that person stands in loco parentis; or
  - b. Any other person living in the household of that person and related to that person by blood or marriage.
9. Self-Petitioners

Noncitizens who claim to be victims of “battery or extreme cruelty” by their spouse or parent who is a U.S. citizen or lawful permanent resident (LPR).
10. Live-In Aides

Are entitled to VAWA protections if they are applicants for housing assistance or if they are an affiliated individual of a tenant.
11. Applicants

VAWA protections also cover applicants when they are applying for admission to the public housing program.



## **B. Who is Ineligible for VAWA Protections**

Guests, unassisted members, and live-in aides of the family are ineligible for VAWA protections that are available only to tenants.

1. As a reasonable accommodation, a tenant can request VAWA protections based on the grounds that the live-in aid is a victim of a VAWA crime. In addition, other reasonable accommodations may be needed on a case-by-case basis.
2. Where a guest or unassisted member is a victim of a VAWA crime, a tenant cannot be evicted or have assistance terminated on the basis of the VAWA crime of the guest or unassisted member.
3. Unassisted members who are also on the lease may qualify by way of the lease for VAWA protections.

## **C. VAWA Notice of Occupancy Rights and Certification Form**

1. The PHA shall provide the Notice of Occupancy Rights and the Certification Form to the applicant or tenant no later than at each of the following times:
  - a. At the time the applicant is denied assistance or admission;
  - b. At the time the individual is provided assistance or admission;
  - c. With any notification of eviction or notification of termination of assistance; and
  - d. During the 12-month period following December 16, 2016, either during the annual reexamination or if there will be no reexamination for the tenant during the first year after the rule takes effect, through other means.
2. In accordance with Executive Order 13166 (Improving Access to Services for Persons with Limited English Proficiency), the PHA shall make available The Notice of Occupancy Rights and the Certification Form in multiple languages.

## **D. VAWA Notice of Occupancy Rights, HUD-5380**

The PHA will provide the VAWA Notice of Occupancy Rights without changes to the core protections and confidentiality rights in the Notice.

1. The VAWA Notice of Occupancy Rights explains the VAWA protections including the rights to confidentiality and any VAWA protection limitations.
2. The VAWA Notice of Occupancy Rights must be provided to:
  - a. Adult applicants of the Public Housing program; and
  - b. Each adult public housing tenant.

## **E. VAWA Certification Form, HUD-5382**

The Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternative Documentation form is an optional way for victims to comply with a written request for documentation about an incident or incidents of a VAWA crime.

1. VAWA Certification Form
  - a. Provides that the victim or someone on the victim's behalf may complete the form.
  - b. Provides a list of alternative third-party documentation to satisfy a request by a PHA.
  - c. Explains the time period for responding to a written request for documentation.
  - d. Describes the confidentiality protections under VAWA.
  - e. Requires that the victim or someone filling out the form on the victim's behalf must answer 10 numbered questions and provide a brief description of the incident(s).
  - f. Clarifies that the name of the accused perpetrator does not have to be provided if it is unknown to the victim or it cannot be provided safely.
  - g. Clarifies that the date and time of incident should be completed only if known by the victim.
  - h. Requires the victim or someone filling out the form on the victim's behalf to certify to the truth and accuracy of the information being provided and explains that false information could be the basis for denial of admission or termination of assistance.
2. The PHA will advise tenant and applicants that when the HUD-5382 is submitted on the victim's behalf, the submission will take the place of the tenants or applicants submitting their own statement.

## **F. Certification and Documentation**

1. Acceptance of a Verbal Statement
  - a. The PHA is not required to ask for documentation when an individual presents a claim for VAWA protections.
  - b. The PHA may choose to provide benefits to an individual based solely on the individual's verbal statement or other corroborating evidence.
  - c. The PHA will accept a verbal statement of an incident or incidents of a VAWA crime if the PHA was aware of the abuse and encouraged the victim to request VAWA protections.
2. Requesting Documentation

The PHA may choose to request an individual to document their claim of a VAWA crime.

  - a. The PHA must request the documentation in writing.

- b. Providing the victim the form HUD-5382 does not constitute a written request for the documentation, unless the form HUD-5382 is accompanied by the written notice requesting the documentation.
  - c. The victim may satisfy the PHA's written request for documentation by providing any one of the following:
    - 1) Form HUD-5382; or
    - 2) A document:
      - a) Signed by an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional or a mental health professional (collectively, "professional") from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse;
      - b) Signed by the applicant or tenant; and
      - c) That specifies, under penalty of perjury, that the professional believes in the occurrence of the incident of a VAWA crime that is the ground for protection and remedies under the VAWA Final Rule, and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault, or stalking.
    - 3) A record of a federal, state, tribal, territorial or local law enforcement agency (may include a police report), court, or administrative agency; or
    - 4) At the discretion of the PHA, a statement or other evidence provided by the tenant or applicant.
3. Time to Submit VAWA Documentation
    - a. The PHA will require submission of documentation within 14 business days after the date that the individual received the written request for documentation.
    - b. The PHA may extend this time period at its discretion.
    - c. During the 14-business day period and any granted extensions of that time, no adverse actions, such as eviction or termination, can be taken against the individual requesting VAWA protection.
  4. Third-Party Verification

The PHA shall not require the victim to provide third-party documentation of victim status, unless:

    - a. More than one tenant or applicant provides documentation to show they are victims of a VAWA crime and the information in one person's documentation conflicts with the information in another person's documentation; or
    - b. Submitted documentation contains information that conflicts with existing information already available to the PHA.

- c. The PHA shall give the tenant or applicant 30 calendar days from the date of the written request to provide such documentation.

### **G. Limited VAWA Protections**

Nothing in this section limits the authority of the PHA, when notified of a court order, to comply with a court order with respect to:

1. The rights of access or control of property, including civil protection orders issued to protect a victim of a VAWA crime; or
2. The distribution or possession of property among members of a household.

### **H. VAWA Confidentiality**

1. The PHA shall retain in strictest confidence all information pursuant to VAWA including the fact that an individual is a victim of a VAWA crime.
2. The PHA shall not allow any individual administering assistance on behalf of the PHA, in the employ of the PHA, or any persons with the PHA's employ (e.g., contractors) to have access to VAWA confidential information unless explicitly authorized by the PHA that specifically call for these individuals to have access to the information under applicable Federal, State, or local law.
3. The PHA shall not enter the VAWA confidential information into any shared database or disclose the information to any other entity or individual, except to the extent that the disclosure is:
  - a. Requested or consented to in writing by the individual in a time-limited release;
  - b. Required for use in an eviction proceeding or hearing regarding termination of assistance; or
  - c. Otherwise required by applicable law.

## **CHAPTER 6: OUTREACH**

The goal of the PHA's outreach efforts is to make information about the public housing program available to every eligible family and to attract a sufficient number and variety of applicants to fill public housing vacancies as they arise.

### **A. Affirmative Marketing and Equal Opportunity**

The PHA's comprehensive outreach efforts will be accomplished in accordance with the nondiscrimination requirements of federal and state laws, and HUD guidelines for fair housing which includes:

1. Conducting affirmative marketing as needed to ensure the waiting list includes a variety of applicants (regardless of their race, color, religion sex, disability, national origin, age familial status, or ethnic background), have an equal opportunity to utilize the public housing program.
2. Analyzing the housing market area to identify and determine the needs of the eligible population groups.
3. Avoiding outreach efforts that prefer or exclude individuals who are members of a protected class.
4. Ensuring outreach efforts include usage of media outlets, including minority media outlets, that reach eligible populations.
5. The use of the Equal Housing Opportunity logo, statement, and slogan.

### **B. Family Outreach**

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 and will target outreach efforts to those populations being underserved.

1. The PHA will apply special outreach efforts to reach those families who are least likely to apply such as but not limited to:
  - a. Elderly
  - b. Persons with disabilities
  - c. Families with or without children
  - d. Families with or without income or assets
  - e. Families with limited English proficiency
  - f. Homeless families
  - g. Single individuals
  - h. Victims of domestic violence, dating violence, sexual assault, or stalking
  - i. Veterans of the U.S. armed forces

- j. Involuntary displaced families
2. PHA Outreach Message:
- The PHA's outreach message may include, but is not limited to, information about the public housing program, such as:
- a. The opening and closing of the public housing program waiting list.
  - b. Where, when, and how families may apply for the public housing program.
  - c. Information about the PHA's application process and procedures.
  - d. The difference between income-based tenant rent and flat rent tenant rent.
  - e. The PHA will also stress characteristics of the public housing program which appeal to low-income families, such as the family choice of tenant rent (income-based tenant rent or flat rent).
  - f. The attractive appearance of the dwelling units.
  - g. The PHA permits pet ownership in public housing.
3. The PHA methods of outreach to families may include but are not limited to:
- a. Postings on the PHA website.
  - b. Distribute outreach materials to identified local resources such as, advocacy groups, community service groups and agencies, elements of city and county governments, and colleges and universities.
  - c. Develop easily understood and usable outreach information/materials that is expressed in simple and direct terms.
  - d. Ensure the outreach materials includes specific information on where, when and how to apply for public housing assistance and an explanation of the application procedures.
  - e. Post outreach material in places of employment, unemployment offices, welfare offices, Post Offices, grocery stores, churches, community halls, city and county offices, utility companies, day-care centers, Salvation Army offices, laundry facilities and senior citizen centers.
  - f. Place news stories in daily and weekly newspapers and other local and minority publications.
  - g. Request public service announcements by local radio and television stations of English and other languages common to the area.
  - h. Make oral presentations before organizations, groups and agencies that serve the elderly, disabled, homeless, and victims of VAWA crimes.
  - i. Place outreach material in places of worship/faith-based institutions, community centers, city and county bulletins and newsletters.

- j. Encourage families to inform their friends and relatives about the public housing program.

### **C. Monitoring and Evaluating Outreach Efforts**

The PHA will establish and maintain internal documentation and monitoring procedures that will enable it to analyze the effectiveness of its outreach program.

For example, it may design an appropriate form and, as part of its application process, ask each applicant how they heard about the public housing program, especially families among the groups identified as the least likely to apply.

Such procedures will help the PHA determine the cost effectiveness of each method of outreach, as well as show where the outreach program needs to be improved, discontinued, or emphasized.

The PHA will also conduct other outreach efforts from time to time if it determines that certain categories of families are not making applications in sufficient numbers to keep all dwelling units occupied.

As needed, the PHA will take affirmative action in marketing the public housing program, to assure that opportunities for program participation are adequately publicized to families identified in the jurisdiction's Consolidated Plan as being expected to reside in the PHA's jurisdiction because of present and planned employment.

## CHAPTER 7: WAITING LIST AND TENANT SELECTION

When the PHA receives or acquires an allocation of new dwelling units or its waiting list has been depleted, the PHA shall make it known to the public the availability of public housing assistance for low-income families.

### A. Waiting List Management

The waiting list is the mechanism used to implement the PHA's preference system and, thus, establishes the order in which housing offers are made to qualified applicants. Setting up and maintaining the waiting list properly is essential to carrying out public housing admissions in accordance with HUD's civil rights and program regulations and the PHA's policies.

#### 1. Opening the Waiting List

The PHA shall announce the opening of the waiting list through a public notice.

- a. The notice must comply with HUD fair housing requirements, containing the equal housing opportunity logo and non-discrimination statement in its message.
- b. The notice shall be placed in a newspaper of general circulation, in a minority publication/media, and in plain view in the application office.
- c. The notice may be posted at locations throughout the community, such as faith-based institutions, public service/government offices, social service agencies, supermarkets, homeless shelters, senior/youth/community centers, the PHA's webpage, and other social media outlets.
- d. The notice will provide a brief description of the public housing program.
- e. The notice shall contain where and when interested families can apply.
- f. The notice shall state any limitations on who may apply (i.e., working families, extremely low-income, bedroom sizes, etc.).
- g. The PHA may open all waiting lists or only portions of waiting lists by type or size of the units as appropriate.

#### 2. Closing the Waiting List

The PHA shall announce the closing of the waiting list through a public notice.

- a. The PHA shall announce the closing of the waiting list using the same methods as used to announce the opening of the waiting list.
- b. The closing of the waiting list may be announced at the same time as when the PHA announced the opening of the waiting list.
- c. The PHA may also announce the closing of the waiting list when the PHA determines that the existing waiting list contains an adequate pool of applicants who will most likely receive assistance within a 12 to 18-month period.



- d. The PHA may close a portion of the waiting list instead of closing the entire waiting list and may only accept applications from families qualifying for a specific local preference or size or type of unit.
- e. The PHA will not close a waiting list if closing the list would have a discriminatory effect that would be inconsistent with applicable civil rights laws.

### 3. Organization of the Waiting List

The PHA will maintain sufficient information that permits the PHA to select applicants from the waiting list in accordance with the PHA's selection policies.

- a. At a minimum, the waiting list will contain the following information for each applicant:
  - 1) Name of the applicant head of household;
  - 2) Family unit size (i.e., the number of bedrooms for which the family qualifies);
  - 3) Date and time of application;
  - 4) Qualifications for any local preferences;
  - 5) Racial or ethnic designation of the applicant head of household;
  - 6) Elderly families and families that include individual(s) with disabilities;
  - 7) Families who require mobility or hearing/vision accessible units, or other accessibility features; and
  - 8) Families with incomes below 30% of the Area Median Income (AMI).
- b. The PHA may include the following additional information:
  - 1) Names of adult members and ages of all members.
  - 2) Sex and relationship of all members.
  - 3) Street address and phone numbers.
  - 4) Mailing address (if different from street address).
  - 5) Citizenship/eligible immigration status.

### 4. Waiting List for Different Programs

When the PHA maintains a separate waiting list of its programs, the following regulations apply:

#### a. Merger and Cross Listing

The PHA will not merge the waiting list for public housing assistance with the PHA waiting list for admission to another assisted housing program, including a federal or local program.

b. Non-merged Waiting List

If the PHA decides not to merge the waiting list for public housing with the waiting list for the PHA's tenant-based housing program, project-based voucher (PBV) program or Moderate Rehab program:

- 1) If the PHA's waiting list for the public housing program is open when an applicant is placed on the waiting list for the PHA's tenant-based assistance, project-based voucher program, or moderate rehabilitation program, the PHA must offer to place the applicant on its waiting list for public housing program.
- 2) If the PHA's waiting list for its tenant-based program, project-based voucher program, or moderate rehabilitation program is open when an applicant is placed on the waiting list for its public housing program, and if the other program includes units suitable for the applicant, the PHA must offer to place the applicant on its waiting list for the other program.

c. Effect of Application for, Receipt, or Refusal

- 1) The PHA may not take any of the following actions because an applicant has applied for, received, or refused other housing assistance:
  - a) Refuse to list the applicant on the PHA waiting list for the public housing program;
  - b) Deny any admission preference for which the applicant is currently qualified;
  - c) Change the applicant's place on the waiting list based on preference, date and time of application, or other factors affecting selection under the PHA selection policy; or
  - d) Remove the applicant from the waiting list.
- 2) For the purpose of this paragraph, "other housing assistance" means a housing assistance other than the under the public housing program such as subsidy assistance under a federal housing program (including HCV housing assistance), a state housing program, or a local housing program.

5. Updating and Purging the Waiting List

The PHA will update and purge its waiting list to obtain current information on interested applicants and to minimize and remove applicants no longer interested in participating in the public housing program.

a. Updating the Waiting List

The PHA will update and purge its waiting list annually to ensure that it is current and accurate.

- 1) The update of the family's circumstances can be generated by the family or the PHA.

2) The PHA will not require interested applicants to report changes in their circumstances while on the waiting list.

b. Removal from the Waiting List

The PHA shall remove the applicant from the waiting list if:

1) If the applicant fails to respond to the waiting list continued interest letter within the allotted time period, 10 business days.

Exceptions: Reasonable accommodations for families which includes a member with disabilities and because of a claim of a VAWA crime.

2) If the continued interest letter is returned marked "Addressee Unknown."

3) If the continued interest letter is returned with no forwarding address.

4) If the continued interest letter is returned with a forwarding address, the continued interest letter will be mailed to the address indicated.

a) The applicant will have 10 business days, from the date of the continued interest letter, to respond to the PHA.

b) If the applicant fails to respond to the second continued interest letter within the allotted time period, the applicant will be removed from the waiting list.

5) If the family requested in writing that their name be removed from the PHA waiting list.

6) A member of the applicant family becomes subject to a lifetime registration requirement under a state sex offender registration program.

7) A member of the applicant family perpetrated a VAWA crime. Family members who are victim of such acts may be considered for admission only, if the perpetrator is no longer in the household.

8) The applicant fails to satisfy the tenant selection criteria.

c. The applicant may request an informal hearing for changes of their position on the waiting list and their removal from the waiting list.

6. Waiting List Interest List

The PHA does not maintain an interest list when applications are not being taken.

## B. Community-Wide Waiting List

The PHA has adopted a single community-wide waiting list. The PHA will keep applications in sequence in the community-wide waiting list based upon:

1. The type and size of the dwelling unit needed and selected by the family (e.g., general occupancy, accessible, or non-accessible);

2. Admission preference (if any);

3. Income category of each applicant family; and

#### 4. Date and time the application was received.

### C. Accepting the Application

The PHA must make available and accept applications from interested families during periods when the PHA's waiting list is open. The PHA may only accept an application for the public housing program when the waiting list is opened.

#### 1. Applying for Assistance

When the waiting list is open, the applicant may submit the pre-application and full application to the PHA in person.

##### a. In Person Submission

- 1) The PHA will only accept applications at the location(s) and during dates and time period indicated in the announcement of the opening of the waiting list.
- 2) As a reasonable accommodation for persons with disabilities, the application may also be mailed to the applicant and, if requested, it will be mailed in an accessible format.
- 3) To provide specific accommodation for persons with disabilities, the applicant may call the PHA to make special arrangements to complete the application.
- 4) Applications submitted in person are date and time stamped when returned to the PHA, fully completed, and signed by the applicant family's head of household.

#### 2. Pre-Application Procedures

A preliminary-application form (pre-application) will be utilized.

- a. The pre-application contains sufficient information to permit the PHA to conduct a preliminary screening to assess family eligibility or ineligibility and to determine placement on the waiting list.
- b. The review of the pre-application does not require an interview.
- c. Notification of Applicant Status

Based on the information provided by the applicant in the pre-application, the PHA will make a preliminary determination of eligibility or ineligibility.

- 1) If the pre-application determines the family to be potentially eligible, the applicant will be notified:
  - a) In writing of the date and time of placement on the public housing program waiting list
  - b) That the family will be required to complete a full application.
  - c) The information on the pre-application is not verified until the applicant has been selected for final eligibility determination.

- d) The approximate amount of time before the final eligibility appointment will be scheduled.
  - e) Final eligibility will be determined when the full application process is completed, and all information is verified.
  - f) PHA communication will in no way lead the applicants to believe that the estimated date is exact, but will stress that the estimated date is subject to several factors that are beyond the PHA's control (i.e., vacancies, funding, etc.).
- 2) If the pre-application determines the family to be ineligible:
    - a) The PHA will mail a letter of ineligibility to the applicant stating the reason(s) that determined them ineligible, and
    - b) Include a statement that the applicant has a right to request an informal hearing on such determination.

### 3. Completion of a Full Application

When the applicant reaches the top of the waiting list, the PHA will:

- a. Mail the full application packet to the family and invite the family to attend an eligibility appointment.
- b. The eligibility appointments will be scheduled by mail and will provide the applicant with at least two (2) weeks' notice.
  - 1) The PHA requires all household members 18 years of age and older to attend the appointment.
  - 2) In addition to the completed full application packet, the eligibility appointment letter will identify other information and/or documents that the applicant will be required to bring to the appointment.
  - 3) Reasonable accommodations will be made upon request for persons with disabilities.
- c. The applicant will be responsible for completing the full application packet.
  - 1) The PHA will provide assistance in the completion of the application, if requested, as a reasonable accommodation for persons with disabilities or applicants with Limited English Proficiency.
  - 2) The head of household, as well as all members of the household over the age of 18 years must sign the application including all required HUD forms.

### 4. Requirement to Attend Scheduled Interview

If the applicant is unable or cannot attend the scheduled interview, it is the applicant's responsibility to inform the PHA, in writing or by telephone, prior to the scheduled interview.

- a. The PHA will reschedule the interview and notify the applicant in writing.

- b. If the applicant fails to attend the scheduled interview and does not contact the PHA to reschedule the appointment, the application may be rejected, and the applicant may be denied admission.
  - c. If the applicant misses two (2) appointments, the PHA will designate the application as inactive. The applicant will be removed from the waiting list and may reapply when the waiting list is opened.
5. Final Determination and Notification of Eligibility
- a. After following the verification process per Chapter 12, Verification Requirements, a final determination of eligibility will be made before inviting the family to attend a public housing orientation and the offer of a public housing unit.
  - b. The offer of a public housing unit will not occur before all eligibility criteria have been met.
6. Applicant Responsibilities
- a. Supply true, accurate, and complete information on the application and consent forms.
  - b. Supply any documents and verification as requested by HUD and the PHA.
  - c. Attend scheduled application appointments.
  - d. Timely inform the PHA, in writing, of changes in address, or any other changes affecting their eligibility.
  - e. Timely respond to requests from the PHA to update information on their application and to confirm their continued interest in applying for housing assistance.

#### **D. Local Preferences**

The PHA may, but is not required to, establish a system of local preferences for selection of families admitted to the public housing program. The PHA's preferences will be consistent with the PHA Plan and the Consolidated Plan and will be based on local housing needs and priorities that can be documented by generally accepted data sources.

1. The PHA has elected not to have local preferences.
2. As public housing units become available, applicants will be selected from the waiting list in sequence according to date and time of application, based on bedroom size and accessibility features required for a person with disabilities.

#### **E. Selection Priorities from the Waiting List**

The PHA shall follow the following selection from the waiting list policies.

1. Applicants will be selected from the waiting list in order of date and time of the initial application with consideration given to the regulations governing income targeting, deconcentration and income-mixing, and selection preferences for developments designated exclusively for elderly or disabled families or for mixed population developments.

2. The applicant with the earliest date and time will be selected first.

## F. Income Targeting

Not less than 40% of the families admitted to the public housing program during the PHA's fiscal year from the PHA's waiting list must be extremely low-income families, "basic targeting requirement".

1. The PHA will use the family's annual gross income for income targeting.
2. Admission of extremely low-income families to the PHA's HCV program during the same PHA fiscal year is credited against the basic targeting requirement.
  - a. If admissions of extremely low-income families to the PHA's HCV program during a PHA fiscal year exceeds the 75% minimum targeting requirement for the PHA's HCV program, such excess shall be credited against the PHA's basic targeting requirement for the same fiscal year.
  - b. The fiscal year credit for voucher program admissions that exceed the minimum voucher program targeting requirement shall not exceed the lower of:
    - 1) 10% of public housing waiting list admissions during the PHA fiscal year;
    - 2) 10% of waiting list admission to the PHA's HCV 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% or more. For this purpose, qualifying low-income family means a low-income family other than an extremely low-income family.
3. PHA may admit a lower percent of extremely low-income families during a PHA's fiscal year (than otherwise required) if HUD approves the use of such lower percent by the PHA, in accordance with the PHA Plan, based on HUD's determination that:
  - a. The PHA has opened its waiting list for a reasonable time for admission of extremely low-income families residing in the same metropolitan statistical area (MSA) or non-metropolitan county, both inside and outside the PHA jurisdiction;
  - b. The PHA has provided full public notice of such opening to such families, and has conducted outreach and marketing to such families, including outreach and marketing to extremely low-income families on the Section 8 and public housing waiting lists of other PHAs with jurisdiction in the same MSA or non-metropolitan county;
  - c. There are not enough extremely low-income families on the PHA's waiting list to fill available slots in the program during any fiscal year for which use of a lower percent is approved by HUD; and
  - d. Admission of the additional very low-income families, other than extremely low-income families to the PHA's tenant-based voucher program will substantially address worst case housing needs as determined by HUD.

4. The PHA will monitor its income targeting requirements to ensure that at least eight (8) out of every 20 new program admissions will be extremely low-income families.

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## CHAPTER 8: BASIC ELIGIBILITY REQUIREMENTS

Pursuant to HUD regulation the PHA is permitted to admit only eligible families to the public housing program. To be eligible, the applicant must be a family as defined in 24 CFR 5.403, must be income eligible, must be a citizen or a noncitizen who has eligible immigration status, must meet the PHA's screening criteria regarding family behavior and suitability for tenancy. These requirements are outlined below.

### A. Definition of a Family

The applicant must qualify as a family. The family includes all household members, except the live-in aide and foster children/adults, whose number and characteristics are used to calculate the tenant rent. A family includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

1. A single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person; or
2. A group of persons residing together, and such group includes, but is not limited to:
  - a. A family with or without children (a child is temporarily away from home because of placement in foster care is considered a member of the family).
  - b. A family that consists of a pregnant woman only, and no other persons, must be treated as a single-person family.
3. An elderly family;
  - a. A family whose head (including co-head), spouse, or sole member is a person who is at least 62 years of age.
  - b. It may include 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.
4. A near-elderly family;
  - a. A family whose head (including co-head), spouse, or sole member is person who is at least 50 years of age but below the age of 62; or
  - b. Two or more persons, who are at least 50 years of age but below the age of 62, living together; or
  - c. 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.
5. A disabled family;
  - a. A family whose head (including co-head), spouse, or sole member is a person with a disability.
  - b. It may include two or more persons with disabilities living together, or one or more persons with disabilities living with one or more live-in aides.

- c. A person with disabilities means a person who:
  - 1) Has a disability, as defined in 42 U.S.C. 423;
  - 2) Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:
    - a) Is expected to be of long-continued and indefinite duration;
    - b) Substantially impedes his or her ability to live independently, and
    - c) Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or
  - 3) Has a developmental disability as defined in 42 U.S.C. 6001.
  - 4) Does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome;
  - 5) For purposes of qualifying for low-income housing, does not include a person whose disability is based solely on any drug or alcohol dependence; and
  - 6) Means "individual with handicaps" as defined in 24 CFR 8.3 of this title, for purposes of reasonable accommodation and program accessibility for persons with disabilities.
6. A displaced family;

A family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose unit has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to federal disaster relief.
7. The remaining member of a tenant family

A family member of an assisted tenant family who remains in the unit when other members of the family have left the unit. A remaining family member is never a live-in aide.
8. A family 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.
9. Joint Custody of Children
  - a. Children who are subject to a joint custody agreement but live in the unit at least 51% of the time will be considered members of the household.
  - b. The PHA defines 51% of the time as 183 days.

## B. Definition of a Household

The household includes everyone who will live in the assisted unit. The household members are used to determine the unit size. The PHA may give approval of a live-in aide or foster child(ren)/adult(s) to reside in the unit.

### 1. Live-In Aide

A family that consists of one or more elderly, near elderly or disabled persons may request that the PHA approve a live-in aide to reside in the unit and provide necessary supportive services for a family member who is a person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation to make the public housing program accessible to and usable by the family member with a disability.

- a. A live-in aide is a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:
  - 1) Is determined by the PHA to be essential to the care and well-being of the person or persons;
  - 2) Is not obligated for support of the person or persons; and
  - 3) Would not be living in the unit except to provide necessary supportive services.
- b. A relative may be a live-in aide, if the relative meets the definition of a live-in aide.
- c. Prior to the PHA approving the request for a person to reside in the assisted unit as a live-in aide:
  - 1) The family must identify a specific person as the live-in aide. The PHA may not approve an unidentified live-in aide.
  - 2) The person must meet the criteria of the definition of a live-in aide.
  - 3) PHA verification of the live-in aide
    - a) The PHA will verify the need for a live-in aide's services from qualified medical, health, or social services/rehabilitation specialists, unless the need is obvious.
    - b) Verification of legal requirement for support includes marriage certificates, court ordered guardianship, or other legal documents requiring the potential live-in aide to be legally responsible for support of the person they care for.
    - c) The PHA will verify the current residency of the potential live-in aide as being elsewhere through prior landlords, rental agreements or leases, rental receipts, utility bills in the potential live-in aide's name for another address, driver's license or other government issued ID, etc.
    - d) For a potential relative live-in aide, the PHA will verify whether the relative previously lived outside the unit and moved back solely to take care of the family member.
- d. The person must meet all the PHA's screening criteria, including the criminal history check.

- e. The PHA will generate:
    - 1) The EIV Former Tenant and Existing Tenant Reports for any SSA matches involving another PHA or Multifamily program for the person.
    - 2) The Debts Owed to PHAs Report to determine if the person owes a debt to the PHA, another PHA, or Multifamily program.
      - a) The PHA will follow up on any issues identified.
      - b) The PHA will maintain a report and document the family file.
  - f. At any time, the PHA may refuse to approve a particular person as a live-in aide or may withdraw approval if:
    - 1) The person commits fraud, bribery or any other corrupt or criminal acts in connection with any federal housing program; or
    - 2) The person commits drug-related criminal activity or violent criminal activity.
  - g. A live-in aide is a household member, not a member of the assisted family, and therefore, the live-in aide only qualifies for occupancy in the assisted unit only as long as the family member needing the supportive services requires the live-in aide's services and remains a family member.
  - h. The live-in aide may not qualify for continued occupancy as a remaining family member.
  - i. The PHA will not convert the live-in aide to a family member.
  - j. The PHA may only approve one additional bedroom for the live-in aide.
    - 1) A live-in aide may have PHA-approved family member(s) live with them in the assisted unit.
    - 2) However, the PHA will not make this approval if it will result in overcrowding based on the PHA's occupancy standards.
    - 3) The PHA will not provide additional bedrooms for the family members of the live-in aide.
  - k. Income of the live-in aide is excluded from annual income.
  - l. Occasional, intermittent, multiple, or rotating care givers typically do not reside in the unit and would not qualify as live-in aides.
2. Foster Children and Foster Adults
- Foster children are children that are in the legal guardianship or custody of a state, county, or private adoption or foster care agency, but are 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.

A foster adult is usually an adult with a disability who is unrelated to the family and who is unable to live alone.

- a. The PHA must receive documentation from the custodial agency responsible for the placement of the foster child(ren)/adult(s) prior to PHA approval of the foster child(ren)/adult(s) to reside in the assisted unit.
- b. The PHA may not approve the addition of a foster child(ren)/adult(s) in the assisted unit if the approval would result in overcrowding based on the PHA's occupancy standards.

### **C. Income Eligibility**

HUD income limits are published annually and are generally effective on the date of publication.

The applicant's annual income may not exceed the HUD established low-income limits by family size for the area in which the PHA is located. The applicant's annual income is compared to the applicable HUD income limit to determine eligibility.

1. To be eligible, the applicant family's annual income, at time of admission to the public housing program, must fall within one of the following categories:
  - a. An extremely low-income family: A very low-income family whose annual income does not exceed the higher of:
    - 1) The poverty guidelines established by the Department of Health and Human Services applicable to the family of the size involved (except in the case of families living in Puerto Rico or any other territory or possession of the U.S.); or
    - 2) Thirty (30) percent of the area median income, as determined by HUD, with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 30% of the area median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.
  - b. A very low-income family: A family whose annual income does not exceed 50% of the area median family income, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 50% of the median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.
  - c. A low-income family: A family whose annual income does not exceed 80% of the area median income, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 80% of the median income for the area on the basis of HUD's findings that such variations are necessary because of unusually high or low family incomes.
  - d. Low-income limit: No family other than a low-income family is eligible for admission to the PHA's public housing program.

## D. Citizenship and Eligible Immigration Status

Section 214 of the Housing and Community Development Act of 1980 as amended, restricts financial assistance to U.S. citizens or nationals (persons who owes permanent allegiance to the U.S., for example, as a result of birth in a U.S. territory or possession) and to noncitizens who have eligible immigration status.

1. A family shall not be eligible for assistance unless every member of the family residing in the unit is determined to be a U.S. citizen, national, or be a noncitizen with eligible immigration status.
2. A mixed family includes family members who are U.S. citizens, nationals or have eligible immigration status, and family members who do not contend to have eligible immigration status.
  - a. The PHA may not deny assistance to mixed families due to nondisclosure of an SSN by an individual who does not contend to have eligible immigration status.
  - b. There are no HUD regulations which prohibit a mixed family from executing a lease or other legally binding contract. However, if the PHA's jurisdiction is in a state where state law prohibits a single ineligible family from executing a lease or other legally binding documents, the family may not be admitted into the public housing program.

### 3. Declaration of Citizenship or Eligible Immigration Status

Each family member who contends to be a U.S. citizen, national, or a noncitizen with eligible immigration status must submit a written declaration signed under penalty of perjury by which the family member declares whether he or she is a U.S. citizen, national, or a noncitizen with eligible immigration status.

- a. For each adult the declaration must be signed by the adult.
  - b. For each child, the declaration must be signed by an adult residing in the assisted unit who is responsible for the child.
4. Each family member, regardless of age, must submit evidence of citizenship or eligible noncitizen status.
    - a. U.S. citizens and nationals:
      - 1) The evidence consists of a signed declaration of U.S. citizenship or U.S. nationality.
      - 2) The PHA will also request other verification such as a U.S. passport, birth certificate, Military DD214, or other appropriate documentation as specified by HUD or the PHA.
    - b. Noncitizens who are 62 years of age or older or will be 62 years of age or older and receiving assistance on September 30, 1996, or applying for assistance on or after September 30, 1996:
      - 1) A signed declaration of eligible immigration status; and
      - 2) Proof of age document.

- c. For all other noncitizens
- 1) A signed declaration of eligible immigration status;
  - 2) A signed verification consent form; and
  - 3) Must fall in one of the following categories of eligible immigration status:
    - a) A noncitizen lawfully admitted for permanent residence as an immigrant (includes special agricultural workers granted lawful temporary resident status and noncitizens that indicate they have satisfactory immigration status, such as VAWA self-petitioners, whose verification of eligibility or appeal of a determination as to permanent residence is pending with DHS).
    - b) A non-citizen who entered the U.S. before January 1, 1972, (or such later date as enacted by law), and who:
      - (1) Has continuously maintained residence in the U.S. since then; and
      - (2) Is not ineligible for citizenship, but who is deemed to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General.
    - c) A non-citizen who is lawfully present in the United States as a result of:
      - (1) Refugee status, including those granted Temporary Protective Status (TPS) under the Victims of Trafficking and Violence Protection Act of 2000 (P.L. 106-386) (section 207); or
      - (2) The granting of asylum (which has not been terminated (section 208); or
      - (3) The granting of conditional entry (section 203 (a)(7)) prior to 4/1/80 because of persecution or fear on account of race, religion, or political opinion, or because of being uprooted by catastrophic national calamity.
    - d) A non-citizen who is lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest (section 221(d)(5)) (e.g., parole status).
    - e) A non-citizen who is lawfully present in the United States as a result of the Attorney General's' withholding deportation (section 243(h)) (threat to life or freedom).
    - f) A non-citizen lawfully admitted for temporary or permanent residence (245A) (amnesty granted).
    - g) An alien who is lawfully resident in the United States and its territories and possessions under section 141 of the Compacts of Free Association between the Government of the United States and the Governments of the Marshall Islands, the Federated States of Micronesia (48 U.S.C. 1901 note) and Palau (48 U.S.C. 1931 note) while the applicable section is in effect: Provided, That, within Guam any such alien shall not be entitled to a preference in receiving assistance under this Act over any United States citizen or national resident therein who



is otherwise eligible for such assistance.

- 4) Acceptable Original U.S. Citizenship and Immigration Service (CIS) Unexpired Documents
  - a) Form I-551 "Permanent Resident Card"
  - b) Form I-94 Arrival-Departure Record annotated with one of the following:
    - (1) "Admitted as a Refugee Pursuant to Section 207"
    - (2) "Section 208" or "Asylum"
    - (3) "Section 243(h)" or "Deportation stayed by Attorney General"
    - (4) "Paroled Pursuant to 9 CFR Section 221 (d)(5) of the INS"
  - c) Form I-94 Arrival-Departure Record with no annotation accompanied by:
    - (1) A final court decision granting asylum (but only if no appeal is taken);
    - (2) A letter from a DHS asylum officer granting asylum (if application is filed on or after 10/1/90) or from an DHS district director granting asylum (application filed before 10/1/90);
    - (3) A court decision granting withholding of deportation; or
    - (4) A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).
  - d) Form I-9 Employment Eligibility Verification annotated with:
    - (1) Acceptable document from List A or,
    - (2) Combination of one selection from List B and one selection from List C
  - e) Form I-360 VAWA Self-Petition
  - f) Form I-130 Family-Based Visa Petition
  - g) Form I-797 Notice of Action
  - h) A receipt issued by DHS 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; or
  - i) Other acceptable evidence. If other documents are determined by DHS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the federal register.
- d. Verification Consent Form

Each noncitizen who declares eligible immigration status (except for certain noncitizens who are 62 years of age or older, as describe in paragraph 4b of this section) must sign a verification consent form as follows:

- 1) For each adult, the form must be signed by the adult.



- 2) For each child, the form must be signed by an adult residing in the assisted unit who is responsible for the child.
5. Ineligible Immigration Status

If one or more family members do not contend that they have eligible immigration status, and other members of the family establish their citizenship or eligible immigration status, the family may be eligible for assistance despite the fact that no declaration or documentation of eligible status has been submitted.

- a. The family must identify in writing, to the PHA, the family member (or members) who will elect not to contend that he or she has eligible immigration status.
- b. A family that consists of a single household member (including a pregnant individual) who does not have eligible U.S. citizenship or eligible immigration status is not eligible for housing assistance and cannot be housed.

### **E. Mandatory Disclosure of Social Security Numbers (SSNs)**

Disclosure of SSNs is considered information subject to the Federal Privacy Act (5 USC §552a, as amended). The PHA, to the extent possible, will keep the collection, maintenance, use, dissemination, income information, and any other information derived from the SSNs in compliance with the Federal Privacy Act and all other provisions of federal, state, and local laws.

As a condition of initial and continued eligibility, all applicants and all household members (including live-in aides, foster children/adults) must disclose the SSNs assigned to them by the SSA.

1. An exception for the disclosure of SSNs includes the following:
  - a. Those individuals who do not contend to have eligible immigration status and have not been assigned an SSN.
  - b. Existing program participants, who as of January 31, 2010, were 62 years of age or older. This exemption continues even if the individual moves to a new public housing unit.
  - c. Those who have not been assigned an SSN.
2. Children under 6 added to the applicant family
  - a. If a child under the age of six (6) was added to the applicant family within six (6) months of unit offer, the PHA may admit the applicant family to the public housing program before the SSN documentation has been submitted.
  - b. The PHA will grant the family 90 days from the date of admission, which is the lease effective date, to provide the required SSN documentation.
  - c. The PHA will allow one additional 90-day period if the PHA determines that, in its discretion, the applicant's failure to comply was due to circumstances that could not reasonably have been foreseen and were outside the control of the applicant family.

- 1) Examples of circumstances outside the control of the applicant include but are not limited to:
    - a) Delayed processing of SSN application by SSA
    - b) Death in family
    - c) Natural disaster
    - d) Fire
  - 2) If the applicant fails to produce the SSN documentation required within the required time period, the PHA must deny admission.
3. Individuals without an assigned SSN
- a. Examples of individuals who may not have an SSA-assigned SSN are listed below. This list is not all-inclusive.
    - 1) U.S. newborn children (eligible citizens - will be issued an SSN upon SSA confirmation of birth).
    - 2) Noncitizens lawfully present in the U.S. (ineligible noncitizens – individuals who will be issued an SSN upon SSA confirmation of the individual's DHS documentation or confirmation that the individual is required by the law to provide an SSN to receive general assistance benefits that they already have qualified for).
    - 3) Noncitizen unlawfully present in the U.S. (ineligible noncitizens – these individuals cannot be assigned an SSN).
  - b. The PHA shall require that a citizen or noncitizen lawfully present in the U.S. who state that they have not been assigned an SSN by the SSA to make such declaration in writing and under penalty of perjury. The self-declaration shall be maintained in the family file.
  - c. A household member who does not have an SSN must certify that they do not, in fact, have an SSN.
4. Penalties for applicant failure to disclose and/or provide documentation of the SSN
- The following penalties apply for noncompliance with the SSN disclosure and documentation requirements:
- a. PHA shall deny the eligibility of an applicant if each member of the household who is required to disclose their SSN fails to disclose and/or provide documentation of their individual SSN.
  - b. If the applicant family is otherwise eligible to participate in the public housing program, the PHA shall allow the family to maintain their position on the waiting list for a period of 30 days to permit the family the opportunity to obtain and disclose the required SSN information. During this period, if a unit becomes available and the household members have not disclosed their SSN, PHA shall offer the available unit to the next eligible applicant family on the waiting list.

5. Individuals who previously declared to have eligible citizenship or eligible immigration status may not change their declaration to no longer contend to have eligible immigration status to avoid compliance with the SSN disclosure and documentation requirements or penalties associated with noncompliance of the SSN requirements.

**F. Restriction on Students of Higher Education Eligibility**

Restriction on assistance to students enrolled in an institution of higher education is not applicable to the public housing program, but is applicable to Section 8 programs only.

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## CHAPTER 9: APPLICANT SELECTION AND SCREENING

The applicant selection criteria, and the screening of information to be considered by the PHA, will be reasonably related to the applicant's individual attributes and behavior, and will not be related to the attributes and behavior imputed to a particular group or category of persons of which the applicant may be a member.

### A. Applicant Screening

In selection of families for admission to the PHA's public housing program, or to occupy a public housing development or unit, the PHA is responsible for screening family behavior and suitability for tenancy.

1. The PHA may consider all relevant information, which may include, but is not limited to:
  - a. Suitability screening attempts to determine if the applicant is likely to interfere with other residents by adversely affecting their health, safety, welfare, or affect adversely the physical environment or financial stability of the development if the applicant were admitted.
  - b. Relevant information concerning the habits or practices to be considered may include, but is not limited to:
    - 1) Inability to comply with the terms of the lease.
    - 2) Past performance in meeting financial obligations, especially rent.
    - 3) Prior rental history with the PHA, if applicable.
    - 4) Prior rental history from previous owners/landlords or another PHA;
    - 5) A record of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences which may adversely affect the health, safety, or welfare of other residents, or cause damage to the unit or development.
    - 6) Information from previous owners/landlords concerning housekeeping that would create health or sanitation problems.
    - 7) Information from personal references.
    - 8) The applicant's failure to pay an existing utility balance which results in a denial of service by the utility supplier.
2. The PHA may require an applicant to exclude a household member in order to be admitted to the public housing program where that household member has participated in or been culpable for actions that warrants denial.
3. The PHA may, where a statute requires that the PHA prohibit admission for a prescribed period of time after some disqualifying behavior or event, choose to continue that prohibition for a longer period of time.

4. PHA tenant selection criteria are subject to regulations regarding Protections for VAWA crimes. In cases of requests for emergency transfers under VAWA, with the written consent of the victim of a VAWA crime, the receiving PHA may accept and use the prior covered housing provider's determination of eligibility and tenant screening and all related verification information.
5. Drug and Criminal Activity  
A history of criminal activity involving drug-related activity, a pattern of alcohol abuse, crimes of physical violence to persons or property, or other criminal acts which would adversely affect the health, safety or welfare of other residents.
6. Applicants must conform to the occupancy standards on family size and family composition.
7. The PHA will use up-front or third-party verification of all information whenever possible and the return envelope will be retained in the resident's file. If such up-front or third-party documentation is not available, the PHA will document the reason in the family file.
8. The family will also submit, directly to the PHA, all documentation required for purposes of determining or auditing a family's eligibility to receive housing assistance, for calculating the family's adjusted income for tenant rent, for verifying related information, or for monitoring compliance with equal opportunity requirements. Failure to provide requested documentation will result in the denial of assistance.
9. Home Visits  
The PHA may conduct a home visit to consider if the conditions they observe are the result of the resident's treatment of the unit or are caused by the unit's overall substandard condition. The PHA will give at least two (2) days' written notice to all applicants or residents. Reasons for a home visit may include, but not be limited to, the following circumstances:
  - a. Conflicting or negative rental history received from previous landlords;
  - b. Conflicting or negative information received from personal references;
  - c. Applicant provides no previous rental references;
  - d. Applicant provides only related personal references; or
  - e. Applicant has no credit history.

## **B. Consideration of Favorable Factors**

In the event unfavorable information with respect to an applicant is received, the PHA will give consideration to the time, nature and extent of applicant's conduct, and to factors which might indicate a reasonable probability to favorable future conduct or financial prospects, including but not limited to:

1. Evidence of successful completion of an appropriate rehabilitation program for drug or alcohol-related problems (requiring certification from a health professional, or state certified program). The applicant or family may be required to provide evidence of otherwise being rehabilitated successfully (i.e., participation in AA, ALANON, or other drug/alcohol support group);
2. The seriousness of the offending action;
3. The effect on the community of denial or the failure of the PHA to take such action;
4. The extent of participation by the leaseholder in the offending action;
5. The effect of denial of admission on household members not involved in the offending action;
6. The demand for assisted housing by families who will adhere to lease responsibilities;
7. The extent to which the applicant has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action;
8. The effect of the PHA's action on the integrity of the program;
9. The willingness of the applicant to exclude the offending household member in order to be admitted to the housing program, where the identified member has participated in or been culpable for action or failure to act that warrants denial;
10. Evidence of the applicant family's participation in or willingness to participate in social services or other appropriate counseling programs, and the availability of such programs; and
11. Evidence of the applicant family's willingness to attempt to increase family income, and the availability of training or employment programs in the locality.

### **C. Falsified or Misrepresented Information**

If the PHA determines that an applicant has falsified or misrepresented family income, composition, circumstances, conduct or behavior, the PHA will, on the basis of such falsification or misrepresentation, find the applicant ineligible for admission to a PHA unit. In justifiable cases, the PHA may take such other action as deemed advisable.

### **D. Mitigating Circumstances**

Screening applicants who claim mitigating circumstances:

1. If unfavorable information about an applicant is received, the applicant will be provided an opportunity to present mitigating circumstances.
  - a. The PHA will consider the time, nature and extent of the applicant's conduct.
  - b. These mitigating circumstances must be verifiable.

2. Mitigating circumstances are facts relating to the applicant's unsuitable rental history or behavior which, when verified, would indicate both:
  - a. The reason for the unsuitable behavior; and
  - b. That the reason for the unsuitable rental history or behavior no longer applies or is under control and the applicant's prospect for lease compliance is an acceptable one, justifying admission.
  - c. Such mitigating circumstances would overcome or outweigh information already gathered in the screening process.
3. If the mitigating circumstances relate to change in disability or handicap, the PHA will have the right to verify the information or to request further information which is reasonably needed to verify the mitigating circumstances, even if such information is of a medically confidential nature.
4. An applicant who is a victim of a VAWA crime is afforded certain protections pursuant to the Violence Against Women Reauthorization Act.
5. Consideration of mitigating circumstances does not guarantee that the applicant will qualify for admission.

## CHAPTER 10: DENIAL OF ADMISSION

The PHA will determine the eligibility for admission into the public housing program for each applicant. All standards of eligibility determination shall be applied uniformly.

### A. Denial of Admission Because of the Family's Action or Failure to Act

The PHA will deny an applicant's admission to the public housing program for program violations that are identified as grounds for denial of admission.

1. The PHA must deny admissions for an applicant:
  - a. The applicant does not meet the income eligibility criteria (e.g., the applicant's annual income exceeds the HUD established income limits by family size for the area in which the PHA is located).
  - b. If any member of the family fails or refuses to sign and submit consent forms (i.e., citizen status, form HUD-9886, Authorization for the Release of Information/Privacy Act Notice, and other consent forms).
  - c. If the family fails to submit required evidence of citizenship or eligible immigration status.

If the family is determined ineligible due to lack of citizenship or eligible immigration status, the family may request an appeal to CIS.
  - d. If the family fails to disclose SSNs for all household members.
2. The PHA has the authority to reject an application or deny admission into the public housing program of an applicant if:
  - a. The PHA has notified the applicant of its intention to remove the applicant's name because the applicant is no longer eligible for public housing.
  - b. Falsified or misrepresented information.
    - 1) The applicant provides information that is not true or complete.
    - 2) If the PHA determines that an applicant has falsified or misrepresented family income, composition, circumstances, conduct or behavior, the PHA will, on the basis of such falsification or misrepresentation, find the applicant ineligible for admission to a PHA unit.
    - 3) In justifiable cases, the PHA may take such other action as deemed advisable.
  - c. The family fails to supply any information or documentation that is determined necessary by the PHA or HUD in the administration of the public housing program.
  - d. Any member of the family has been evicted from federally assisted housing in the last five (5) years, the PHA will consider the circumstances of the eviction.
  - e. The applicant fails to pay an outstanding balance owed to the PHA, to another PHA, or a Multifamily program.



- f. The applicant fails to complete the pre-occupancy orientation.
  - g. The applicant fails to pay an existing utility balance which results in a denial of service by the utility supplier.
  - h. The applicant fails to pass the PHA's screening because of the documented tenant history of:
    - 1) Poor past performance in meeting financial obligations.
    - 2) A record of disturbance of neighbors, destruction of property, or living/housekeeping habits in prior residences that may adversely affect the health, safety, or welfare of other tenants, or cause damage to the unit or development.
    - 3) Involvement in criminal activity on the part of any applicant family member that would adversely affect the health, safety, or welfare of other tenants.
    - 4) A record of eviction from housing or termination from residential program (considering relevant circumstances).
    - 5) Inability or unwillingness to comply with the terms of the PHA's lease.
3. Removing or Dropping an Application for Refusal of a Unit Offer

If an applicant receives an offer of a public housing unit and rejects the offer without good cause, the PHA will remove the applicant from the waiting list requiring the applicant to reapply when the waiting list is reopened.

## **B. Denial of Admissions for Criminal Activity and/or Alcohol Abuse**

HUD regulations allow the PHA to prohibit admission for certain criminal activities, including alcohol abuse, that a household member has engaged in.

1. The PHA will deny admission to the public housing program when:
  - a. A household member has been evicted from federally assisted housing within the last three (3) years for drug-related criminal activity. However, the PHA may admit the household if the PHA determines:
    - 1) That the evicted household member who engaged in the drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by the PHA; or
    - 2) That the circumstances leading to eviction no longer exist (for example, the criminal household member has died or is imprisoned).
  - b. Any household member is subject to a lifetime registration requirement under a state sex offender registration program.
    - 1) During the screening process, the PHA will request for law enforcement to perform a criminal background check to determine whether any household member is subject to a lifetime sex offender registration requirement in the state where the housing is located and in other states where the household members are known

to reside.

- 2) The PHA will use the Dru Sjodin National Sex Offender Public Website ([www.nsopw.gov](http://www.nsopw.gov)) to search for a household member's sex offender registration. NSOPW is in partnership between the U.S. Department of Justice and state, territorial, and tribal governments.
  - c. Any household member has been convicted of manufacturing or producing methamphetamine on the premises of any federally assisted housing (including the building or complex in which the unit is located and associated common areas and grounds).
  - d. The PHA determines that any household member is currently engaging in illegal use of a drug or the PHA has determined that it has reasonable cause to believe that a household member's illegal drug or alcohol abuse or pattern of illegal drug or alcohol abuse may threaten the health, safety or right to peaceful enjoyment of the premises by other residents. However, the PHA may admit the household if the PHA determines:
    - 1) Such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully.
    - 2) For this purpose, the PHA may 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.
2. The PHA has the authority to prohibit admission of a household to the public housing program if the PHA determines that any household member is currently engaged in or has engaged in during a reasonable time before admission:
    - a. A drug-related criminal activity;
    - b. A violent criminal activity;
    - c. Other criminal activity which may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity; or
    - d. Other criminal activity which may threaten the health or safety of the owner, property management staff, or persons performing a contract administration function or responsibility on behalf of the PHA (including a PHA employee or a PHA contractor, subcontractor, or agent).
  3. The PHA has established the following standards to be applied as appropriate, for drug-related criminal activity, other criminal activity, and alcohol abuse concerning denial of admission:
    - a. The PHA has determined a "pattern" as at least three (3) drug or alcohol related criminal offenses within the three (3) year period prior to application for public housing assistance.

b. The PHA shall consider a reasonable time before admission to the public housing program as three (3) years after the date of the most recent conviction of any household member.

c. Evidence of criminal activity shall be defined as a conviction for criminal activity.

The PHA may not deny admission to the public housing program based on mere suspicion that a household member has engaged in criminal activity or on an arrest record alone.

d. Currently engaging in illegal use of a drug shall be defined as within 12 months from the date the PHA discovered the use of the illegal drug.

1) This includes the use of state legalized marijuana for medical or recreational use.

2) The Controlled Substances Act (CSA) list marijuana as a Schedule 1 drug.

3) Federal regulations require the PHA to deny admission to persons based on the illegal use of a controlled substance.

e. Reasonable cause shall be determined by a preponderance of evidence of illegal use of a drug charge or other criminal activity.

f. The PHA may determine the use of an illegal drug through a preponderance of evidence of a drug-related charge.

g. The PHA shall determine involvement in criminal activity through the conviction for a criminal activity.

h. The time period of ineligibility for admission for other drug-related or other criminal activities shall be three (3) years from the date of the conviction.

i. There is no time period concerning the conviction of a drug-related charge for manufacturing, production, or distribution of methamphetamine on the premises of federally assisted housing. Such household member(s) being convicted of this offense will always be denied admission.

### **C. Denial of Admission Based on Consumer Reporting Agency Criminal Reports**

1. When the PHA obtains the criminal background report from a consumer reporting agency (CRA), the provision of the Fair Credit Reporting Act applies.
2. If a PHA denies assistance based in part on a report obtained from a CRA, the notice must include:
  - a. Name, address and telephone number of the CRA;
  - b. A statement that the CRA did not make the decision to deny the assistance; and
  - c. Notice of the right to obtain a free copy of the report and dispute any information in the report.

## **D. Consideration of Circumstances Before Denial of Admission**

The PHA may consider all specific circumstances of each application in determining whether to deny admission because of family's action or failure to act by members of the family.

In the event unfavorable information with respect to an applicant is received, circumstances the PHA may consider include but are not limited:

1. Time, nature, and extent of applicant's conduct, and to factors which might indicate a reasonable probability to favorable future conduct or financial responsibility.
2. If the family includes a person with disabilities, the PHA decision concerning such action is subject to consideration of reasonable accommodation.
3. The effects of the denial of admission on other family members who were not involved in the action or failure to act.
4. The extent of participation or culpability of individual family members.
5. The seriousness of the offending action.
6. The likelihood of reoccurrence of the action or failure to act.
7. Age of the individual at the time of the criminal activity.
8. Length of time since conviction.
9. An applicant who is a victim of a VAWA crime afforded certain protections pursuant to the Violence Against Women Reauthorization Act of 2013.
10. Evidence of successful completion of an appropriate rehabilitation program for drug or alcohol-related problems (requiring certification from a health professional, or state certified program). The applicant or family may be required to provide evidence of otherwise being rehabilitated successfully (i.e., participation in AA, ALANON, or other drug/alcohol support group).
11. Mitigating circumstances:

If unfavorable information about an applicant is received, the applicant will be provided an opportunity to present mitigating circumstances.

- a. Mitigating circumstances are facts relating to the applicant's unsuitable rental history or behavior which, when verified, would indicate both:
  - 1) The reason for the unsuitable behavior; and
  - 2) The reason for the unsuitable rental history or behavior no longer applies or is under control and the applicant's prospect for lease compliance is an acceptable one, justifying admission.
- b. The PHA will consider the time, nature, and extent of the applicant's conduct.
- c. The mitigating circumstances must be verifiable.

- 1) Such mitigating circumstances would overcome or outweigh information gathered in the screening process.
  - 2) If the mitigating circumstances relate to a change in disability or handicap, the PHA shall have the right to verify the information or to request further information which is reasonably needed to verify the mitigating circumstances.
  - 3) Consideration of mitigating circumstances does not guarantee that the applicant will be eligible for admission.
12. The effect on the community of denial or the failure of the PHA to take such action,
  13. The demand for assisted housing by families who will adhere to lease responsibilities.
  14. The extent to which the applicant has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action.
  15. The effect of the PHA's action on the integrity of the program.
  16. The willingness of the applicant to exclude the offending household member in order to be admitted to the housing program, where the identified member has participated in or been culpable for action or failure to act that warrants denial.
  17. Evidence of the applicant family's participation in or willingness to participate in social services or other appropriate counseling programs, and the availability of such programs.
  18. Evidence of the applicant family's willingness to attempt to increase family income, and the availability of training or employment programs in the locality.
  19. The PHA's denial of admission actions will be consistent with Fair Housing and Equal Opportunity provisions.

## CHAPTER 11: DETERMINATION OF INCOME

The PHA will not devise or implement income or rent determination, verification, or other related policies or procedures in a way that discriminates against persons on the basis of race, color, national origin, sex, religion, familial status, and perceived or actual disability.

### A. Annual Income

Annual income is defined by HUD regulations and is further interpreted in HUD notices and memorandum that must be followed. However, there are policy decisions that are needed in order to assure consistent interpretation of HUD regulations.

1. Annual income is all amounts, monetary or not, that:
  - a. Go to, or on behalf of, the family head of household, spouse, or co-head (including temporarily absent members) or to any other family member; or
  - b. Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; or
  - c. Annual income also includes amounts derived (during the 12-month period) from assets to which any member of the family has access; and
  - d. Which are not specifically excluded by HUD regulations.
2. Annual income is used to determine whether an applicant family is within the HUD income limits and if an existing family's annual income exceeds the HUD limit for a low-income family.

### B. Income Inclusions

Annual income includes but is not limited to:

#### 1. Income of Temporarily Absent Household Members

In accordance with HUD regulations in calculating annual and adjusted income, the PHA must count all income of family members whom the PHA has approved to reside in the unit, even if they are temporarily absent.

- a. The PHA will consider an absence anticipated to last less than 30 calendar days to be "temporary" unless the head of household can provide verification that the family member is permanently absent.
- b. Income of family members who are permanently absent from the household will not be counted.

#### 2. Earned Income

Earned income is the full (gross) amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services.

- a. Other Wages  
Wages and salary received from private or public sources (other than military pay and federal wages).
  - b. PHA wages  
Compensation earned through work performed for the PHA.
  - c. Federal Wages  
Compensation received from federal government employment, which includes federal government agencies and instrumentalities.
  - d. Military Pay  
All regular pay, special pay, and allowances of a member of the Armed Forces (Army, Navy, Air Force, Marines, Coast Guard) including National Guard and Reserve units.
3. Net Income from Operation of a Business or from Self-Employment
- a. Net income from a professional or business operation less expenses incurred.
  - b. Deductions from business income can include business vehicle expenses, supplies and materials, staff salary and benefits, depreciation of assets.
  - c. Expenditures for expansion or amortization of capital indebtedness are not used as deductions from income.
  - d. Straight-line depreciation of assets is an allowable expense and can be verified through examination of the income tax forms filed for the business or financial statements.
  - e. Similarly, the accounting records and financial statements can be used to determine the cash or assets invested in the business.
    - 1) This information can be used to determine whether or not a withdrawal is a reimbursement of investments in the business.
    - 2) If a business is co-owned by someone outside the household, financial statements and income tax returns can provide information to determine the level of net income to be attributed to the family from part ownership of the business.
  - f. Business expansion includes substantially increasing the size of the business or branching out into adjacent areas that are not part of the original operation.
  - g. Any withdrawals of cash or assets from the business will be considered income unless the withdrawal is reimbursements of cash or assets invested in the operation by the family.
4. Interest, dividends, and Other Net Income of Any Kind from Real or Personal Property.
- a. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income.

- b. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations.
- c. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family.
- d. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD.

#### 5. Periodic Payments and Allowances

Period payments are income sources received on a regular basis. Period payments include but are not limited to the gross amount received from:

- a. Social Security (SS)
- b. Supplemental Security Income (SSI)
- c. Annuities

Annuities may provide for either fixed or variable payment.

- 1) For variable payments, the PHA will evaluate historical information to determine the approximate anticipated payment amount for the next twelve (12) month period. This annualized income may be adjusted based on significant changes from the anticipated income.
  - 2) The holder of an annuity may withdraw the funds at any time before maturity but will pay a penalty for early withdrawal. Verification of the penalty amount may be obtained from the company holding the annuity and should be deducted from the total distribution before determining asset or income amounts. Monthly or periodic regular annuity payments are counted as income while the principal of the annuity remains an asset until fully liquidated. Verification of any annuity expenses will be obtained from the annuity provider.
- d. Insurance Policies
  - e. Retirement Funds
  - f. Pensions
  - g. Disability or Death Benefits
  - h. Other Types of Periodic Receipts
  - i. The withdrawal of cash from an investment that is received as periodic payments (i.e., 401K, IRA) should be counted as income unless the family can document and the PHA verifies that amounts withdrawn are reimbursement of amounts invested. When a family makes a withdrawal from an account in which it has made an investment (such as an annuity or IRA), the withdrawals count as income only after the amount invested



has been totally paid out.

6. Payments in Lieu of Earnings

When payments in lieu of earnings cannot be anticipated for the twelve (12) months following examination, annualize the payments in lieu of earnings and conduct an interim reexamination when the income changes.

Examples of payments in lieu of earnings may include:

- a. Unemployment
- b. Disability payment
- c. Workers' Compensation
- d. Severance Pay

7. Welfare/Public Assistance

a. Public assistance includes:

- 1) Temporary Assistance to Needy Families (TANF); and
- 2) General Assistance.

b. Special calculations must be made for benefits received in "as paid" State or local programs.

1) "As paid" programs are those in which the family receives a specific amount for shelter and utilities and the amount is adjusted based upon the actual amount the family pays for shelter and utilities.

2) In "as paid" programs, the amount of welfare assistance income shall consist of:

- a) The amount of the grant exclusive of the amount specifically designated for shelter and utilities; plus
- b) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount counted, as income is the actual amount received.

8. Imputed Welfare Income

The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

a. A specified welfare benefit reduction is a reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of:

- 1) Fraud by a family member in connection with the welfare program; or

- 2) Noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.
  - b. A specified welfare benefit reduction does not include a reduction or termination of welfare benefits by the welfare agency:
    - 1) At expiration of a lifetime or other time limit on the payment of welfare benefits;
    - 2) Because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or
    - 3) Because a family member has not complied with other welfare agency requirements.
  - c. Before adjusting the welfare benefits, the PHA will request, by third-party written verification, the welfare agency to verify:
    - 1) The reason for the welfare benefit reduction.
    - 2) The amount and term of any specified welfare benefit reduction for a family member.
  - d. During the term of the welfare benefit reduction and as determined at the PHA's interim or regular reexamination, the PHA will include in the family's annual income the amount of imputed welfare income, plus the total amount of the family's other annual income.
  - e. The PHA will offset additional income from other sources received by the family member after the welfare sanction has been imposed. When such additional income from other sources is at least equal to the imputed welfare income, the imputed welfare income is reduced to zero.
  - f. If the family disputes that the PHA has not correctly calculated the amount of the imputed welfare income in accordance with HUD requirements, the family will be offered an opportunity for a grievance hearing.
  - g. The PHA will not include imputed welfare income in annual income if the family was not receiving housing assistance at the time of the sanction.
9. Periodic Payments and Determinable Allowances
- a. The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount. The lump sum payment may be treated as an asset.
  - b. If benefits (such as Social Security or Veteran's benefits) are reduced due to a prior overpayment, the PHA will use the actual amount of the current allocation (before withholding for medical premiums).

- c. If benefits (such as Social Security or Veteran's benefits) are reduced due to other withholding, such as an IRS garnishment or child support garnishment, the PHA will use the full award amount.

#### 10. Alimony and Child Support

The full amount of alimony and child support payments are included in the calculation of annual income.

- a. Verification of the amounts can be found in the final divorce decree, settlement papers, or may be obtained from the court if payments are made to and distributed by the court.
- b. If the family asserts that they are not receiving the full amounts due, the family must present documentation of collection efforts or other satisfactory documentation that verifies the funds are not paid in full.
- c. If the payee has filed a claim in court for non-payment or under-payment, the PHA may use those documents for verification.
- d. Until the PHA obtains verification of the lesser amount, the full amount of alimony and child support payments will be included in income.
- e. In cases where there is no award by the court, the PHA must seek verification from the provider of the amounts paid, view canceled checks or money order receipts and, for alimony, the provider's income tax returns, if available.
- f. Information from the provider will be matched against records provided by the payee including tax returns, if any, and any discrepancies reconciled to assure an accurate amount to include in annual income.

#### 11. Regular Contributions and Gifts

The PHA shall count as income any regular contributions and gifts (monetary or not) from persons outside of the family.

- a. This may include but is not limited to rent and utility payments paid on behalf of the family and other cash or non-cash contributions provided on a regular basis.
- b. It does not include non-recurring contributions, lottery or other contest winnings paid in a lump sum, or sporadic gifts.
- c. The PHA shall follow the HUD Verification Hierarchy and the PHA's verification procedures to verify income from regular contributions and gifts.
- d. If the party providing regular contributions refused to verify the information, the PHA will document the file.

#### 12. Cyclical or Seasonal Work

When income varies due to cyclical or seasonal work, and the source of income has not changed from the previous year, the PHA may rely on the previous year's income to

anticipate income for the coming year. Increases in pay rate over that of the previous year would be considered.

When anticipated income cannot be determined for a full 12-month period, the PHA will annualize current income and conduct an interim reexamination when income changes.

### 13. Lump Sum Payments Counted as Income

Lump-sum payments received due to delayed start of periodic payments (e.g., unemployment, TANF, or child support) whether due to disputes or processing will be counted as income. Any part of the lump sum that is payment for a period prior to the family's participation in the public housing program would not be counted as annual income.

### 14. Income of Dependents

A dependent is a family member who is under 18 years of age, is disabled (regardless of age), or is a full-time student (regardless of age). The head of household, spouse, or co-head, foster child(ren)/adult(s), or live-in aide (including family of a live-in aide) are never dependents.

- a. Benefits and non-earned income of dependents is included in annual income.
- b. The PHA will include in annual income all income (earned and non-earned) of the head of household, spouse, or co-head, even if a full-time student or under the age of 18.

### 15. Income of Full-Time Students 18 years of Age and Older

- a. The PHA will include only the first \$480 of earnings for full time students, other than the head of household, spouse, co-head, or foster child(ren)/adult(s).
- b. All income of full-time students is included in annual income if that person is the head of household, spouse, or co-head.
- c. If the income is less than \$480 annually, the PHA will include the full amount of the income.
- d. The PHA will include all other unearned income (except that which is excluded by federal regulation) of full-time students 18 years of age or older.

## C. Federally Mandated Income Exclusions

HUD has determined certain income sources be prohibited from consideration in annual income for purposes of determining eligibility or tenant rent. These amounts are often referred to as income exclusions or excluded income and are not considered part of annual income.

### 1. Wages of Family Members Under 18 Years Old

The full amount of income from employment of children (including foster children) under the age of 18 (excluding the head of household, spouse, or co-head).

## 2. Earnings of Full-Time Students

Earnings in excess of \$480 for full-time students over age 18 years old (except head of household, spouse, or co-head).

## 3. Refunds or Rebates of Property Tax on Home

Amounts received by a family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit.

## 4. Exclusion of Financial Assistance Received by Students of Higher Education

Exclude all financial assistance, including grants, scholarships, educational entitlements, federal work-study income, from public or private sources provided to students or to the institution of higher education on the student's behalf.

## 5. Lump-Sum Additions to Family Assets

Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance, worker's compensation), capital gains and settlements for personal or property losses.

## 6. Lump-Sum Payments of Deferred Benefits

- a. Any deferred periodic amounts from Supplemental Security Income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or
- b. Any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts.

## 7. Amounts Received Under Training Programs Funded By HUD

Training programs funded by HUD will have goals and objectives. This is not to be confused with employment by the PHA.

### a. Amounts Set Aside for Use under PASS

Amounts received by a person with a disability that are disregarded for a limited time for purposes of SSI eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) are excluded in the calculation of annual income.

### b. Amount received under a Resident Service Stipend

- 1) Resident service stipend is a modest amount, not to exceed \$200 per month, received by a resident for performing a service for the PHA, on a part-time basis, that enhances the quality of life in the development.
- 2) Such services may include, but are not limited to, fire patrol, hall monitoring, ground maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board.
- 3) No resident may receive more than one such stipend during the same period of time.

- 4) The Public Housing Reform Act provides that the governing board of a PHA must generally contain at least one member who is directly assisted by the PHA. To support and facilitate implementation of this statutory requirement, HUD has clarified that the resident service stipend exclusion covers amounts received by residents who serve on the PHA governing board.
- c. Amounts received by a family 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. Incremental earnings and benefits received by any family member from participation in 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.
  - 1) A qualified training program is one that is part of a state or local employment-training program and has clear goals and objectives.
    - a) This would include programs that have the goal of assisting participants in obtaining employment skills, and are authorized or funded by federal, state, or local law, or operated by a public agency.
    - b) These include programs through Department of Labor, Employment Training Administration, and Welfare-to-Work Grants.
  - 2) Amounts excluded by this provision are excluded only for the period during which the family member participates in the employment-training program.
8. Temporary, Non-Recurring, Sporadic Income, Including Gifts

Are income amounts that are neither reliable or periodic, which are not of a regular nature, and which cannot be counted on continuing.

  - a. The PHA shall consider the income of a family member who works occasionally sporadic if future work could not be anticipated and there is no stable or historic pattern of previous employment.
  - b. The PHA shall consider employment lasting less than 30 calendar days temporary, non-recurring, and sporadic.
  - c. If the family anticipates receiving income from a source in the next 12 months, even if the payments are made on an irregular basis, the anticipated income will be included in annual income.
  - d. An average of a recurring pattern of temporary or sporadic income will be included in annual income.
  - e. A pattern temporary or sporadic income during the previous 12 months would not be considered non-recurring and the average of the income will be included in annual income.

9. Reimbursed Medical Expenses

- a. Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member.
- b. This exclusion is not limited to elderly and disabled families that qualify for the unreimbursed medical expense deduction.

10. Income of live-in aides

All income of a live-in aide, including the live-in aide's family, is excluded.

11. Adoption Assistance Payments

Adoption assistance payments in excess of \$480 per adopted child.

12. Payments to Keep Developmentally Disabled Family Members at Home

An amount paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home.

13. Payments Received for the Care of Foster Children or Foster Adults

Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone).

14. Armed Forces Hostile Fire Pay

The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.

15. Foreign Government Reparation Payments

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 are excluded in the calculation of annual income.

16. Amounts specifically excluded by any other federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under the 1937 Act. A notice will be published in the Federal Register and distributed to PHAs identifying the benefits that qualify for this exclusion. Updates will be distributed when necessary. The following is a list of income sources that qualify for that exclusion.

- a. The value of the allotment provided to an eligible household under the Food Stamp Act of 1977.
- b. Payments to volunteers under the Domestic Volunteer Services Act which includes, but is not limited to:
  - 1) Retired Senior Volunteer Program (RSVP)
  - 2) Foster Grandparents (FGP)
  - 3) Senior Companion Program (SCP)



- 4) VISTA
  - 5) Peace Corps
  - 6) Service Learning Program
  - 7) Special Volunteer Programs
- c. Small Business Administration programs such as National Volunteer Program to Assist Small Business and Promote Volunteer Service to Persons with Business Experience;
  - d. Service Corps of Retired Executives (SCORE)
  - e. Active Corps of Executives (ACE)
  - f. Payments received under the Alaska Native Claims Settlement Act.
  - g. Income derived from certain sub-marginal land of the U.S. that is held in trust for certain Indian tribes.
  - h. Payments or allowances under Department of Health and Human Services Low-Income Home Energy Assistance Program (LIHEAP).
  - i. Income derived from the disposition of funds of the Grand River Band of the Ottawa Indians.
  - j. The first \$2,000 of per capita shares from judgment funds awarded by the Indian Claims Commission or the U.S. Claims Court the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands.
  - k. 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). For section 8 programs only (42 U.S.C. 1437f), any financial assistance in excess of amounts received by an individual for tuition and any other required fees and charges under the Higher Education Act of 1965 (20 U.S.C. 1001 *et seq.*), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall not be considered income to that individual if the individual is over the age of 23 with dependent children (Pub. L. 109-115, section 327) (as amended);
  - l. Payments received from programs funded under Title V of the Older Americans Act of 1965 which includes, but is not limited to:
    - 1) Senior Community Services Employment Program;
    - 2) National Caucus and Center on the Black Aging;
    - 3) National Urban League;
    - 4) National Association for Hispanic Elderly;
    - 5) National Council on Senior Citizens; or
    - 6) Green Thumb.



- m. Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any fund established pursuant to the settlement in the Agent Orange product liability legislation.
- n. Payments received under the Maine Indian Claims Settlement Act of 1980.
- o. The value of any childcare provided or arranged (or any amount received as payment for such care) or reimbursement for costs incurred for such care under the Child Care and Development Block Grant Act of 1990.
- p. Earned Income Tax Credit (EITC) refund payment.
- q. Payments by the Indian Claims Commission to the Confederate Tribes and Bands of the Yakima Indian Nation or the Apache Tribe of the Mescalero Reservation.
- r. Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990.
- s. 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).
- t. Any amount of crime victim compensation that the applicant (under the Victims of Crime Act) receives 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.
- u. Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998.
- v. An amount earned by temporary U.S. Census employees for determining income in the Department's assisted housing programs. Terms of employment may not exceed 180 days for the purposes of the exclusion.
- w. Any amounts received under the Richard B. Russell School Lunch Act and the Child Nutrition Act of 1966, including reduced-price lunches and food under the Special Supplemental Food Program for Women, Infants and Children (WIC).
- x. Payments, funds, or distributions authorized, established or directed by Section 8 of the Seneca Nation Settlement Act of 1990.
- 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.
- z. 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.*, as provided in the Claims Resolution Act of 2010 for a period of one year from the time of receipt of that payment.

- aa. Kin-Gap Payments that go to, or on behalf of children leaving the juvenile court system to live with a relative or legal guardian.
- bb. Kinship Payments that go to, or on behalf of children living with a relative or legal guardian.
- cc. Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002.
- dd. Per capita payments made from the proceeds of Indian Tribal Trust Cases, Exclusion of Income of Payments under Recent Tribal Trust Settlements.
- ee. Major disaster and emergency assistance received by individuals and families under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

#### **D. Assets**

Assets are items of value that may be converted to cash.

1. Family assets may include but is not limited to:
  - a. Amounts in checking and savings accounts, safe deposit boxes, or cash.
    - 1) In determining the value of checking and/or savings accounts, the PHA will use the lesser of the current balance or the average balances of the last two (2) consecutive month's bank statements generated by a third-party source dated within 60 days preceding the reexamination or PHA request date.
    - 2) The value of the savings account will be considered an asset unless the account is specifically designated under the Plan to Attain Self-Sufficiency (PASS).
  - b. Certificates of Deposit (CD), stocks, bonds, money market accounts, and other investment accounts  
Interest and dividends earned by investment accounts.
    - 1) The PHA must determine the cash value of the asset.
    - 2) The family must provide the original copies of receipts for purchases of investments, including original periodic statements with the known rate of return for the investments.
  - c. Equity in Real Property
    - 1) Real property includes land or real estate owned by a member of the family.
    - 2) Equity is the portion of the market value of the asset which is owned by the family (the amount which would be available to the family if the property were to be sold).
    - 3) The PHA will calculate the equity in real property using the following formula:  
$$\text{Market Value} - \text{Loan (mortgage)} = \text{Equity}$$
    - 4) The PHA will calculate the cash value of real property using the following formula:  
$$\text{Equity} - \text{Expenses to covert to cash} = \text{Cash Value}$$

- 5) Expenses to convert to the cash value may include cost such as sales commissions, settlement/closing costs, transfer taxes, attorney fees, appraisal fees, and repair costs, if applicable.

d. Trusts

A trust is a fiduciary relationship in which one party, known as a trustor, gives another party, the trustee, the right to hold title to property or assets for the benefit of a third party, the beneficiary.

1) Revocable Trust

- a) If any member of the family has access to or the right to withdraw the funds in the trust, the value of the trust is considered an asset.
- b) Any income earned as result of investment of the trust fund is counted as actual asset income, whether the income is paid to the family or deposited in the trust.

2) Irrevocable Trust

- a) If no family member has access to either the principal or income of the trust, the trust is not included in calculation of income from assets or annual income.
- b) Any income distributed to the family from such a trust is counted as periodic payment or a lump sum receipt.
- c) The Principal from a trust is not counted as an asset if the trust is not revocable by, or under the control of, any member of the family, so long as the fund continues to be held in trust.
- d) If a family sets up an irrevocable trust for the benefit of another person outside of the household, the PHA must determine whether or not the value of the trust is less than the fair market value of the assets contained therein had the family retained the asset.
  - (1) If that is the case, the fair market value less reasonable costs must be determined, and the net value of the asset included in total assets.
  - (2) Any income the family receives from the trust will be included in annual income.

(3) Nominal amounts set aside in trust for or donated to charitable organizations up to \$2,000 will not be considered assets disposed of for less than fair market value.

e. Cash value of life insurance policies

f. IRA, Keogh, and similar retirement savings accounts, even if withdrawal would result in a penalty

g. Contributions to Retirement/Pension Funds, 401K

- 1) While an individual is employed, the PHA must determine if the employed person has access to the money before retirement.

- a) If the employee has access to the money before retirement, the PHA will only count as an asset the amount the family can withdraw without retiring or terminating employment.
  - b) If the employee does not have access to the money before retirement, the PHA will not count as an asset the money in the retirement fund.
  - 2) After retirement or termination of employment, the PHA will count as an asset any amount the employee elects to receive as a lump sum from the company retirement or pension fund.
  - 3) The PHA will include in annual income any retirement/pension benefits received through periodic payments.
- h. Assets Jointly Owned
- Assets, which although owned by more than one person, allow unrestricted access by the family.
- 1) If assets are held jointly in an account and any family member has unrestricted access to the asset, the full value of the asset will be counted. Unrestricted access is when the family member can legally dispose of the asset without consent of the other owners of the asset.
  - 2) If assets are held jointly in an account, the full value of the asset will be counted unless the family member can demonstrate that their access to the asset is legally restricted.
    - a) The PHA must be able to verify the restriction.
      - (1) Documents that may provide this information include deeds, tax returns, ownership papers, and financial institution records.
      - (2) These types of documents should, if applicable to the asset, describe whether the family member has full or restricted access to the asset.
    - b) If the assets are held jointly and the PHA has verified that the family member has legal restricted access to the asset, the PHA will prorate the asset according to the percentage of ownership. If no percentage is specified or provided by state or local law, the PHA will prorate the asset evenly among all the owners.
- i. Personal property held as an investment such as gems, jewelry, coin collections, antique cars, etc.
- j. Assets, business or family, disposed of for less than fair market value during the two (2) years preceding admission to the public housing program or reexamination.
  - 1) The PHA will count as an asset, including a disposition in trust, the difference between the cash value and the actual amount received for the asset disposed of for less than market value for two (2) years from date of disposition, if the cumulative fair market value of the asset disposed of during the past two (2) years exceed the gross amount of the asset by \$2,000.

- 2) The PHA will not consider assets disposed of as result of a divorce, separation, foreclosure, or bankruptcy as assets disposed of for less than fair market value.
- k. Lump Sum Receipts

Lump sum receipts such as inheritances, capital gains, lottery winnings, insurance settlements/payments (including payment under health and accident insurance and worker's compensation), other claims, and settlement for personal or property losses are counted as assets whether or not they are retained in recognizable asset (e.g., savings, checking account, or other investment fund).
2. Family assets do not include:
  - a. Personal property not limited to:
    - 1) Wedding rings and other jewelry that is not held as an investment.
    - 2) Personal vehicles
    - 3) Vehicles especially equipped for persons with disabilities
    - 4) Clothing
    - 5) Furniture
    - 6) Computers and equipment for personal but not business use
  - b. Interest in Indian trust lands
  - c. Term life insurance policies with no cash value
  - d. Assets that are part of an active business or farming operation

Rental properties are considered personal assets held as an investment rather than business assets unless real estate is the family's main occupation.
  - e. Assets not controlled by or accessible to the family and which provide no income for the family

A victim of a VAWA crime who because of the VAWA crime no longer has access to the real property and cannot convert it to cash.
  - f. Nonrevocable trust as long as the funds continues to be held in trust
  - g. Equity accounts in HUD homeownership programs.
  - h. Does not include the value of a home currently being purchased with HCV assistance under 24 CFR part 982, subpart M. This exclusion is limited to the first 10 years after the purchase date of the home.
  - i. Equity in owner-occupied cooperatives and manufactured home in which the family lives
  - j. The entire value of an individual's ABLE (Achieving a Better Life Experience) account.

## E. Income from Assets

The PHA will include in the calculation of annual income any interest or dividends earned on assets held by the family (including minors).

### 1. Net Family Assets

Is the net cash value after deducting reasonable costs that would be incurred in disposing of the real property, savings, stocks, bonds, and other forms of capital investments.

Determining the Cash Value of an Asset

- a. The PHA must determine the market value of an asset then calculate the cash value by subtracting the estimated expenses required were the family to convert the asset to cash.
- b. Expenses to convert to cash includes but is not limited to costs such as:
  - 1) Penalties for premature withdrawal (e.g., the 10% penalty paid when a retirement account is closed prior to retirement age, or a certificate of deposit is withdrawn prior to maturity); if penalties would be imposed for early withdrawal.
  - 2) Broker and legal fees (e.g., a percentage of the value of the asset incurred in the sale of stocks, bonds, real estate, etc.); and
  - 3) Settlement costs incurred in real estate transactions (e.g., the typical percentage of sales price for settlement in the locality).

### 2. Passbook Rate Determination

- a. The PHA will use the Savings National Rate that is in effect on the first day of the PHA's fiscal year to determine the passbook rate.
- b. The PHA may establish a passbook rate within 75 basis points (plus or minus .75 percent) of the Savings National Rate in effect at the time the PHA establishes the passbook rate.
- c. The PHA shall not establish a passbook rate less than zero (0) percent.
- d. The PHA will review the Savings National Rate annually and adjust it accordingly on the first day of the PHA's fiscal year.
- e. The PHA may access the current and historical Savings National Rates at [www.fdic.gov/regulations/resources/rates/](http://www.fdic.gov/regulations/resources/rates/).

### 3. Calculation of Assets

- a. Actual Income from Assets: Where family net assets are \$5,000 or less, the PHA will use the actual income from assets, multiplying the value of the asset by the applicable annual interest rate.
- b. Imputed Income from Assets: Where family net assets are in excess of \$5,000, the PHA will use the greater of:
  - 1) The actual income derived from net family assets, or

- 2) A percentage of the value of such assets based on the current passbook savings rate: the imputed income from assets.

## **F. Annualizing and Averaging Income**

The PHA must convert the reported income to an annual figure. The PHA may choose the following methods to determine the anticipated annual income:

1. Annualize current income (and subsequently conduct an interim reexamination if income changes). To annualize income, the PHA will multiply:
  - a. Hourly income by the number of hours worked in a year;
  - b. Weekly income by 52 weeks, unless it is verified that less weeks will be worked;
  - c. Bi-weekly income (paid every other week) by 26 pay-periods;
  - d. Semi-monthly income (paid twice each month) by 24 pay-periods; and
  - e. Monthly by 12 pay-periods.
2. Average the income using the information available from all known income sources when the income sources are expected to change during the year (no interim adjustment is required if income remains as predicted).
  - a. Income from the previous year may be analyzed to determine the amount of anticipated income when future income cannot be clearly verified.
  - b. If, by averaging, a reasonable estimate can be made, that estimate will be used to anticipate annual income over the next 12 months, instead of changing the HAP every month as the income fluctuates.
  - c. Where income is seasonal or fluctuates as to hours or rates, such as for teachers, construction workers, farmers, or migrant workers, the PHA will use an average for 12 months based on past income history of the family and such anticipated income that can be verified.

## **G. Earned Income Disallowance Self-Sufficiency Incentive (EID)**

The EID calls for the exclusion of increases in income attributable to employment by a family member over income received by that family member prior to qualifying for the disallowance. The exclusion only applies to the income of the family member and not the entire family.

1. Qualifications:
  - a. The exclusion only applies to families currently receiving public housing assistance.
  - b. An applicant family is not eligible for the EID.
  - c. A public housing family whose annual income increases as a result of employment of a family member who was previously unemployed for one or more years prior to employment;



- 1) Previously unemployed includes a person who has earned, in the twelve months previous to employment, no more than would be received for 10 hours a week for 50 weeks at the established minimum wage.
  - 2) The established minimum wage means the federal minimum wage unless there is a higher state or local minimum wage.
- d. A public housing family 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
- 1) The increase in earning must occur while the person is enrolled in the economic self-sufficient or other job training program.
  - 2) An economic self-sufficiency program is any program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work for such families. These programs include programs for job training, employment counseling, work placement, basic skills training, education, English proficiency, workfare, financial or household management, apprenticeship, and any program necessary to ready a participant for work (including a substance abuse or mental health treatment program), or other work activities.
- e. A public housing family whose annual income increases, as a result of new employment or increased earnings of a family member, during or within six (6) 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. The TANF program includes formula-driven maintenance assistance and such benefits and services as one-time payments; wage subsidies and transportation assistance-provided that the total amount over a six (6)-month period is at least \$500.

Note: Receipt of Food Stamps and/or Medicaid is not part of the TANF program. If no TANF assistance is provided as listed above, the family will not qualify for the earned income disallowance under TANF provisions but may qualify under the remaining criteria. The PHA will verify receipt of benefit or services other than monthly maintenance with the TANF provider if the family indicates that their eligibility for the earned income disallowance is based on other assistance under TANF.

## 2. EID Maximum Lifetime Benefit

### Maximum 24 Straight Month Lifetime Disallowance Period

- a. Effective May 9, 2016, the EID benefit is limited to a lifetime 24-month period for the qualifying family member.
- b. Once the family member is determined to be eligible for the EID, the 24-calendar month period starts.
- c. During the first 12-calendar month period, the PHA must exclude 100% of the increased income resulting from the qualifying employment of the family member.



- d. If the family member discontinues the employment that initially qualified the family member for the EID, the 24–calendar month period continues.
- e. During the 24–calendar month period, EID benefits are recalculated based on changes to family member’s income and employment.
- f. After the first 12–calendar month period, the PHA must exclude from annual income of the family at least 50% of any increase in income of the family member as a result of employment over the family member’s income before the qualifying event (i.e., the family member’s baseline income).
- g. At the end of the 24-months, EID ends regardless of how many months were used.

## **H. Adjusted Annual Income**

Adjusted income is the annual income of all the members of the family residing in or intending to reside in the unit less the HUD mandatory deductions and allowances.

## **I. HUD Mandatory Deductions and Allowances**

The PHA must deduct the following amounts from annual income:

1. Dependent Allowance
  - a. The PHA will deduct \$480 from the annual income for each family member who is:
    - 1) Under 18 years of age, including children who are adopted;
    - 2) A person with disabilities, no matter what age; or
    - 3) A full-time student, no matter what age.
  - b. The head of household, spouse, co-head, foster child/adult, live-in aide, or live-in aide family members may never be counted as a dependent or receive the dependent allowance.
2. Elderly/Disabled Allowance
  - a. \$400 per family for families whose head, spouse, or co-head is 62 years or older (elderly families) or who is a person with disabilities (disabled families).
  - b. Each elderly or disabled family is limited to one \$400 allowance even if both the head of household and spouse are elderly or persons with disabilities.
3. Childcare Expenses

Reasonable expenses for the care of children under age 13, including foster children, may be deducted from annual income if the following is true:

- a. The care is necessary to enable a family member to work, look for work, or further their education (academic or vocational).

- 1) Childcare to enable a family member to work:
  - a) The maximum childcare allowed would be based on the amount earned by the person enabled to work.
  - b) The person enabled to work is the adult member of the household who earns the least amount of income from employment, unless it is obvious that another household member is enabled to work.
  - c) The childcare deduction may not exceed the amount of income earned by the person enabled to work.
  - d) Childcare attributable to work of a full-time student (except for head of household, spouse, or co-head) is limited to not more than \$480 since the employment income of full-time student in excess of \$480 is excluded in annual income.
- 2) Childcare to enable a family member to go to school:
  - a) To qualify for childcare deductions under the provision of furthering education, the family member must demonstrate that they are enrolled in some accredited or approved educational or training program (academic or vocational).
  - b) Furthering education can include but is not limited to; completing high school or equivalency (GED), trade school, Community or Junior College, four-year college/university, technical schools, ESL or basic education classes, apprenticeship programs, certificate programs, clerical school and even independent study, if the family member must access online educational programs out of the home.
  - c) The childcare cost to enable a family member to go to school is not capped by the amount earned, but will be calculated for:
    - (1) The time needed to drop off children to the childcare provider, if the childcare is provided outside the home.
    - (2) The time to attend school; and
    - (3) The time needed to pick up the children from the childcare provider, if the childcare is provided outside the home.
  - d) The family member must provide and the PHA must verify information on the type of educational program, the number of units or hours of participation, the name of the educational institution or training facility.
- 3) Childcare to enable a family member to seek employment:
  - a) The deduction for childcare to seek employment must not exceed the annual adjusted income of the family member seeking employment.
  - b) The deduction does not include transportation costs, or other expenses incurred, and are limited to one year per individual.

- c) The family member may be a participant in an official job search program or may simply demonstrate independent job search activities. In either case, in order to verify the time spent in seeking employment, the PHA will require the family to maintain a log that reflects the following:
    - (1) The date and time of departure from home (including time needed to drop off children for childcare, if provided outside the home);
    - (2) The name and location of the prospective employer, unemployment office or employment agency;
    - (3) The name of the person(s) contacted and telephone number;
    - (4) The length of time for completion of the application, the interview, testing or other job search activity;
    - (5) The time the children are picked up and the time arrived at home;
    - (6) The name, address, telephone number and SSN/EIN of the childcare provider; and
    - (7) The total amount paid for the childcare.
  - d) If multiple applications or interviews are held consecutively or on the same day, the above information should be provided for each prospective employer or agency. The PHA will use this information to verify the contacts and the eligibility of childcare expenses.
  - e) Since job search activities may be irregular and not easily anticipated, the PHA may attempt a limited inclusion at the annual reexamination and conduct an interim reexamination after actual expenditures have been incurred. In many instances, job search periods will be of limited duration, but in some cases the job search period may be extended, especially if the type of employment sought is limited in availability, employment opportunities of any kind are scarce, or the job skills needed are unusual.
- b. Reasonable childcare expenses
- 1) The amount of childcare expenses must be reasonable.
  - 2) The PHA will make a determination as to what is a reasonable rate for childcare based on local conditions and rates.
  - 3) The PHA will also evaluate expenses which may exceed the norm if childcare must be provided in the evenings, nights, or weekends for either educational or employment purposes.
  - 4) If the family has school age children who require care only before and/or after school hours, the PHA will consider reasonable childcare expenses for before and/or after school activities in lieu of individual childcare.

- 5) The PHA will allow for reasonable childcare expenses to include pick-up and drop-off of children at the provider's location (generally determined to be no more than one hour before or after scheduled work hours or school times).
  - 6) If it is determined that there is a significant difference between in-home care and childcare center charges, the PHA will develop a separate scale for each.
- c. The childcare expenses must not be reimbursed
    - 1) The childcare expenses must not be reimbursed by an agency or individual outside the household.
    - 2) The deduction for childcare is not permitted if an agency or individual outside the household reimburses the family for the childcare expenses.
  - d. Childcare Provider
    - 1) The family shall decide who will provide the childcare for the family child(ren).
    - 2) The family shall decide the type of childcare available for the family's child(ren).
    - 3) The PHA may not disallow childcare expenses because there is an unemployed adult household member who may be available to provide childcare.
  - e. Childcare expenses may be divided between two households in cases of joint/split custody. If only one custodian is an assisted family, the cost of childcare will be prorated based on the percentage paid by each custodial parent. The cap on eligibility for childcare expenses allowed the assisted family would still be based on the earned income limitation.
  - f. Childcare payments made on behalf of a child under 13 years of age not living in the assisted unit cannot be deducted.
  - g. Child support payments are not considered childcare expenses and the PHA may not deduct the child support payments as a childcare expense.
  - h. Care expenses for family members with disabilities over the age of 12 cannot be deducted as childcare but may qualify as disability assistance expenses.
  - i. The PHA will review the work hours or educational hours to assure that the combined employment or education hours plus pick-up/drop-off times are within a reasonable timeframe. Exceptions may be made for overtime, special seminars, or testing, providing the PHA can verify the extended times.
  - j. At annual certification, the PHA will determine the total anticipated childcare expense for the employed family members (including increases for care need during school breaks and summer vacations for school age children) and average the amount over 12 months. Should there be a significant variation from the estimated amount the family may request an interim certification adjustment.

#### 4. Allowance for Unreimbursed Medical Expenses

The unreimbursed medical expense deduction is permitted only for elderly or disabled families (families where the head of household, spouse, or co-head is at least 62 years old or a person with disabilities).

- a. If the family is eligible for a medical expense deduction, the medical expenses of all family members may be counted.
- b. Medical expenses are expenses anticipated to be incurred during the 12 months following certification or reexamination which are not reimbursed by an outside source such as insurance.
- c. The medical allowance is not intended to give a family an allowance equal to the previous year's expenses, but to anticipate regular ongoing and anticipated expenses during the coming year.
  - 1) Past one-time nonrecurring medical expenses that have been paid in full are not applicable when calculating anticipated medical expenses at admission.
  - 2) If the family is under a payment plan, the PHA will count the medical expense as anticipated.
  - 3) The PHA may address the one-time medical expenses by adding it to the family's total medical expenses either:
    - a) At the time the expense occurs, through an interim reexamination, or
    - b) At the upcoming annual reexamination.
    - c) If the PHA added the one-time medical expense at an interim reexamination, it cannot be added to the medical expenses at the annual reexamination.
- d. The PHA will include the following as a standard medical expense deduction when determining the family's medical expenses deduction:
  - 1) Medical expenses allowed in IRS Publication 502.
  - 2) The amount of unreimbursed out-of-pocket expenses for prescription drugs.
  - 3) Any premiums incurred for a Medicare prescription drug plan.
- e. If the family has medical expenses and no disability assistance expenses, the allowable medical expense is the portion of total medical expenses that exceed 3% of the annual income.

#### 5. Allowable Disability Assistance Expenses (DAE)

Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to enable any member of the family, 18 years of age or older, (including the member who is a person with disabilities) to be employed.

- a. These expenses may not be paid to a member of the family nor reimbursed by an outside source.
- b. The disability assistance expense is equal to the amount by which the cost of the care attendant or auxiliary apparatus exceeds 3% of the family's annual income.
- c. The disability assistance expense must be calculated before the medical deduction is calculated.
- d. The disability assistance expense may not exceed the earned income received by the family member who is 18 years of age or older who is able to work because of the attendant care or auxiliary apparatus.
- e. Attendant care includes the actual cost of providing an attendant to care for a person with disabilities based on local standards for hourly pay or salary. Attendant care includes but is not limited to:
  - 1) In-home care
  - 2) Adult day care
  - 3) Nursing
  - 4) Housekeeping
  - 5) Personal care
  - 6) Errand services
  - 7) An interpreter for persons who are hearing impaired
  - 8) Reader for persons with visual disabilities.
- f. Auxiliary apparatus, including the cost of maintenance and upkeep, includes but is not limited to:
  - 1) Wheelchairs (manual and electric)
  - 2) Walkers
  - 3) Scooters
  - 4) Ramps to provide access to and from the unit
  - 5) Devices to allow persons with visual disabilities to read or type
  - 6) Modifications or adaptations to or special equipment added to vehicles to permit their use by the family member with a disability
  - 7) The veterinarian, grooming, and food costs for a service animal
- g. If the apparatus is not used exclusively by the person with the disability, the PHA must prorate the total cost and allow a specific amount for the disability assistance expense.
- h. The PHA must be able to verify that there is a direct link between the disability assistance expense claimed by the family and the family member (including the family member who is a person with disabilities) to go to work.

- i. If more than one family member is enabled to work as a result of the incurring of disability assistance expenses, the PHA will verify the employment and combine the incomes of all working family members to establish the cap by which the expenditures are limited.
  - j. The PHA must determine what is "reasonable" based on local conditions and costs as well as whether the expenses are directly linked to enabling the family member to work.
  - k. Reasonable attendant care costs for the locality should be verified through a local social services agency which handles attendant care needs, or an Independent Living Center that assists families in matching attendants with clients with disabilities.
6. Families Eligible for Disability Assistance Expenses and Childcare Expenses
- a. If the family includes child(ren) under age 13 and child(ren) aged 13 and over with disabilities and is paying for care for both children in order to enable adult family member(s) to work, DAE and the childcare expenses must be applied appropriately since the rules differ for the two (2) deductions.
  - b. If both childcare and disability expenses are needed to enable a family member to work, the PHA will use the same employment income to justify the childcare expense and the disability assistance allowance.
  - c. For Disability Assistance Expenses:  
When more than one family member is enabled to work, combine the annual income to determine the cap on the DAE.
  - d. For Childcare Expenses:
    - 1) The PHA must decide which adult was enabled to work to determine the cap as the childcare deduction may not exceed the amount of income earned by the person enabled to work.
    - 2) If the childcare expenses are associated with attending school or seeking employ, there is no cap. The childcare expenses must be reasonable.
7. Families Eligible for Disability Assistance Expenses and Medical Expenses
- a. If an elderly family or disabled family has both medical expenses and disability assistance expenses, a special calculation is required to ensure that the family's 3% share of these expenses is applied only one time.
  - b. Because the allowance for disability assistance expenses is limited by the amount earned by the person freed for work, the disability allowance must be calculated before the medical allowance is calculated.
  - c. When the family has disability assistance expenses greater than or equal to 3% of annual income, an allowance for disability assistance expenses is computed as described above. In such an instance, the allowance for medical expenses will be equal

- to the family's total medical expenses.
- d. When a family has disability assistance expenses that are less than 3% of annual income, the family will receive no allowance for disability assistance expense. However, the allowance for medical expenses will be equal to the amount by which the sum of both disability and medical expenses exceeds 3% of annual income.
  - e. If the disability assistance expense exceeds the amount earned by the person who was freed for work, the allowance for disability assistance will be capped at the amount earned by that individual. When the family is also eligible for a medical expense allowance, however, the 3% may have been exhausted in the first calculation and it then will not be applied to medical expenses.
8. Permissible Deductions

Permissible deductions replace current optional income exclusions for public housing families. The PHA can adopt permissible deductions provided the amounts are not already deducted from annual income or reimbursed to the family from other sources. Permissible deductions may be used to incentivize or encourage self-sufficiency and economic mobility.

The PHA has elected not to have permissible deductions.



## CHAPTER 12: VERIFICATION REQUIREMENTS

The PHA must verify all applicant and family information used to determine eligibility and level of assistance. The PHA's verification procedures are essential to accurately determine the family's income, assets, and deductions. The verification requirements described in this chapter are applicable to factors that determine eligibility, annual reexaminations, and interim reexaminations.

### A. General Verification Requirements

1. The PHA will obtain and document in the family file, third-party verification of the following factors, or will document the family file why third-party verification was not available:
  - a. Reported family annual income;
  - b. The value of assets;
  - c. Expenses related to deduction from annual income; and
  - d. Other factors that affect the determination of adjusted income.
2. Verified information not subject to change, such as a household member's personal identifying information (PII), name, date of birth (DOB), and SSN need not be reverified.
3. The PHA will accept current original and authentic documentation/verification generated by a third-party source dated within the 60-day period preceding the reexamination or PHA request date.
4. Income verifications will remain valid for 60 calendar days from the date of receipt.
5. Information to be verified by the PHA may include but is not limited to the following:
  - a. U.S. citizenship or eligible non-citizen status.
  - b. SSNs for all members of the household.
  - c. Criminal drug usage/activities background checks.
  - d. Verifying previous and present employment with detailed information i.e., dates of employment, date of wage increases, bonuses, etc.
  - e. All sources of earned and non-earned income.
  - f. Assets, including assets disposed of for less than fair market value in the preceding two (2) years.
  - g. Full-time student status including High School students who are 18 years of age or older.
  - h. Childcare expenses when it allows an adult family member to be employed, look for work, or further their education.
  - i. Determination of disability for allowances, deductions, or requests for a reasonable accommodation, including the need for a live-in aide.

- j. Total medical expenses of all family members in households whose head, spouse, or co-head is elderly or disabled.
- k. Disability assistance expenses to include only those costs associated with attendant care or auxiliary apparatus that allow any adult family member, including the person with the disability, to be employed.

## **B. The EIV System**

The Enterprise Income Verification (EIV) System is a web-based application which provides the PHA with employment, wage, unemployment compensation, and social security benefit information for families who participate in public housing and various Section 8, including the HCV, programs under the jurisdiction of the PIH.

Information in EIV is derived from computer matching programs initiated by HUD with the SSA and the U.S. Department of Health and Human Services (HHS) using the National Directory of New Hires (NDNH) database, for all program participants with valid PII reported on the form HUD-50058.

1. In accordance with 24 CFR 5.236 and other HUD administrative guidance, the PHA will utilize HUD's EIV System in its entirety to:
  - a. Verify tenant employment and income information during mandatory and interim reexaminations of family composition and income; and
  - b. Reduce administrative and subsidy payment errors.
2. The PHA will use the Income Validation Tool (IVT) Report, which replaced the EIV Income Discrepancy Report, to:
  - a. Facilitate and enhance the PHA's identification of tenant unreported or underreported income information during regular and interim reexaminations.
  - b. Provide the PHA projections of discrepant income for wages, unemployment compensation and SAA benefits pursuant to HUD's data sharing agreements with the SAA, HHS, and NDNH.
3. Disclosure of EIV Information
  - a. The Federal Privacy Act (5 USC §552a(b), as amended) prohibits the disclosure of an individual's information to another person without the written consent of such individual.
    - 1) The PHA will not share, will not provide a copy, and will not display the EIV data of an adult household member with another adult household member, unless the individual identified in the EIV data has provided written consent to disclose such information.
    - 2) However, the PHA can elect to discuss with and show the head of household how the household's income and rent were determined based on the total family income reported to and verified by the PHA.

- b. EIV information and any other information obtained by the PHA for the purpose of determining eligibility for the public housing program may not and will not be disclosed to third parties for any reason, unless the tenant has authorized such disclosure in writing.
4. The PHA is prohibited from taking adverse action based solely on EIV information.

### **C. HUD Verification Hierarchy and PHA Verification Procedures**

HUD has established six (6) verification hierarchy levels. (Appendix A)

1. The PHA will begin with Level 6, the 'highest mandatory' form of acceptable third-party verification technique.
2. The PHA will attempt the next lower level of the third-party verification techniques after at least one (1) documented attempt or if five (5) days have elapsed since the request to obtain third-party verification at a higher level.
3. If the PHA is unable to obtain third-party verification, the PHA will use Level 1, the 'lowest - last resort' of the acceptable verification techniques.
4. The PHA will document in the family file the attempts made at each level, the reasons, and why third-party verification was not available.
5. The PHA may also request for the family to provide additional/required documents, verification, and/or information.
  - a. The PHA will give the family a Missing Documentation form which will include the date the documents, verification, or information is due to the PHA.
  - b. The family will be given 10 business days from the date of the Missing Documentation form to provide the additional/required documents, verification, and/or information to the PHA.
  - c. If the family fails to provide the additional/required documents, verification, and/or information to the PHA by the due date, the PHA may deny the family's admission to the public housing program or terminate the family's public housing assistance.

### **D. HUD Verification Hierarchy Techniques**

1. Level 6 (Highest-Mandatory): Upfront Income Verification (UIV), using HUD's Enterprise Income Verification (EIV) System and the Income Validation Tool (IVT):
  - a. It is 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.
  - b. EIV is available to the PHA as a UIV technique.

NOTE: NOT AVAILABLE FOR INCOME VERIFICATION OF APPLICANTS

2. Level 5 (Highest-Optional): Upfront Income Verification (UIV), using non-HUD systems:
  - a. It is 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.
  - b. Utilization of The Work Number (an automated verification system) and state government databases to validate tenant-reported income.
3. Level 4 (High): Written Third Party Verification:
  - a. Tenant Provided Documents
    - 1) The PHA will accept current original and authentic documentation/verification in the possession of the tenant generated by a third-party source dated within the 60-day period preceding the reexamination or PHA request date.
    - 2) The PHA will accept documents/verifications older than 60 days, from the PHA request or reexamination date, to confirm effective dates of income.
  - b. Examples of acceptable Level 4 verification include but are not limited to:
    - 1) Pay stubs (at a minimum, the PHA must obtain two (2) current and consecutive pay stubs for determining annual income from wages)
    - 2) Payroll summary report
    - 3) Employer notice/letter of hire/termination
    - 4) SSA benefit letter
    - 5) VA benefit letter
    - 6) Pension/retirement benefit letter/notice
    - 7) Bank statements
    - 8) Child support payment stubs/printout
    - 9) Unemployment benefit notice
    - 10) Welfare benefit letters/printout
  - c. The PHA may reject documentation/verification provided by the family for the following HUD-approved reasons:
    - 1) The document is not an original; or
    - 2) The original document has been altered, mutilated, or is not legible; or
    - 3) The document appears to be forged document (i.e., does not appear to be authentic).
  - d. Is mandatory for the PHA to use:
    - 1) To supplement EIV-reported income sources.
    - 2) When EIV has no data.

- 3) For non-EIV reported income sources.
  - 4) When tenant disputes EIV-reported employment and income information and is unable to provide acceptable documentation to support dispute.
4. Level 3 (Medium-Low): Written (Traditional) Third Party Verification Form:
- a. The PHA will request written third-party verification when the PHA requires additional information that is not available in EIV and/or the family is unable to provide the PHA with current acceptable tenant-provided documentation. Examples of additional information include but are not limited to:
    - 1) Effective dates of income (i.e., employment, unemployment compensation, or social security benefits).
    - 2) For new employment: rate of pay, number of hours worked per week, pay frequency, etc.
    - 3) Confirmation of changes in circumstances (i.e., reduced hours, reduced rate of pay, temporary leave of absence, etc.).
  - b. The PHA will send a verification request form directly (by mail or email) to the third-party source to obtain information, recording the source, date, and method of the request for information.
  - c. The PHA will ensure to protect the family's personally identifiable information (PII).
  - d. If the third-party source does not return the third-party verification form, within five (5) days of the Level 3 request, the PHA will attempt the Level 2 verification technique.
  - e. Is mandatory for the PHA to use Level 3 verification:
    - 1) If written third-party verification documents are not available or rejected by the PHA.
    - 2) When the family is unable to provide acceptable documentation.
5. Level 2 (Low): Oral Third-Party Verification:
- a. Is mandatory for the PHA to use Level 2 verification if Level 4 or Level 3 third-party verification is not available.
  - b. The PHA shall attempt to obtain the third-party verification by contacting the source via telephone.
  - c. The PHA will document in the family file:
    - 1) The telephone number of the third-party source.
    - 2) The date and time of the telephone call.
    - 3) The name of the person contacted.
    - 4) The confirmed information from the third-party source.

- d. If the PHA is unable to contact the third-party source on the first attempt, the PHA shall attempt a second contact within five (5) days of the first Level 2 attempt.
      - e. If the PHA is unable to contact the third-party source on the second Level 2 attempt, the PHA will request Level 1 verification from the family.
6. Level 1 (Lowest): Tenant Declaration/Self Certification:
  - a. Is not a third-party verification technique.
  - b. Used as a last resort when the PHA has not been successful in obtaining third-party verification.
  - c. The PHA will accept an affidavit of the reported income and/or expenses from the family.
  - d. The PHA will document the family file why third-party verification was not available.
7. Exceptions to Third-Party Verification Requirements
  - a. The PHA has made numerous attempts to obtain third-party verification and the third-party source has not responded.
  - b. The third-party source does not have the capability of sending the verification directly to the PHA or facilitating oral verification.
  - c. It is not cost effective for the PHA to obtain third-party verification of income, assets, or expenses when the item to be verified is an insignificant amount that would have a minimal impact on the total tenant payment (TTP) and the PHA is able to verify the amount through original documents provided by the family.
  - d. The PHA will document the family file why third-party verification was not available.

## **E. PHA Compliance with Mandated Use of EIV**

The PHA shall provide the following documentation to demonstrate the PHA's mandated compliance with use of EIV.

1. New Admissions, form HUD-50058 Action Type 1:
  - a. Review the EIV Income and the IVT Reports to confirm/validate family reported income with 120 days of the IMS/PIC submission date; and
  - b. Print and maintain copies of the EIV Income and IVT Reports in the family file; and
  - c. Resolve any income discrepancy with the family within 60 days of the EIV Income or IVT Report dates.
2. Historical Adjustments, form HUD-50058 Action Type 14:
  - a. Review the EIV Income and IVT Reports to confirm/validate family-reported income within 120 days of the IMS/PIC submission date; and
  - b. Print and maintain copies of the EIV Income and IVT Reports in the family file; and

- c. Resolve any income discrepancy with the family within 60 days of the EIV Income or IVT Report dates.

## F. Income Discrepancies and Disputes

### 1. Income Discrepancy Resolution

- a. The PHA will exercise the following in an attempt to resolve income discrepancies:

If there is a substantial difference (\$2,400 annual income discrepancy) between the income reported on the EIV Income or IVT Reports and the tenant-reported income, the PHA will resolve the income discrepancy by:

- 1) Discussing the income discrepancy with the family.
- 2) Requesting the family to provide documentation to confirm or dispute the unreported or underreported income.
- 3) If the family is unable to provide acceptable documentation, the PHA will request third-party verification directly from the source.
- 4) If the additional documentation confirms that the family failed to report or underreported their income, the PHA will redetermine the tenant rent contribution retroactively as mandated by HUD regulation.

### 2. Income Discrepancies During Reexaminations

- a. In cases when there is an identified income discrepancy among the form HUD-50058, the EIV Income Report or IVT Report, the PHA must follow up with the family and resolve the differences between the reported information within 60 days of the EIV Income or IVT Report dates using the HUD Verification Hierarchy.

- b. When there is no household identified income discrepancy reported on the form HUD-50058, the EIV Income Report or IVT Report, the PHA will not print and maintain in the family file the EIV Income and IVT Reports to document no income discrepancy.

- c. In cases where the PHA does not perform interim reexaminations for increases in income, the PHA will document the family file within 60 days of the EIV Income or IVT Report dates that the PHA does not perform interim reexaminations for increases in income between annual reexaminations.

### 3. Disputed Information

For each reexamination of family income and composition, the PHA is required to have the following documentation in the family file:

- a. No Dispute of EIV Information:

- 1) There are no disputes among the EIV Income and IVT Reports.
- 2) The PHA will include in the family file current acceptable tenant provided documentation, and if necessary (as determined by the PHA), traditional third-party verification and a current copy of the form HUD-50058.

b. Disputed EIV Information:

- 1) There is a discrepancy in at least one of the EIV Income or IVT Reports or the form HUD-50058 is not current or is inconsistent and/or traditional third-party verification form(s) for the disputed information is not clear.
- 2) The PHA will include in the file copies of the EIV Income and IVT Reports, income verification, and a corrected form HUD-50058.

c. In cases when the tenant-reported income is not verifiable through the EIV system:

The PHA will maintain in the family file, current tenant provided documents and if necessary, (as determined by the PHA), traditional third-party verification form(s), copies of the EIV Income and IVT Reports, and a corrected form HUD-50058.

4. Incorrect EIV Information

If the information provided in EIV is in error, the PHA nor HUD can correct the data in EIV. Only the originator of the data can correct the information.

a. Employment and wage information reported in EIV originates from the employer.

- 1) The employer reports this information to the local State Workforce Agency (SWA), who in turn, reports the information to HHS' National Directory of New Hires (NDNH) database.
- 2) If the family disputes this information, the family should contact the employer directly, in writing to dispute the employment and/or wage information, and request that the employer correct erroneous information.
- 3) The family should provide the PHA with this written correspondence so that it may be maintained in the family file.
- 4) If employer resolution is not possible, the family should contact the local SWA for assistance.

b. Unemployment benefit information reported in EIV originates from the local SWA.

- 1) If the family disputes this information, the family should contact the SWA directly, in writing to dispute the unemployment benefit information, and request that the SWA correct erroneous information.
- 2) The family should provide the PHA with this written correspondence so that it may be maintained in the family file.

c. SS and SSI benefit information reported in EIV originates from the SSA.

- 1) If the tenant disputes this information, the tenant should contact the SSA at (800) 772-1213 or visit the local SSA office.
- 2) SSA office information is available in the government pages of the local telephone directory or online at <http://www.socialsecurity.gov>.



- 3) The family may also provide the PHA with third-party documents which are in the family's possession to support their dispute of EIV information.
  - a) The PHA, with the family's consent, is required to submit a third-party verification form to third party sources for completion and submission to the PHA, when the family disputes EIV information and is unable to provide documentation to validate the disputed information.
  - b) The family's failure to sign the consent form is grounds for termination of tenancy and/or assistance.
- d. Debts owed to PHAs and termination of tenancy information reported in EIV originates from the current or a former PHA.
  - 1) If the family disputes the information provided, it is the responsibility of the family to contact the PHA (who reported the information) directly in writing to dispute the information and provide any documentation that supports the dispute.
  - 2) If the PHA determines that the disputed information is, in fact, incorrect, the PHA will update or delete the record from EIV.
  - 3) Former tenants may dispute debt and termination information for a period of three (3) years from the end of participation (EOP) date in the public housing program.
- e. Identity Theft

If the tenant suspects identity theft, it is the responsibility of the tenant to:

  - 1) Check their Social Security records with the SSA;
  - 2) File an identity theft complaint with the local police department;
  - 3) File an identity theft complaint with the Federal Trade Commission; and
  - 4) Monitor their credit reports with the three national credit reporting agencies (Equifax, TransUnion, and Experian).
  - 5) The family will be required to provide the PHA with written documentation of the filed identity theft complaint.

## **G. Verification of Legal Identity**

The PHA will require the family to provide verification of legal identity for each household member 18 years of age and older.

1. Government issued photo identification card
  - a. State issued driver's license
  - b. State issued identification card
2. Passport
3. Alien registration card
4. U.S. military discharge paperwork, DD214

## H. Verification of Relationships

Family relationships are only verified to the extent necessary for the PHA to determine the family's eligibility and level of assistance.

1. Marital Status, including Common Law Marriage
  - a. Certification by the head of household
  - b. Marriage license/certificate
  - c. Common law marriage where the couple demonstrates that they hold themselves to be married (e.g., telling others they are married, calling each other husband and wife, using the surname, filing joint income tax returns)
2. Divorce or Separation
  - a. Certification by the head of household
  - b. Copy of the divorce decree, signed by a court officer
  - c. Copy of a court-ordered maintenance or other court record of separation

## I. Verification of Citizenship or Eligible Immigration Status

The PHA is required to verify eligible immigration status through the U.S. Citizenship and Immigration Service (CIS).

### 1. Primary Verification Method

The PHA shall use the CIS automated Systematic Alien Verification of Entitlements (SAVE) system which provides access to names, file numbers and admission numbers of noncitizens.

- a. The PHA shall use the SAVE system prior to providing assistance.
- b. The PHA may elect to provide assistance to the family before the verification of the eligibility of the individual or one family member.
- c. If the SAVE system does not verify eligible immigration status or verifies immigration status that is ineligible, the PHA will use the secondary verification method.

### 2. Secondary Verification Method

If the SAVE system does not verify eligible immigration status, the PHA must perform a secondary verification.

- a. Manual search of CIS records
  - 1) The PHA must request secondary verification within 10 days of receiving the results of the primary verification from the SAVE system. The PHA will forward the following and any other form specified by CIS to a designated CIS office for review:
    - a) Photocopies (front and back) of the original INS documents required for the immigration status declared,

- b) Attach the CIS document verification request form (G-845S, Document Verification Request), or
- b. Failure of Secondary Verification Method
  - 1) If the secondary verification method fails (it did not verify eligible immigration status), the PHA will provide the family a notice of denial admission or termination of assistance.
  - 2) The notice of denial of admission or termination of assistance shall advise the family:
    - a) The housing assistance will be denied or terminated and a brief description or explanation of the reasons for the denial or termination.
    - b) If a current assisted household, the criteria and procedures for requesting or obtaining prorated assistance.
    - c) The right to request an appeal to the CIS of the results of the secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal.
      - (1) The family shall have 30 days from the date the PHA's notification to request an appeal of the CIS results.
      - (2) The request for appeal shall be made by the family communicating that request in writing directly to the CIS.
      - (3) The family must provide the PHA with a copy of the written request for appeal and proof of mailing.
    - d) The right to request an informal hearing with the PHA either upon completion of the INS appeal or in lieu of the CIS appeal.
    - e) For applicants, the PHA shall advise that the assistance may not be delayed until the conclusion of the CIS appeal process, but it may be delayed during the pendency of the informal hearing process.
  3. The PHA shall not be liable for any action, delay, or failure of CIS in conducting the automated or manual verification.

## **J. Verification of Social Security Numbers and Social Security/SSI Benefits**

The PHA must request the applicant and participant, including each member of the household, who are not exempt from disclosure of SSN, to provide documentation of each disclosed SSN.

1. Acceptable verification of SSNs consists of:
  - a. Original valid SSN card issued by the SSA;
  - b. Original SSA-issued document, which contains the name and SSN of the individual, or
  - c. Original document issued by a federal, State, or local government agency which contains the name and SSN of the individual.

2. The PHA shall verify each disclosed SSN by:
  - a. Obtaining one of the original SSN documents listed above from the applicant or participant (including each member of the household);
  - b. Making a copy of the original SSN document submitted, returning it to the applicant or participant, and retaining a copy of the SSN document in the family file; and
  - c. Recording the SSN accordingly on line 3n of the form HUD-50058 and transmit the form to HUD within a timely manner.
  - d. The PHA will transmit the HUD-50058 no later than 30 calendar days of receiving the SSN documentation to enable HUD to initiate its computer matching efforts for current program participants.

3. HUD-SSA Computer Matching

HUD, via its computer matching program with the SSA, will validate the SSN (along with the individual's name and date of birth) against the SSA's database.

- a. HUD does not initiate computer matching efforts for applicants.
- b. The PHA must ensure that the personal identifier information entered in section 3 of the form HUD-50058 (i.e., household members' name, date of birth, and SSN) is complete and accurate.
- c. If a family's form HUD-50058 is not successfully submitted to PIC or if it has been 15 or more months since the effective date listed on the current form HUD-50058 available in PIC, HUD will not initiate computer matching for these individuals and new income information will not be available in EIV.
- d. EIV will report the status of the identity verification process as Verified, Failed, Pending, Excluded, or Deceased

- 1) Verified.

- a) If the information matches the SSA database, the individual's identity verification status will be Verified.
- b) No further action is required by the PHA.
- c) Once the individual's identity verification status is classified as "Verified", the PHA will not remove and destroy the copy of the SSN documents in the family file.

- 2) Failed.

- a) If the information does not match the SSA database, the identity verification status will be Failed.
- b) The PHA will generate EIV's Identity Verification Report to correct, within 30 calendar days, the personal identifiers for the household member (date of birth, surname, and/or SSN) or invalid form HUD-50058 transmitted date (e.g., effective date of action is 15 months or more months ago).

3) Pending.

- a) If an individual's identity verification status is Pending, this means that HUD has not yet sent the tenant's personal identifiers to SSA for validation.
- b) No action is required by the PHA.

4) Excluded.

Effective April 30, 2012, if an individual's identity verification status is Excluded, this means that HUD will not send the tenant personal identifiers to SSA for validation because a valid SSN is not reported on line 3n of the form HUD-50058 or the individual has failed EIV pre-screening.

5) Deceased.

- a) If an individual's identity verification status is Deceased, this means SSA's records indicate the person is deceased.
- b) The PHA is required to confirm the death with the family's head of household or listed emergency contact person.
- c) If the individual is deceased and the only household member or the only surviving household members are a live-in aide and the live-in aide's family (single member household), the PHA must complete an action code 6, end of participation (EOP), on form HUD-50058 and discontinue assistance and/or tenancy.
- d) If the individual is not deceased, the PHA will immediately notify the individual in writing and advise the individual to contact SSA so that SSA may correct its records.
- e) If there are authorized household members remaining in the public housing program, the PHA will update the family composition accordingly and complete an interim reexamination.

4. The PHA may reject documentation of the SSN provided by the applicant or participant for only the following reasons:

- a. The document is not an original document; or
- b. The original document has been altered, mutilated, is not legible; or
- c. The document appears to be a forged document (i.e., does not appear to be authentic).
- d. The PHA shall explain to the applicant or participant the reasons(s) the document is not acceptable and shall then request the individual to obtain acceptable documentation of the SSN and submit the document to PHA within 30 days.

## **K. Verification of Included Income**

The PHA will use the following to verify included income:

1. Verify the income in accordance with the HUD-prescribed verification hierarchy;

2. Document in the tenant file why third-party verification was not available; and
3. Report the income in Section 7 of the form HUD-50058.

## **L. Verification Requirements for Excluded Income**

There are two categories of excluded income, fully excluded and partially excluded income. Each category has different verification requirements.

### **1. Fully Excluded Income**

- a. Income that is fully excluded means the entire amount qualifies to be excluded from annual income. For fully excluded income the PHA is not required to:
  - 1) Verify the income in accordance with the HUD-prescribed verification hierarchy;
  - 2) Document in the tenant file why third-party verification was not available; and
  - 3) Report the income in Section 7 of the form HUD-50058.
- b. The PHA may accept an applicant or participant's self-certification as verification of fully excluded income. The PHA's application and reexamination documentation, which is signed by all adult family members, may serve as the self-certification of the fully excluded income.
- c. The PHA may elevate the verification requirements, on a case-by-case basis, to determine if a source of income qualifies for a full exclusion.
- d. Examples of common fully excluded income categories that are verifiable through applicant or participant self-certification are:
  - 1) Supplemental Nutrition Assistance Program (SNAP) benefits, formerly known as food stamps.
  - 2) Income from a live-in aide.

### **2. Partially Excluded Income**

- a. Income that is partially excluded means that only a certain portion of the income reported by the family qualifies to be excluded, while the remainder must be included when determining the family's annual income. For partially excluded income, the PHA is required to:
  - 1) Comply with HUD-prescribed verification requirements and all applicable regulations pertaining to the determination of annual income, including documenting why third-party verification is not available; and
  - 2) Report the income in Section 7 of the form HUD-50058.
- b. Examples of partially excluded income that are subject to regular verification requirements include:
  - 1) Earnings in excess of \$480 for full-time students 18 years old or older.
  - 2) Income subject to the 50% phase-in period of the Earned Income Disallowance.

- c. To determine the amount of earnings to include in the calculation of the family's annual income, the PHA must verify the amount of employment income for these family members.

## **M. Verification of Assets and Income from Assets**

The PHA will obtain third-party verification of all family assets to which any member has access and the income from those assets upon admitting the family to the public housing program.

### **1. Family Declaration of Net Assets Equal to or less than \$5,000**

- a. The PHA will accept the family's declaration that the family (including minor family members) has total net assets equal to or less than \$5,000 and the total amount of income expected from all assets to be less than or equal to \$5,000 at the family's next interim or annual reexamination.
- b. All adult family members 18 years old or older must sign the family's declaration of total assets.
- c. The PHA's annual or interim reexamination documentation, which is signed by all adult family members, can serve as the declaration.
- d. The family's declaration of total net assets equal to or less than \$5,000 must:
  - 1) Show each asset, and
  - 2) The amount of income expected from each asset.
- e. Where the family has net family assets equal to or less than \$5,000, the PHA will not request supporting documentation (e.g., bank statements) from the family to confirm the assets or the amount of income expected to be received from those assets.

### **2. Family Net Assets Greater than \$5,000**

Where the family has net family assets in excess of \$5,000, the PHA must obtain third-party supporting verification of such assets (e.g., bank statements) from the family to confirm the assets.

### **3. Verification of Assets for New Additions to the Family**

- a. The PHA will obtain third-party verification of assets and income from assets for new additions to the family.
- b. At the next annual reexamination of income following the addition of the new family member, the PHA will obtain third-party verification of all family assets if the addition of the new family member's assets puts the family above the \$5,000 asset threshold.
- c. If the addition of the new family member's assets does not put the family above the \$5,000 asset threshold, the PHA will not obtain third-party verification of all family assets at the next annual reexamination of income following the addition of the family member.

- d. The PHA will obtain third-party verification of all family assets at least every three (3) years.
4. If the PHA has adopted a previous self-certification of assets provision, the PHA will obtain third-party verification of all family assets at the family next income reexamination if the family has provided self-certification of assets for the two (2) previous income reexaminations.
5. Lump Sum Additions  
The PHA will verify payments of inheritances through the executor; health, accident, and worker's compensation payments through the provider; capital gains through the broker, original 1099s or tax returns; and settlements for personal or property losses through the insurer.
6. Annuities
  - a. Annuities may provide for either fixed or variable payment.
  - b. For variable payments, the PHA will evaluate historical information to determine the approximate anticipated payment amount for the next 12-month period.
  - c. This annualized income may be adjusted based on significant changes from the anticipated income.
  - d. The holder of an annuity may withdraw the funds at any time before maturity but will pay a penalty for early withdrawal.
  - e. Verification of the penalty amount may be obtained from the company holding the annuity and should be deducted from the total distribution before determining asset or income amounts.
  - f. Monthly or periodic regular annuity payments are counted, as income while the principal of the annuity remains an asset until fully liquidated.
  - g. Verification of any annuity expenses will be obtained from the annuity provider.

## **N. Verification of Deductions from Annual Income**

The PHA will follow the HUD Verification Hierarchy which may include but will not be limited to one or more of the methods listed below:

### 1. Dependent

A dependent is a member of the family (except the head of household, spouse, co-head, live-in aide, live-in aide family or foster children/adults) who is under 18 years of age, is a full-time student, or a person with a disability.

- a. Under the age of 18 years of age (Minor)
  - 1) Birth certificate



- 2) Valid faith-based record for birth (such as a baptism, confirmation, bar and bat mitzvah showing age or date of birth)
  - 3) U.S. Nationalization certification
  - 4) Passport
  - 5) Alien registration card
  - 6) Divorce decree or custody documents
  - 7) Certificate of adoption
  - 8) Court ordered documents
  - 9) Federal tax return that includes the child(ren) as dependents
  - 10) School records
- b. Full-time student
- The educational institution defines the time commitment or subject load that is needed to be a full-time student.
- c. Person with a Disability
- 1) If a person's disability is obvious or otherwise known, the PHA a may not request additional information about the disability.
  - 2) If the person's disability is not obvious or not otherwise known:
    - a) The PHA may, but is not required to, accept a statement of the disability by the person with disabilities.
    - b) PHAs may require a statement from a medical or mental health professional who treats the person for his/her disability:
      - (1) A doctor or licensed medical/health professional
      - (2) A peer support group
      - (3) A social service/disability agency or counselor
      - (4) A case manager
  - 3) PHAs may not
    - a) Ask the nature or extent of a person's disability.
    - b) Ask if a person can live independently.
    - c) Impose expensive or burdensome requirements to "prove" a disability.
2. Elderly and Disabled
- a. Elderly (62 years of age or older)
    - 1) Birth certificate

- 2) Valid faith-based record for birth (such as a baptism, confirmation, bar and bat mitzvah showing age or date of birth)
  - 3) U.S. Naturalization certification
  - 4) Passport
  - 5) Alien registration card
  - 6) Divorce decree
  - 7) Court ordered documents
  - 8) Federal tax return
  - 9) SSA documentation
  - 10) Pension/retirement information
  - 11) Military discharge paperwork, DD214
- b. Disabled  
See above under dependent verifications.
3. Childcare Expenses  
The PHA will verify:
- a. To verify that the childcare is reasonable, PHA will obtain information from the social services agency that certifies childcare providers, day care centers, federally funded after school programs, etc., and determine a scale of reasonable costs.
  - b. The PHA will verify the following information about the childcare provider:
    - 1) Complete name of the provider
    - 2) Complete address of the provider, if not a childcare center
    - 3) Complete address of the location of the childcare
    - 4) Phone number of childcare provider or childcare center
    - 5) The names of the child(ren) being cared for
    - 6) The number of hours and days for which childcare is provided
    - 7) The rate of pay
    - 8) The typical yearly amount paid (considering school and vacation periods)
    - 9) Amount reimbursed by an outside agency, if applicable
4. Unreimbursed Medical Expenses
- a. The PHA will use the most current IRS Publication 502, Medical and Dental Expenses, as a guidance to determine the cost that qualify as medical expenses.

This publication provides a listing and description of allowable medical and dental expenses that can be included as medical deductions.

- b. Unreimbursed medical expenses will be verified by one or more of the methods listed below:
  - 1) EIV and/or written third-party verification from the SSA of Medicare premiums to be paid by the family.
  - 2) A computer printout provided by the family will be accepted for medical and/or pharmacy expenses.
  - 3) Written third-party verification by a doctor, hospital or clinic personnel, dentist, pharmacist, concerning anticipated medical costs to be incurred by the family and regular payments due on medical bills; and extent to which those expenses will be reimbursed by insurance or a government agency.
  - 4) Written third-party confirmation by the insurance company or employer of health insurance premiums to be paid by the family.
5. Disability Assistance Expense Deduction
  - a. The relationship between the disability and the disability assistance expense and whether the expense is directly related to enabling employment.
  - b. The PHA will obtain third-party verification that verifies:
    - 1) Attendant Care
      - a) The date the attendant provides care.
      - b) Total hours of care per week/month.
      - c) Total and rate of pay per week/month.
      - d) Amount received from the family per week/month.
      - e) Amount received from other sources per week/month.
      - f) If any amount will be reimbursed by a third-party, and if so, how much per week/month.
    - 2) Auxiliary Apparatus
      - a) The type of apparatus: wheelchair, walker, reading devices, etc.
      - b) Cost of the apparatus, amount paid per week/month.
      - c) Description of modification and cost per week/month.
    - 3) The amount of earned income received by the family member(s) age 18 years or older who is able to work due to the attendant care or auxiliary apparatus.

**O. Verifications from Drug Abuse Treatment Facilities**

The PHA has the authority to request and obtain information from drug abuse treatment facilities concerning applicants.

The PHA does not request verification information directly from drug abuse treatment facilities.

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## CHAPTER 13: NOTIFICATION OF ELIGIBILITY

After completing the screening process, the PHA will, in writing, promptly notify applicants, both ineligible and eligible, of the results of the screening. This will be done as follows.

### A. Ineligible Applicants

The PHA will promptly notify, in writing, any applicant determined to be ineligible for admission to a development of the basis for such determination within 10 working days, and will provide the applicant, upon request, an opportunity for an informal hearing on such determination.

Informal hearings may be conducted with the mediator/hearing officer attending either in person or by remote electronic access such as webcam.

1. Informal hearing for denial of admission due to ineligibility, other than non-citizen eligibility:
  - a. The notice will contain a brief statement of the reasons for the determination and will state that the applicant has the right to meet with the PHA's designated person to review it.
  - b. If the meeting is requested, it will be conducted by a person or persons designated by the PHA. Those designated may be an officer or an employee of the PHA, including the person who made or reviewed the determination, or his or her subordinate.
  - c. The policies will be carried out in accordance with HUD's requirements.
  - d. The applicant may exercise other rights if the applicant believes that he or she has been discriminated against on the basis of race, color, religion, sex, national origin, age, familial status, sexual orientation, gender identity, marital status or disability.
  - e. The request for a hearing must be submitted to the PHA either orally or in writing no later than 10 business days from the postmark date of the denial notice.
2. Informal Hearing Policies for Applicants Denied Assistance for Non-Eligible Immigration Status.
  - a. Requests for an informal hearing will be personally presented either orally or in writing, to the PHA's administrative office so that the grievance may be discussed informally.
  - b. The applicant shall be provided a hearing before any person(s) designated by the PHA (including an officer or employee of the PHA), 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.
  - c. The applicant shall be provided the opportunity to examine and copy at the applicant's expense, at a reasonable time in advance of the hearing, any documents in the possession of the PHA pertaining to the applicant's eligibility status, or in the possession of the CIS (as permitted by CIS requirements), including any records and regulations that may be relevant to the hearing.

- d. The applicant shall 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.
- e. The applicant shall be provided the opportunity to controvert evidence relied upon by the PHA and to confront and cross-examine all witnesses on whose testimony or information the PHA relies.
- f. The applicant shall be entitled to be represented by an attorney, or other designee, at the applicant's expense, and to have such person make statements on the applicant's behalf.
- g. The applicant shall be entitled to arrange for an interpreter to attend the hearing, at the expense of the applicant or the PHA, as may be agreed upon by both parties.
- h. The applicant shall be entitled to have the hearing recorded by audiotape (a transcript of the hearing may but is not required to be provided by the PHA).
- i. The PHA shall provide the applicant with a written final decision, based solely on the facts presented at the hearing within 14 days of the date of the informal hearing.
- j. A decision against a family member, issued in accordance with 24 CFR 5.514(d) does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.
- k. If the family chooses not to continue to contend eligible immigration status, the family may be offered prorated housing assistance, if at least one family member is a U.S. citizen or has eligible immigration status (not a non-citizen student).

## **B. Eligible Applicants**

When a determination has been made that an applicant is eligible and satisfies all requirements for admission, including the resident selection criteria, the applicant will be notified, in writing, of the approximate date of occupancy insofar as that date can be reasonably projected.

## **CHAPTER 14: TYPES OF DEVELOPMENTS AND REQUIREMENTS**

PHAs typically have several types of housing developments and unit sizes. Admission requirements for these may be different. The following outlines requirements for general occupancy developments, developments for the elderly, and units designed for the disabled.

### **A. General Occupancy Developments**

1. The PHA will not give elderly families or non-elderly families a preference over single applicants for admission to general occupancy developments.
2. An elderly family that wants to, or needs to, be admitted to a general occupancy development must be considered on the same basis as any other family.
3. If units of appropriate sizes are available in both a general occupancy development and a development for the elderly, elderly families with children or young disabled family members may choose to be housed in the general occupancy development.

### **B. Mixed Population Developments**

#### **1. Preference for Elderly Families**

Unless the PHA has obtained HUD approval to designate certain developments or portions of developments for the elderly and/or disabled, the PHA may not limit occupancy of certain units to those groups.

- a. If a non-elderly, non-disabled applicant is next on the waiting list and the unit available is located in a development originally built for elderly/disabled but not designated, the PHA must offer that unit to the applicant, even if the family includes children, as long as the composition and size of the family meets the PHA's occupancy standards.
- b. Elderly and non-elderly disabled may receive preference over non-elderly families in mixed population developments.
- c. Elderly and non-elderly disabled families will not receive preference in general occupancy developments.

#### **2. Selection Preference for Mixed Population Developments**

- a. The PHA is required to give preference to elderly families and disabled families equally in determining priority for admission to mixed population developments. No limit will be established on the number of elderly or disabled families who may be accepted for occupancy in such developments.
- b. When offering units in mixed population developments, the PHA will first offer units with accessible features to persons with disabilities who require the accessibility features of the unit.

#### **3. Discretionary Preference for Near Elderly Families in Mixed Population Developments**

A near elderly person(s) 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.

- a. In no event will the PHA admit a near elderly family to a development for elderly families if there are eligible elderly families on the PHA's waiting list that would be willing to accept an offer of a suitable vacant unit in a mixed population development.
  - b. When the PHA determines that there are not enough elderly families to fill all of the units that are currently vacant or expected to become vacant within the next twelve (12) months, the PHA will give near elderly families a preference for admission to mixed population developments.
  - c. Before electing to give near elderly families such a preference, however, the PHA will conduct outreach to attract eligible elderly families, including:
    - 1) Those groups that historically have been the least likely to apply; and
    - 2) Where appropriate, elderly families residing in general occupancy developments.
  - d. If the PHA elects to give near elderly families a preference for admission to a mixed population development, the PHA will apply the preference when it selects applicants for admission from among near elderly families.
4. Discretionary Preference for Near Elderly Single Persons in Mixed Population Developments.
- If a near elderly applicant is a single person, as that term is defined in HUD regulations, the near elderly single person is given a preference for admission over other single persons to mixed population developments.
5. The PHA will not set a minimum age (such as 50 or 55) for the admission of persons who are disabled to mixed population developments.
  6. The PHA will not exclude families with children from mixed population developments, provided such developments have units of the appropriate sizes for such families.

### **C. Units Designed for Persons with Disabilities**

1. Without incurring vacancies, the PHA will make every reasonable effort to provide units that are specially designed for families with physically disabled members who require such units.
2. The PHA may provide a unit designed for the disabled to a family that includes a mobility impaired person (such as a child or a grandparent who uses a wheelchair) even though the family head or spouse is not disabled.
3. When there are not enough disabled applicants to fill units especially designed for such persons, non-disabled applicants may be offered such units. However, it must be made clear to the family that when another unit becomes available which meets the family's needs, they will be required to move if the accessible unit is needed for a family with a member who has a disability. The lease agreement will be modified to reflect this requirement.



4. Should there be a disabled applicant or resident needing a unit with special features, that applicant/resident will be offered the unit prior to transferring a family or individual who is over-housed or under-housed.

#### **D. Designated Housing**

The PHA will give priority for occupancy of the designated housing development units to designated families.

1. If there are an insufficient number of elderly families to fully occupy the units in the designated development, the PHA may make units available to near elderly families, who qualify for preference.
2. If there are an insufficient number of elderly and near elderly families to fully occupy the units in the designated development, the PHA shall make available to all other families any unit that is:
  - a. Ready for re-rental and for a new lease to take effect; and
  - b. Vacant for more than 60 consecutive days.
3. If any disabled family or elderly family chooses not to occupy or accept occupancy in a designated development, there will be no adverse effect on:
  - a. The family's admission to or continued occupancy in public housing; or
  - b. The family's position on or placement on a public housing waiting list.

#### **E. See Appendix D for Development Units**

## CHAPTER 15: OCCUPANCY STANDARDS

The PHA's occupancy standards specify the minimum and maximum number of household members who will be permitted to occupy units of various sizes, depending on family size, composition and extenuating circumstances, such as the ages, sexes, and disabilities of household members. The standards take into consideration the need to assign a unit with the smallest number of bedrooms that will avoid overcrowding the unit or project and minimize vacancies. The occupancy standards are as follows.

1. The occupancy standards described below take into consideration the minimum number of occupants for admission and the maximum number of persons for continued occupancy based on an occupancy standard of two persons per bedroom.
2. The PHA has an occupancy policy of two persons per bedroom regardless of age or sex. The Chart below details the standards.

Number of Bedrooms	Minimum No. of Persons	Maximum No. of Persons
0	1	1
1	1	2
2	2	4
3	3	6
4	4	8
5	5	10
6	6	12

3. Units will be assigned so that persons of the opposite sex, other than spouses and intimate partners, will not be required to occupy the same bedroom.
4. Every family member, regardless of age, will be counted as a person. For the purpose of establishing the unit size for a family, an unborn child will not be counted as a member of the family household.
5. Living room space may be used for sleeping purposes, at the request of the family.
6. A live-in aide, who is not a family member, will be provided with a separate bedroom.
7. For reasons of health (age (elderly), physical disability, etc.), a separate bedroom may be provided for individual family members, as verified by a medical professional.
8. When the PHA determines that a family is over-housed or under-housed according to the occupancy standards, the PHA will require the family to transfer to a unit of the appropriate

- size. Transfers of this nature will be effective prior to voluntary or family requested transfers.
9. Foster children will be counted as family members in determining the bedrooms to be assigned.
  10. If the PHA is unable to fill units with families of appropriate sizes and types, it will house eligible families of the most nearly appropriate sizes on a temporary basis. Each such family will be informed, before moving in, of the dwelling lease agreement "to transfer to an appropriate size dwelling unit, based on family composition, upon appropriate notice by PHA that such a dwelling unit is available."
  11. Exceptions to the minimum standards will be made if they are necessary to provide reasonable accommodation for a person with disabilities.
  12. A single head of household shall not be required (but may choose) to share a bedroom with his/her children.
  13. Guest and Visitors
    - a. Additional bedrooms are not provided for visitors or guests.
    - b. The family will be allowed to have adult guests for a period of up to 30 cumulative days in any 12-month period, and minor guests for a period of up to 104 cumulative days in any 12-month period, except in the case of a family member requiring care during illness or recuperation from illness or injury as certified by a medical professional.
    - c. Written permission must be obtained from the PHA for any deviation from the occupancy standards included in this policy which may result from the presence of the temporary care giver in the unit.
  14. IMPORTANT: The maximum and minimum number of persons per unit shall be discussed with each applicant family. Families will also be informed about the status and movement of the various waiting lists and sub-lists maintained by the PHA.
    - a. Families will be asked to declare in writing the waiting list on which they wish to be placed.
    - b. If a family opts for a smaller unit than would normally be assigned under the occupancy standard (because, for example, the list is moving faster), the family will be required to sign a statement agreeing to occupy the unit assigned at their request until their family size or circumstances change.
    - c. The PHA shall change the family's sub-list at any time while the family is on the waiting list at the family's request.

## **CHAPTER 16: OFFERING THE UNITS (TENANT SELECTION AND ASSIGNMENT PLAN)**

As units become available for occupancy, the PHA will offer units to applicants on the waiting list. In accordance with the QHWRA, the PHA encourages occupancy of its developments by families with a broad range of incomes. At a minimum, 40% of all new admissions on an annual basis will be extremely low-income families (See Appendix E for Income Limits). The offer of assistance will be made without discrimination because of race, color, religion, sex, national origin, age, disability or familial status.

### **A. Deconcentration**

The offers will be made in the following manner. To the maximum extent feasible, the deconcentration and income-mixing requirements of the QHWRA will be followed.

1. Families with incomes ranging from 0% to 80% of median income will be selected in accordance with the tenant selection section of this ACOP.
  - a. Families with the highest incomes will be offered units in developments where average family incomes are lowest.
  - b. Conversely, families with the lowest incomes will be offered units in developments with the highest average family incomes.
  - c. The PHA may offer incentives to families to accomplish the deconcentration and income mixing objectives.
2. The PHA may employ a system of income ranges in order to maintain a resident body composed of families with a range of incomes and tenant rent paying abilities representative of the range of incomes among low-income families in the PHA's area of operation and may take into account the average tenant rent the PHA should receive to maintain financial solvency.
3. The PHA's selection policies are designed so that selection of new public housing residents will bring the PHA's actual distribution of tenant rents closer to the projected distribution of tenant rents.
4. The PHA will select, based on date and time of application and preferences, two (2) families in the extremely low-income category and two (2) families from the lower income category (31% to 80% of area median income) alternately until the 40% admission requirement of extremely low-income families is achieved (2 plus 2 policy).
5. After the minimum level is reached, all selections will be made based solely on date, time and preferences.
6. Any applicants passed over as a result of implementing this 2 plus 2 policy will retain their place on the waiting list and will be offered a unit in order of their original placement on the waiting list.

## B. Unit Offer

The PHA will offer the eligible applicant at the top of the waiting list a unit of appropriate size and type (including accessible features if required and available) which has been ready to lease the longest in the development that has the most vacancies.

### 1. Method of Notification of Unit Offer

- a. The PHA will make the unit offer by telephone or by other communication methods as designated by the applicant.
- b. Unit offers made by telephone will be confirmed by mailing the applicant a written notice of the unit offer.

2. The PHA will make unit offers in sequence and will not offer the applicant another unit until the first unit offer has been refused.

3. The PHA will give the applicant three (3) days after the date of the telephone call to accept or refuse the unit offer.

4. If the applicant refuses the first unit offer, the PHA will offer the applicant a second unit of appropriate size and type (including accessible features if required and available) in the development when a unit become available or the next development that has the most vacancies.

5. If the applicant refuses the second unit offer without good cause, the PHA will remove the applicant from the waiting list.

### 6. Good Cause for Refusal of Unit Offer

The applicant should be able to document that the claimed of good cause for refusing an offer of housing. If good cause is verified, the refusal of the offer(s) will not require that the applicant be removed from the waiting list. The applicant's application will remain at the top of the waiting list until the applicant receives an offer for which they have no good cause refusal. The applicant will not be considered to have been offered a suitable unit if:

- a. The applicant is unable to move at the time of the offer and presents clear evidence that substantiates to the satisfaction of the PHA. Examples:
  - 1) A physician verifies that the applicant has just undergone major surgery and needs a period of time to recuperate; or
  - 2) A court verifies that the applicant is serving on a jury which has been sequestered.
- b. A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (each as listed on the final application) or live-in aide necessary to the care of the principal household member.
- c. The unit is not ready for move-in at the time of the unit offering
  - 1) Meaning the unit has Uniform Physical Condition Standard (UPCS) deficiencies.
  - 2) If the unit is not ready for move-in, the PHA will offer the next appropriate unit ready for move-in to the applicant.

- d. The applicant demonstrates to PHA's satisfaction that accepting the offer will place a family member's life, health, or safety in jeopardy.
    - 1) The family should offer specific and compelling documentation such as restraining orders, other court orders, or risk assessments related to witness protection from a law enforcement agency.
    - 2) The reasons offered must be specific to the family.
    - 3) Refusals due to location alone do not qualify the applicant for this good cause exemption.
  - e. 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.
  - f. Inaccessibility to employment, education or job training, children's day care or educational programs for children with disabilities if the move would require an adult household member to quit a job, drop out of an education institution or training program, or take the child out of day care or an educational program for children with disabilities.
  - g. The unit contains lead-based paint and accepting the offer could result in subjecting the applicant's children who is under six (6) years of age to lead-based paint poisoning.
  - h. The unit is not of the proper size and type, and the applicant would be able to reside there only temporarily (e.g., a specially designed unit that is awaiting a disabled applicant needing such a unit).
  - i. An elderly or disabled family makes the decision not to occupy or accept occupancy in designated housing.
7. When leasing a vacant unit, the PHA will offer the unit to applicants on the waiting list in sequence, until an applicant accepts the unit, in accordance with the date and time of application.
  8. The PHA will maintain a record of the units offered, including location, date, the circumstances for each offer, and each acceptance or refusal.
  9. To the maximum extent possible, the offer will also be made to affect the PHA's policy of economic deconcentration.
  10. If more than one unit of the appropriate size and type is available, the first unit to be offered will be the unit that will serve to achieve the PHA's goal of economic deconcentration.

## CHAPTER 17: USE AND OCCUPANCY

### A. Primary Residence

1. The unit leased from the PHA must be the family's primary residence. Public housing assistance will be terminated if the PHA determines the leased unit is not the family's primary residence.
2. Factors that may be considered in determining whether the unit remains the family's primary resident may include but are not limited to:
  - a. Family members using an address other than the PHA unit as a place of residence on any tax return, motor vehicle registration, driver's license, or other documents filed with a public agency.
  - b. Using an address other than the PHA unit as a voting address.
  - c. Subletting the unit.

### B. Absence from the Unit

#### 1. Time Limits on Family Absences

Family absence means that no member of the family listed on the lease is residing in the unit. The PHA establishes how long the family may be absent from the unit.

- a. The family must promptly, within 10 calendar days of occurrence, notify the PHA of the family's absence from the unit.
- b. The family may not be absent from the unit for a period of more than 30 consecutive calendar days without written consent from the PHA.
- c. The Executive Director may approve a temporary absence from the unit of up to 60 consecutive calendar days for extraordinary reasons, such as but not limited to military leave, hospitalization, or imprisonment, as long as the tenant rent, and utilities are current and not delinquent.

#### 2. Absence of Children Because of Placement in Foster Care

The family must promptly, within 10 calendar days of occurrence, notify the PHA of the absence from the unit of any children listed on the lease due to placement in foster care. The PHA will contact the agency responsible for the children's placement in foster care to determine the approximate length of time the children are expected to be away from the unit.

- a. If the agency indicates that the children are expected to return to the unit at some point, the children will remain a part of the family composition and will be counted toward the family's occupancy standards but will not be counted as dependents until they return to the unit.

- b. If the children are not expected to be returned to the unit, the children will be removed from the family composition and the family's occupancy standards will be reduced accordingly.
  - c. If the agency indicates that it is unknown whether the children will be returned to the unit, the children will remain a part of the family composition.
  - d. Oral conversations with the agency will be thoroughly documented in the family file, including the date of contact, name and title of contact person, name of agency, telephone number, and the details of the conversation.
3. Use of Caretaker Due to Absence of Head of Household
- The family must promptly, within 10 calendar days of occurrence,** notify the PHA of the absence of the head of household due to imprisonment, hospitalization, military service, etc. Upon notification to the PHA, when the head of household is absent from the unit as a result of imprisonment, hospitalization, military service, etc., and there are no other adult household members, upon approval of the PHA, another adult may move into the unit to care for the children, while the head of household is absent.
- a. The public housing assistance will not be terminated.
  - b. The head of household's name shall be temporarily removed.
    - 1) The family composition will be modified to include the name of the caretaker as head of household.
    - 2) The PHA will document the file explain the circumstances.
    - 3) The original head of household will be reinstated as the head of household upon their return.
  - c. The caretaker's income will not be included in the family annual income.
  - d. Upon the head of household's return, upon PHA approval, the caretaker may leave or remain as part of the household as long as the addition of the caretaker would not result in a violation of the PHA's occupancy standards. If the caretaker remains, their income will be included in the calculation of family annual income.
4. Temporarily Absence Due to Military Service or School
- The family must promptly, within 10 calendar days of occurrence,** notify the PHA of the absence of family members due to military service or school.
- a. Head of Household, Spouse, or Co-Head

If the head of household, spouse or co-head is temporarily absent from the unit due to serve in the military or to attend school, the PHA shall include their income in the calculation of annual income.



b. Other Family Members

If a family member other than the head of household, spouse or co-head is temporarily absent from the unit due to service in the military or to attend school, the family has the option of:

- 1) Considering the family member temporarily absent from the household. In this case, the temporarily absent family member:
    - a) Income will be included in annual income;
    - b) Name will remain on the lease; and
    - c) Will be counted toward the occupancy standards.
  - 2) Considering the family member permanently absent from the household. In this case, the former member of the household:
    - a) Income will not be included in annual income;
    - b) Name will be removed from the lease; and
    - c) Will not be counted toward the occupancy standards.
    - d) If the family wishes to add the former member back to the household as a family member again, the former member will be required to meet the PHA screening criteria prior to being added back to the household.
5. Absence Due to Hospitalization or Admittance into a Nursing Home

The family must promptly, within 10 calendar days of occurrence, notify the PHA of the family member's absence of the unit due to hospitalization or admittance into a nursing home.

a. Sole Member

- 1) When the family consists of only one member and that person is absent from the unit because of admittance into a hospital or nursing home for a period of more than 180 days, the public housing assistance will be terminated.
- 2) If a medical provider documents that the person is expected to return to the unit in 180 days or less, the sole member shall continue to receive housing assistance.
- 3) If the sole family member is absent from the unit for 30 days during the lease term or any renewal or extension period while the tenant rent is delinquent, the PHA may deem the unit abandoned if an inspection shows that all or most of the family's property has been removed.

b. Other Family Members

If a family member other than the head of household, spouse or co-head is temporarily absent from the unit because of admittance into the hospital or nursing home, the family has the option of:

- 1) Considering the family member temporarily absent from the household. The temporary absent family member:
    - a) Income will be counted in annual income;
    - b) Name will remain on the lease; and
    - c) Will be counted for the occupancy standards.
  - 2) Considering the family member permanently absent from the household. The former member of the household:
    - a) Income will not be counted in annual income;
    - b) Name will be removed from the lease; and
    - c) Will not be counted for the occupancy standards.
    - d) If the family wishes to add the former member back to the household as a family member again, the former member will be required to meet the PHA screening criteria prior to being added back to the household.
6. Verification of Absence from the Unit

The family must supply any information or certification requested by the PHA to verify that the family is residing in the unit or relating to the family's absence from the unit.

- a. The family must provide the PHA any PHA-requested information or certification on the purposes of the family absence.
- b. The PHA may utilize appropriate techniques to verify family occupancy or absence, including but not limited to sending notifications/letters to the family at the unit, phone calls, visits to the unit, interviews/questions of neighbors, or verify with the utility suppliers if the utilities are in service.
- c. The PHA will determine that the unit is not the family's primary residence if all family members are absent for 60 consecutive days during a lease period without notice and/or PHA approval.

### **C. Abandonment of the Unit**

Abandonment is distinguished from an absence from the unit by the family's failure to pay the tenant rent due for the unit and failure to acknowledge or respond to PHA notices regarding the past due tenant rent or absence from the unit.

1. If the family and all other persons are absent from the unit for 30 consecutive days during the lease term or any renewal or extension period while the tenant rent is delinquent, the PHA may deem the unit abandoned if an inspection shows that all or most of the family's property has been removed.
2. If the unit is determined to be abandoned, the PHA will terminate the family's housing assistance.

3. The PHA shall inform the family of its rights to request a hearing if the housing assistance is terminated.

#### **D. VAWA Exception**

If the family is absent or has moved from the unit in violation of the lease and without notice to the PHA in order to protect the health or safety of a person who is or has been the victim of a VAWA crime and who reasonably believes to be threatened with imminent harm from further violence by remaining in the unit (or any family member has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's move), and has otherwise complied with all other obligations under the public housing program, the PHA will not terminate the family's public housing assistance.

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## CHAPTER 18: CHOICE OF RENT

The PHA will provide through its orientations, individual counseling, and by written notices, sufficient information to allow families to make an informed choice of rent payment options. At a minimum, families will be advised of:

1. The dollar amounts of the flat rent and the income-based rent; and
2. The PHA's policies on switching the type of rent in circumstances of financial hardship.

### A. Rent Options and Annual Reviews

Annually, the PHA will give families the option to choose between paying the flat rent or the income-based rent. The PHA will not give families the choice of rent option more than once per year, except in the case where the family has chosen the flat rent and experiences a financial hardship.

1. The PHA will provide the following information to allow a family to make an informed choice regarding rent options:
  - a. The PHA's policies on switching the type of rent due to financial hardship; and
  - b. The dollar amount of the flat rent and the income-based rent.
2. Regardless of whether the family chooses to pay a flat rent or income-based rent, the family must pay at least the minimum rent.
3. Annual Reviews

The PHA will comply with the requirement to review rent option annually with families and to provide families with sufficient information to make an informed choice of rent. The PHA will do the following:

- a. At initial occupancy, or in any year where a current program participating family is paying the income-based rent:
  - 1) Conduct a full reexamination of family income and composition at the first annual rent option (Year 1);
  - 2) Inform the family of the flat rent amount and the rent amount determined by the reexamination of family income and composition;
  - 3) Inform the family of the PHA's policies on switching rent types due to a financial hardship; and
  - 4) Apply the family's rent choice at the next lease renewal.
- b. At the second and third annual rent options, for families that choose to switch from income-based rent to pay the flat rent, the PHA:
  - 1) Will not conduct a full reexamination of family income and composition for the second and third annual rent option. If the PHA chooses not to conduct a reexamination of family income for this annual rent option, the PHA must use the

income information from the reexamination of family income and composition from the first annual rent option.

- 2) For a family that has paid the flat rent for the previous three (3) years, and for which the PHA has not conducted a re-examination of family income and composition in the last three (3) years, the PHA must complete a full reexamination of family income and composition in order to update the income-based rent amount.
  - 3) Must inform the family of the updated flat rent amount, and the rent amount determined by the most recent reexamination of family income and composition;
  - 4) Must inform the family of the PHA's policy of switching rent types due to a financial hardship; and
  - 5) Must apply the family's rent decision at the next lease renewal.
- c. At the next annual rent option, the PHA will offer the updated flat rent amount and permit the family to choose between the flat rent amount or the income-based rent, subject to the phase-in requirements.

## **B. Flat Rent**

The FY 2014 Appropriations Act required PHAs to establish flat rents at no less than 80% of the applicable Fair Market Rent (FMR), and established rent increase phase-in requirements to prevent family rental payments from increasing by more than 35%.

The FY 2015 Appropriations Act maintained the FY 2014 rent increase phase-in requirements and amended the 2014 Act to require that flat rents for each public housing unit be set at no less than the lower of:

1. 80% of the applicable FMR; or
2. At the discretion of the Secretary, 80% of such other applicable FMR established by the Secretary that the Secretary determines more accurately reflects local market conditions and is based on an applicable market area that is geographically smaller than the applicable market area used for purposes of the applicable FMR (such as the applicable Small Area Fair Market Rent (SAFMR) or unadjusted rent).

## **C. Flat Rent, Utilities and Utility Allowance**

1. The PHA will consider who is responsible for direct utility payments to the utility suppliers and provide for a utility allowance as necessary.
2. For units where the utilities are tenant-paid, the PHA must adjust the flat rent downward by the amount of a utility allowance for which the family might otherwise be eligible.
3. Formula to Calculate an FMR-Based Flat Rent

Flat rents are always inclusive of utilities. In the case of a flat rent set using the FMR, the utility allowance should be subtracted before setting the flat rent.

- a.  $\text{FMR (or SAFMR/unadjusted rent as applicable)} \times 80\% - \text{utility allowance}$

- b. If the PHA sets an exception flat rent using a market study, then the market study takes into account and adjusts for the value of utilities. The cost of utilities is included in the flat rent.
- c. If the PHA sets a flat rent above 80% of the FMR, the PHA will maintain the appropriate records to document the rent levels.

#### **D. Annual Flat Rent Compliance**

To comply with the flat rent requirements annually, no later than 90 days after the effective date of the new FMRs or SAFMRs published by HUD, the PHA will:

1. Compare the current flat rent amount to the applicable FMRs or SAFMRs/unadjusted rent. The PHA will be in compliance with the flat rent requirement and no further action is necessary, if the flat rent is at least equal to the lower of:
  - a. 80% of the applicable FMR; or
  - b. 80% of the applicable SAFMR (or if no SAMER is available, 80% of unadjusted rent).
  - c. If the current flat rent is less than the lower of the above, the PHA must set flat rents at no less than 80% of the lower of the 80% FMR or 80% SAFMR/80% unadjusted rent, subject to the utilities adjustment, or the PHA may request an exception flat rent;
2. Update the flat rent policies in the ACOP, as necessary;
3. Permit the family to choose between flat rent amount and the income-based rent for all new admissions; and
4. Offer flat rent amount at the next annual rent option for families that are current public housing residents and permit the family to choose between the flat rent amount and the income-based rent, subject to the phase-in requirements.

#### **E. Flat Rent Exception**

The PHA does not need to submit exception requests to set flat rents at or above 80% of the FMR or SAFMR, or if the SAFMR is not available, 80% of the unadjusted rent.

1. HUD requires flat rent exception requests if the PHA's current flat rent is less than the lower of:
  - a. 80% of the FMR, or
  - b. 80% of the SAFMR (or if a SAFMR is not available, 80% of the unadjusted rent).
2. The PHA will have 90 days from the effective date from the current year's FMR to submit a flat rent exception request.
3. Market Analysis Content and Justification
  - a. In order to demonstrate the need for an exception flat rent, the PHA must submit a market analysis that demonstrates the value of the unit. The PHA may not request an exception flat rent that is lower than the demonstrated market value of the unit.

- b. The PHA must demonstrate, based on the market analysis, that the proposed flat rent is a reasonable rent in comparison to rent for other comparable unassisted units, based on the location, quality, size, unit type, and age of the public housing unit and any amenities, housing services, maintenance, and utilities to be provided by the PHA in accordance with the lease.

#### 4. Approved Flat Rent Exception Request

The PHA must receive written HUD approval to utilize an exception flat rent prior to implementing the new exception flat rent rates.

- a. The PHA may continue to utilize its current flat rent schedule, while HUD is reviewing the PHA's flat rent exception request and supplemental information.
- b. The approved exception request will remain in effect until the end of the 90-day period commencing upon the effective date of HUD's Final Fiscal Year FMRs or the date on which a PHA updates and makes effective its flat rent schedule based on that fiscal year's FMRs, whichever comes first.
- c. The PHA must update its flat rents to the approved flat rent exception amount immediately after the date of HUD's approval for all intake and reexamination activities.
- d. The PHA will apply the approved flat rent exception amount immediately to intakes and reexaminations, and must apply it to any intake or reexamination that takes effect 60 days or more after the approval date.

#### 5. Previous Approved Flat Rent Exception Request

- a. If HUD approved the PHA's flat rent exception request from a previous fiscal year, the PHA may request an extension of this approval under the following circumstance:
  - 1) The PHA request an extension of the exact rents as previously approved by HUD;
  - 2) The market study accompanying the previously approved request is no more than two (2) years old;
  - 3) The market conditions remain unchanged; and
  - 4) The PHA submits the extension request to HUD no later than 90 days after the effective date of the final FMRs published by HUD.
- b. HUD will not approve extension request that include changes or additions to previously approved exception flat rents.

#### 6. Disapproval of Flat Rent Exception Request

HUD will review the PHA's flat rent exception request.

- a. HUD will respond with the results of its review and provide the PHA two (2) opportunities to cure deficiencies or provide additional information.

- b. The PHA must respond in writing no later than 30 days after receiving HUD's notification of the insufficient submission. The PHA's response should include any new information the PHA believes is necessary to supplement the original submission.
- c. The PHA may continue to utilize its current flat rent schedule while awaiting the results of HUD's review of the additional information.
- d. If the PHA cannot provide sufficient information to justify the exception after two (2) requests, HUD will deny the flat rent exception request.
- e. If the PHA's exception request is denied, the PHA must immediately revise its flat rent rates using the applicable FMR and the updated flat rent must be applied to any intake or reexamination that takes effect 60 days after the denial date.

#### 7. Flat Rent Increase Phase-In Requirements

If an existing flat rent tenant's rental payment prior to any applicable adjustments for utilities payments increases by more than 35% as a result of changes to the flat rent amount, the increase must be phased-in such that a family does not experience an increase in their rental payment of more than 35%.

- a. On a case-by-case basis at the family's next annual rent option, the PHA will compare the updated flat rent amount applicable to the unit to the rent that was being paid by the family immediately prior to the annual rent option:
  - 1) If the new flat rent amount would not increase a family's rental payment by more than 35%, the family may choose to pay either the updated flat rent amount or the previously calculated income-based rent;
  - 2) If the PHA determines that the updated flat rent amount would increase the family's rental payment by more than 35%, the family may choose to pay the phased-in flat rent amount resulting from the flat rent impact analysis or the previously calculated income-based rent.
- b. Families paying flat rent will not have their rent adjusted until their annual reexamination or annual update.

## F. Income-Based Rent

Is a tenant rent which is based on the family's income and the PHA's rent policies for determination of the rent.

1. The income-based tenant rent must not exceed the total tenant payment (TTP) for the family minus any applicable utility allowance for tenant-paid utilities.
2. If the utility allowance exceeds the TTP, the PHA will pay such excess amount (the utility reimbursement) to the family.
3. The PHA will use the standard formula for calculating income-based rent.



## **G. Switch from Flat Rent to Income-Based Rent Because of Financial Hardship**

If the family that is paying a flat rent experiences a financial hardship, the family may at any time, before the next annual choice of rent option, request to be switched to income-based rent.

1. The PHA has established the following policies for determining when payment of flat rent is a financial hardship:
  - a. The family's income has decreased because of changed circumstances, including loss or reduction of employment, death in the family which results in reduction of income or payment of funeral expenses, reduction in or loss of earnings, or reduction or loss of other assistance;
  - b. The family has experienced an increase in expenses, because of changed circumstances, for unreimbursed medical costs, childcare, transportation, education, or similar items; and
  - c. Other reasonable financial hardship circumstances which may be applied on a case-by-case basis at the discretion of the PHA.
2. The PHA will switch the family's rent from flat rent to income-based rent on the first of the month following verification of the financial hardship.
3. Once the family switches from flat rent to income-based rent due to financial hardship, the family may not change back to flat rent until its next annual reexamination.

## **H. Ceiling Rent**

If the PHA established and was administering ceiling rents prior to October 1, 1999, the PHA is 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.

The PHA will follow the requirements for calculating, adjusting, and reporting flat rents when calculating and adjusting ceiling rents.

To improve transparency and accuracy of reporting, the PHA may no longer use line 10c (income-based ceiling rent) on the form HUD-50058 to report ceiling rents for any family.

The PHA will use line 10b (flat rent) to report the applicable maximum rental amount.

## CHAPTER 19: TENANT RENT AND OTHER CHARGES

The following outlines the policies for calculating rental fees and other charges to be paid by PHA residents.

### A. Tenant Rent

Tenant rent is the amount of rent payable by the family to the PHA.

1. The tenant shall pay the amount of the monthly tenant rent determined by the PHA in accordance with HUD regulations and other requirements.
2. The amount of the tenant rent is subject to change in accordance with HUD requirements.
  - a. The lease shall specify the initial amount of the tenant rent at the beginning of the initial lease term.
  - b. The PHA will give the tenant written notice stating any change in the amount of tenant rent, and when the change is effective.
3. Tenant rent is due and payable on the 1<sup>st</sup> day of the month and is delinquent if not paid by the close of business on the 5<sup>th</sup> day of the month, unless the 5<sup>th</sup> day falls on a weekend or holiday, in which case tenant rent will be late as of the close of business on the next full business day.

### B. Changes in Addition to Tenant Rent

Appendix B contains the PHA's list of charges in addition to rent. The lease imposes charges for the following:

1. Penalties for late payments
2. NSF check charges
3. Security deposits, see Chapter 20
4. Charges for maintenance and repair beyond normal wear and tear
5. Charges for the consumption of excess utilities
6. Pet security deposits
7. The payment of all court costs, expenses and attorney fees incurred in enforcing the dwelling lease or in recovering possession of the premises, if ordered by the court, unless the tenant prevails in such legal action.
8. The PHA will provide basic pest control services without charge to the tenants. Only PHA staff or contractors who possess current pest control licensing will conduct pest control activities subject to law or regulation.
9. The pet security deposit and/or fee is paid in full prior to the pet being brought into the unit. Partial payments for pet security deposits or fees will not be considered for any reason. Security deposits for a pet are not charged if the animal is determined to be a service animal needed by a person with a disability.

10. The other charges listed above will become due and payable the first day of the month following the month in which the charge or charges incur and two (2) weeks after the PHA notice is provided to the resident.
11. The tenant will be left a copy of the work order with charges or will be invoiced by the PHA. Invoices and work orders will state that the tenant has a right to grieve said charges according to the PHA's established Grievance Procedures.

### **C. Forms of Payment**

1. The PHA's policy does not allow acceptance of cash for tenant rent or other charges.
2. Tenant rent and other payments will be accepted only in the form of money orders. Personal checks will only be accepted for a reasonable accommodation.
3. Personal checks (accepted for a reasonable accommodation only) may be presented until or unless more than one Non-Sufficient Funds (NSF) check is presented. An insufficient fund (NSF) fee of the amount the PHA is charged for the returned personal check will be assessed against the resident's account. The resident will then be required to make payment using money orders.

### **D. Delinquent Charges and Late Fees**

If rent is unpaid by the close of business on the 5<sup>th</sup> day of the month, a one-time per month late fee of twenty-five dollars (\$25.00) will be assessed.

### **E. Total Tenant Payment (TTP)**

The Income-Based TTP for families shall be the highest of the following, rounded to the nearest dollar:

1. Thirty percent (30%) of the family's Monthly Adjusted Income;
2. Ten percent (10%) of the family's Monthly Gross Income;
3. Welfare rent (in as-paid welfare states); When welfare rent is the higher, the PHA will recalculate rent once after the welfare department recalculates welfare based on the PHA's initial rent determination.
4. A minimum rent of fifty dollars (\$50.00); or

The minimum rent requirement may be waived under certain financial hardships providing that the family requests the waiver in writing prior to the rent becoming delinquent as detailed in Section G of this Chapter.

### **F. Minimum Rent**

The minimum rent is the minimum rent payable by the family.

1. The PHA may establish a minimum rent up to \$50.00.
2. The PHA has established a minimum rent for the public housing program at \$50.00.

## G. Minimum Rent Hardship Exemption

The PHA recognizes that in some circumstances the minimum rent may create a financial hardship for families.

If the PHA adopts a minimum rent greater than \$0, the PHA must grant exemptions from the minimum rent requirement to any family if the PHA determines that the family is unable to pay the amount due to financial hardships, unless the hardship is temporary.

1. Financial hardship includes the following:
  - a. The family has lost eligibility or is awaiting an eligibility determination to receive federal, state, or local assistance, including a family having a non-citizen household member lawfully admitted for permanent residence and who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996;
  - b. The family income has decreased due to changed circumstances such as separation, divorce, and/or abandonment;
  - c. One or more family members have lost employment;
  - d. The family would be evicted as a result of imposing the minimum rent requirement;
  - e. There has been a death in the family; or
  - f. There are other hardship situations determined by the PHA on a case-by-case basis, i.e., alimony, child support, etc.
2. The PHA may request documentation of the hardship and will promptly, within five (5) business days, determine if the hardship is temporary or long term.
3. The PHA will suspend the minimum rent requirement and adjust the HAP accordingly beginning the month following the family's written request for a hardship exemption until the PHA determines whether there is a qualifying financial hardship, and whether the hardship is temporary or long term.
  - a. The financial hardship exemption only applies to payment of minimum rent for determining the TTP.
  - b. The TTP is still calculated excluding the minimum rent.
  - c. The family will pay the higher of 30% of the monthly adjusted income, 10% of the monthly income, or the welfare rent, as applicable, during the term of the suspended minimum rent.
4. Temporary Hardship Exemption

The PHA has defined a temporary hardship as a hardship to last less than 90 days.

- a. If the hardship is determined to be temporary, the PHA will not impose the minimum rent during the 90-day period beginning the month following the date the family's request for a hardship exemption.

- b. At the end of the 90-day suspension period, the minimum rent is reinstated retroactively to the date of suspension.
  - c. The family must execute a Repayment Agreement for the back rent owed by the family.
5. Long Term Hardship Exemption

The PHA has defined long term hardship as a hardship that last more than 90 days.

  - a. If the hardship is determined to be long term, the PHA will exempt the family from the minimum rent requirements for long as such hardship continues.
  - b. The PHA shall apply this exemption from the beginning of the month following the family's request for a hardship exemption until the end of the qualifying financial hardship.
  - c. The family is not required to repay the difference between the TTP and the minimum rent to the PHA once the hardship is over.
6. If the PHA is unable to determine if the hardship exemption will be temporary or long term, the PHA may approve a temporary hardship exemption and redetermine the family's status at the end of the temporary hard exemption term.
7. No Qualifying Hardship
  - a. If the PHA determines there is no qualifying financial hardship, the PHA must reinstate the minimum rent, including back rent owed from the beginning of the suspension.
  - b. The family must execute a Repayment Agreement for the back rent owed by the family.
8. Denial of a minimum rent hardship exemption is subject to the PHA's informal hearing process.

## **H. Special Reexamination**

1. If, at the time of admission, a family's existing conditions of employment are too unstable to develop the adjusted income into the coming 12-month period for the purpose of determining TTP, the PHA will schedule a special reexamination.
  - a. This special reexamination will take place within 30, 60, or 90 days of admission, or at a date by which the PHA estimates that the family's circumstances will be stable.
  - b. If at the time of such special reexamination it is still not possible to make a reasonable estimate of adjusted income, special reexaminations will continue to be scheduled until a reasonable estimate of the adjusted income can be made.
  - c. Increases in rent determined at special reexaminations shall be made effective the first of the second month following the final rent determination. If the determination results in a decrease in rent, the effective date will be the first of the month following the reexamination verification.
  - d. Until the final rent determination can be made, the family will pay rent based upon the existing adjusted income.

2. Persons reporting zero income will have their circumstances reexamined every 120 days until they have a stable income.
3. Persons claiming zero income will also be asked to complete a family expense form. This form will ask residents to estimate how much they spend on food, beverages, transportation, health care, childcare, debts, household items, etc. Residents will then be asked how they pay for these items.

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## CHAPTER 20: SECURITY DEPOSIT

A security deposit is used to reimburse the PHA for any resident-caused damage to the unit, unpaid tenant rent, and other unpaid charges when the resident vacates the unit. **The PHA requires residents to pay a security deposit.**

1. **The PHA requires all resident families to pay a security deposit prior to occupying a unit.**
2. The security deposit will not exceed one month's rent, or a reasonable fixed amount established by the PHA, in accordance with state law. The PHA's security deposits amounts are detailed in Appendix F of this Policy.
3. The family's security deposit, including any agreement for gradual accumulation of the security deposit, will be listed in the lease.
4. **The PHA will not deposit the family paid security deposit into an interest bearing or non-interest-bearing account and will maintain full, accurate, and detailed accounting records with the financial institution.**
5. The PHA will not use the security deposit for any purpose whatsoever while the family occupies the unit.
6. Subject to state and local laws, the security deposit and any interest earned on the security deposit, will be refunded to the family when the family vacates the unit, provided the following conditions have been met:
  - a. The PHA has inspected the unit and attests that there are no resident-caused damages, or if there are such damages, the resident has paid the PHA for the cost of the necessary repairs and/or replacements to the unit.
  - b. The resident does not owe the PHA rent or other charges.
  - c. The unit and all equipment therein have been left reasonably clean and free of all trash and debris.
  - d. The resident has returned all keys to the unit and any or all tools, supplies, and equipment borrowed from the PHA.
7. If the head of a single member family dies and all of the above conditions prevail, the PHA will dispose of the security deposit in accordance with state and local laws, rules, and regulations pertaining to the resident's estate.

## **CHAPTER 21: UTILITIES AND THE UTILITY ALLOWANCE**

The PHA is required to provide adequate utility service in order to provide safe, decent, and sanitary units.

### **A. Utility Services**

Utility services are the services needed to operate and maintain buildings in good working order.

1. The lease will identify the utilities that the tenant is responsible for paying.
2. If the family fails to pay the utilities identified in the lease, the PHA may terminate the family's tenancy.
3. Utility services may include:
  - a. Electricity
  - b. Gas
  - c. Heating fuel
  - d. Water
  - e. Sewerage services
4. Utility services do not include:
  - a. Services to remove garbage or refuse from a facility
    - 1) Waste removal (garbage) services are not an eligible utility expense as they are already included as part of the Operating Fund Formula Project Expense Level (PEL).
    - 2) If the family is responsible for paying for waste removal services, the PHA may include a reasonable cost in the utility allowance calculation.
  - b. Fuel to operate vehicles, independent of whether the vehicles are owned by the PHA
  - c. Pest management services
  - d. Cable television
  - e. Internet services
  - f. Building maintenance material or services

### **B. Individual Metering of Utilities**

1. The PHA will individually meter utilities for each individual unit, either through provision of retail service to the residents by the utility supplier or through the use of check-meters, unless:
  - a. Individual metering is impractical, such as in the case of a central heating system in a development;



- b. Change from master-metering system to individual meters would not be financially justified based upon a benefit/cost analysis. The PHA will conduct a benefits/cost analysis for converting to an individually-metered system at least every five (5) years; or
  - c. Check-metering is not permissible under state or local law, or under the policies of the particular utility supplier or public service commission.
2. Where check-metering is not permissible, retail service shall be considered.
  3. Where check-metering is permissible, the type of individual metering offering the most savings to the PHA will be selected.

### **C. Establishment of Utility Allowances**

The PHA will establish separate allowances for each utility and for each category of units (type/size) determined by the PHA to be reasonably comparable as to factors affecting utility usage.

1. The PHA will take the following actions with respect to allowances:
  - a. Establish utility allowances for PHA-furnished utilities for all check-metered utilities.
  - b. Establish utility allowances for resident-purchased utilities for all utilities purchased directly by residents from the utility suppliers.
  - c. Maintain a record that documents the basis on which allowances and scheduled surcharges are established and revised and make such records available for inspection by residents.
  - d. Notify all residents of proposed allowances, scheduled surcharges, and revisions.
    - 1) The PHA will provide the notice to the residents not less than 60 days before the proposed effective date of the new allowances, scheduled surcharges, or revisions.
    - 2) The PHA will include in the notice, with reasonable particularity, the basis for determination of the allowances, scheduled surcharges, or revisions.
    - 3) The PHA will include in the notice a statement of the specific items of equipment and function whose utility consumption requirements were included in determining the amount of the allowance, scheduled surcharges, or revisions.
    - 4) The notice will include the place where the PHA maintains records pertaining to allowances, scheduled surcharges, or revisions, and that the records are available for inspections.
    - 5) The notice shall advise that the residents have an opportunity to submit written comment during a period expiring not less than 30 days before the proposed effective date of the allowances, scheduled surcharges, or revisions.
    - 6) The notice shall state that the residents' written comments will be retained by the PHA and will be available for inspection by the residents.

2. Schedules of allowances and scheduled surcharges will not be subject to HUD approval before becoming effective, but will be reviewed in the course of HUD audits or reviews of the PHA's operations.
3. The PHA's determination of allowances, scheduled surcharges, and revisions will be final and valid unless found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.
4. Standards for Allowances for Utilities

The PHA will design methods of establishing utility allowances and surcharges for each unit category and unit size to cover a reasonable amount of consumption for an energy-conservative household of modest circumstances.

- a. The PHA's established allowances for both PHA-furnished utilities and resident-purchased utilities will be designed to include reasonable consumption for:
  - 1) Major equipment or utility functions furnished by the PHA for all residents, such as a heating furnace and a hot water heater;
  - 2) Essential equipment, whether or not furnished by the PHA, such as a cooking stove, range or refrigerator; and
  - 3) Minor items of equipment furnished by residents, such as toasters, radios and television sets.
- b. The PHA has the discretion to choose the methodology for calculating allowances and surcharges.
- c. In establishing allowances and surcharges, the PHA will take into account relevant factors affecting consumption requirements, including:
  - 1) The equipment and functions to be covered by the allowance for which the utility will be used
  - 2) The local climate
  - 3) The size of the units and the number of occupants per unit
  - 4) The design and construction of the housing development
  - 5) The energy efficiency of PHA-supplied appliances and equipment
  - 6) The utility consumption requirements of appliances and equipment whose reasonable consumption is intended to be covered by the total resident payment
  - 7) The physical condition, including insulation and weatherization
  - 8) Temperature levels intended to be maintained in the unit during the day and at night, in cold and warm weather and the temperature of domestic hot of domestic hot water.

- d. If the PHA installs air conditioning, it will provide, to the maximum extent economically feasible systems that give residents the option of choosing to use air conditioning in their units.
  - 1) 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.
  - 2) For systems that offer residents the option to choose air conditioning, the PHA will not include air conditioning in the utility allowances.
  - 3) For systems that offer residents the option to choose air conditioning but cannot be check-metered, residents are to be surcharged in accordance with the provisions in this chapter.
  - 4) 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.
5. Period for Which Allowances are Established
  - a. PHA-Furnished Utilities:
    - 1) Allowances will normally be established on a quarterly basis; however, the PHA may surcharge the residents on a monthly basis.
    - 2) The PHA may provide for seasonal variations for the allowances.
  - b. Resident-Purchased Utilities:
    - 1) The PHA will establish monthly allowances.
    - 2) The PHA may provide for seasonal variations for the allowances.

#### **D. Resident-Purchased Utilities**

For units with resident-purchased utilities, the local utility supplier, owns, operates, maintains, and read the individual utility meters for each individual unit.

1. The resident will be required to establish individual accounts in the name of an eligible family member with the local utility supplier and pay the utility supplier directly for consumption.
2. The resident will be required to sign a third-party notification agreement so that the PHA will be notified if the resident fails to pay the utility bill.
3. The PHA will provide a utility allowance to cover reasonable utility expenditures for the unit and the resident pays the utility supplier directly each time a utility bill is issued.
4. If the utility costs exceed the utility allowance, the resident is responsible for the entire bill and must make up the difference.
5. If the utility cost is less than the utility allowance, the resident will benefit from their consumption efforts.

## **E. PHA-Furnished Utilities**

For units with PHA-furnished utilities, the PHA pays for the entire building's utility consumption and the resident is not responsible for paying the utility supplier.

1. Examples of PHA-furnished utilities include but are not limited to:
  - a. Electricity service
  - b. Electricity service for common area hallways, meeting rooms, offices
  - c. Electricity service for communal outdoor space, such as a courtyard, playground, or parking lot
  - d. Water service
  - e. Natural gas service
  - f. Electricity, natural gas, or water service for an administration building
2. If the building is individually metered to measure utility consumption for individual units, the PHA will assign tenant responsibility through utility surcharges.
3. If the building is not individually metered to measure actual utility consumption for individual units, the PHA will not be able to assign tenant responsibility for actual utility consumption.
4. If there is no tenant accountability for actual utility consumption, the PHA may surcharge the residents for the installation of resident-owned major appliances, such as resident-owned air conditioning units, or to optional functions of PHA-furnished equipment.

## **F. Surcharges for Excess Consumption of PHA-Furnished Utilities**

1. For units subject to allowances for PHA-furnished utilities where check-meters have been installed:
  - a. The PHA will establish surcharges for utility consumption in excess of the allowances.
  - b. The PHA will compute the surcharges on a straight per unit of purchase basis (e.g., cents per kilowatt hour of electricity) or for stated block of excess consumption, based on the PHA's average utility rate.
  - c. The PHA will describe the basis for calculating such surcharges in the PHA Schedule of Allowances and Surcharges.
  - d. Changes in the dollar amount of surcharges based directly on changes in the PHA's average utility rate will not be subject to the advance notice requirements of this chapter.
2. For unit served by PHA-furnished utility where check-meters have not been installed:
  - a. The PHA will 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 function of PHA-furnished equipment.
- b. The PHA Schedule of Allowances and Surcharges will state the resident-owned equipment or functions of PHA-furnished equipment for which surcharges will be made, and the amounts of such surcharges, based on the PHA's cost of the utility consumption estimated to be attributable to the reasonable use of equipment.
3. Surcharges in Relationship to Tenant Rent
    - a. Neither the utility consumption nor the surcharges will impact the tenant rent.
    - b. The surcharges are collected in addition to the calculated tenant rent.
    - c. The PHA must give the tenant at least two (2) weeks' notice to pay any surcharges.

## **G. Review and Revision of Allowances**

1. Annual Review
  - a. The PHA will review at least annually, the basis on which utility allowances and surcharges have been established and update as necessary.
  - b. The PHA will include in the annual review all changes in circumstances, such as the completion of a modernization program, energy conservation measures, and changes in utility rates.
  - c. If the utility supplier's website states that there is an approved utility rate increase, the PHA will take this into account when determining allowances for the upcoming year.
  - d. The PHA will maintain documentation of annual reviews regardless of whether changes to the allowances or surcharges are made.
2. Revision as a Result of Rate Changes
  - a. The PHA may revise its allowances for resident-purchased utilities between annual reviews if there is a rate change (including fuel adjustments) and will be required to do so if such change, by itself or together with prior rate changes not adjusted for, results in a change of 10% or more from the rates on which such allowances were based.
  - b. Adjustments to resident payments as a result of such changes shall be retroactive to the first day of the month following the month in which the last rate change taken into account in such revision become effective.
  - c. The rate changes shall not be subject to the 60-day notice requirement.

## **H. Utility Reimbursement**

When the family's total tenant payment is less than the utility allowance, the PHA will pay the difference between the total tenant payment and the utility allowance. This is referred to as the utility reimbursement.

1. When there is a utility reimbursement, the PHA will pay the utility reimbursement directly to the family.
2. The PHA may make the utility reimbursement payments quarterly, rather than monthly, if the total quarterly reimbursement payment due to the family is equal to or less than \$45 per quarter.
  - a. The PHA has elected to make retroactive utility reimbursement payments.

**Retroactive Payments:**

If the total amount of the Utility Reimbursement Payment due to the family is equal to or less than forty-five dollars (\$45) per month, the PHA will make quarterly Utility Reimbursement Payments rather than monthly.

The PHA will issue the reimbursement payments retroactively. The retroactive utility reimbursement payments will be issued as follows:

January – March utility reimbursement payments will be issued no later than March 31<sup>st</sup>

April – June utility reimbursement payments will be issued no later than June 30<sup>th</sup>

July – September utility reimbursement payments will be issued no later than September 30<sup>th</sup>

October – December utility reimbursement payments will be issued no later than December 31<sup>st</sup>

The PHA will inform the family that they may request a hardship exemption. If the family request and receives a hardship exemption, the PHA will reimburse the family either on a monthly basis or make prospective payments on a quarterly basis.

If the family leaves the program with an outstanding credit from the PHA for a utility reimbursement, the PHA shall reconcile the credit with the family prior to the expiration of the lease.
3. If the family pays a flat rent, the family is not eligible for a utility reimbursement.

## **I. Reasonable Accommodation and Individual Relief**

The PHA may adjust utility allowances and surcharges for families where at least one occupant is a person with disabilities or has a special need.

1. Upon a request from a family that includes a member who is a person with disabilities, a person with special needs, or an elderly person, the PHA will approve a utility allowance that is higher than the applicable amount on the utility allowance schedule if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and useable by the family.
2. The PHA may grant, on a case-by-case basis, relief from surcharges for excess consumption of PHA-purchased utilities or from payment of utility supplier billings in excess of the allowances for resident-purchased utilities, based on reasonable grounds as

the PHA deem appropriate, such as special needs of elderly, ill or residents with disabilities, or based on special factors affecting utility usage not within the control of the resident.

- a. The PHA will adopt the criteria for granting such relief, and the procedures for requesting such relief, at the same time as the methods and procedures for determining utility allowances.
- b. The PHA will provide notice with information about the availability of such relief (including the identification of the PHA representative with whom initial contact may be made by residents) to existing and upon admission, to new residents.

## **J. General Utility Policies**

1. The PHA will pay the utility bill when a unit is vacant.
2. If the PHA updates utility allowances and surcharges, the PHA has the option to conduct interim adjustments for all tenants at the time the allowances are updated or apply the updated allowance at the tenants next annual reexamination.

## **CHAPTER 22: THE DWELLING LEASE**

The dwelling lease (hereinafter referred to as lease), provides the initial and renewal terms, occupancy policies, and lease enforcement to public housing residents.

### **A. Lease Provisions**

The PHA incorporates the regulatory provisions under the U. S. Housing Act of 1937, as amended, in all leases for dwelling units assisted in developments owned by or leased to the PHA and leased or sublet to residents.

HUD regulations establish both required and prohibited provisions for public housing leases. In addition to HUD's requirements for lease language, the PHA is bound by state and local landlord-tenant laws.

The PHA is permitted to add other provisions as long as the provisions are considered reasonable, satisfy HUD requirements, and conform to the requirements of state and local laws.

In the case of any conflict between the PHA lease and state and local laws, the lease adopted must follow the rule that is the most beneficial to the tenant.

### **B. PHA Lease Requirements**

The PHA will execute a lease with each adult tenant.

1. The PHA lease will specify the following:
  - a. Description of the Parties of the Leased Unit
    - 1) Name of the PHA and name of the head of household or co-head, if applicable, who will be the tenant in the unit.
    - 2) The composition of the household as approved by the PHA (family members and household members, including PHA-approved live-in aides).
      - a) The tenant must promptly inform the PHA of the birth, adoption, or court-awarded custody of a child.
      - b) The tenant must request PHA approval to add any other family member as an occupant of the unit.
    - 3) The head of household is required to execute the lease prior to actual move-in.
    - 4) All members of the household 18 years of age or older will be required to sign and date the lease.
  - b. The address of the unit leased (address, apartment number, and any other information needed to identify the specific unit)
  - c. The term of the lease (initial lease term and renewal)



- d. Utilities, Services, Equipment, and Appliances
  - 1) A statement of what utilities, services, equipment are to be supplied by the PHA without additional cost.
  - 2) A statement of what utilities and appliances are to be paid for by the tenant.
- e. The PHA's smoke-free rules
- f. HUD's regulations regarding the protection for victims of a VAWA crime.
- g. Rental Payments, Late Charges
- h. Other Charges
- i. Payment Location
- j. Security Deposit
- k. Terms and Conditions
- l. PHA Obligations
- m. Tenant Obligations
  - 1) Occupancy of the unit
  - 2) Community Service Requirements
- n. Redetermination of Rent, Dwelling Size, and Eligibility
- o. Defects Hazardous to Life, Health, or Safety
- p. Move-In and Move-Out Inspections
- q. Maintenance, Repairs, and Services
- r. Entry of the Dwelling Unit During Occupancy
- s. Abandonment and Abandoned Property
- t. Notices
- u. Notice Procedures
- v. Termination of Lease
- w. Bifurcation of Lease
- x. Grievance Procedures, including a description of the PHA's policies on selecting a Hearing Officer.
- y. Modification of the Lease
- z. Accommodation of Persons with Disabilities
- aa. Solicitation, Trespassing and Exclusion of Non-Residents
- bb. Waiver
- cc. Warranties and Representation of the Resident

dd. PHA's Commitment to Investigate Misrepresentations and Pursue Remedies

2. The PHA will explain the contents of the lease in detail to the tenant and the tenant household members prior to execution of the lease.
3. The lease shall be kept current at all times.
4. A (one) copy of the lease will be given to the tenant and the original lease will be filed as part of the permanent records established for the family.

### **C. Lease Term and Renewal**

Lease, admission, and occupancy policies outlines the initial and renewal terms for PHA tenants.

1. The initial lease term for each unit must be a 12-month term.
2. When establishing the initial lease term, the PHA may extend the period a few days beyond 12 months to make the lease term extend to the end of a month.
3. The lease term must be automatically renewed for the same period.
4. Month-to-month leases and month-to-month renewals are prohibited.
5. The PHA will not renew the lease if the family has violated the requirement for resident performance of CSSR.

### **D. Lead-Based Paint Notification and Records**

There are two (2) HUD rules related to lead-based paint that affect public housing leases, the Lead Disclosure Rule and the Lead Safe Housing Rule.

These rules apply to all target housing, housing that was constructed prior to 1978, except housing for the elderly, persons with disabilities, or any zero-bedroom dwelling (unless a child of less than six (6) years of age resides or is expected to reside in such housing for the elderly, persons with disabilities, or zero-bedroom dwelling).

1. Lead Disclosure Rule
  - a. The PHA must inform the family, including applicants, about the risk of lead-based paint and lead-based paint hazards and provide copies of all lead-based paint records and reports. Unless the development is exempt, the PHA must complete the following at lease initiation:
    - 1) Disclose the presence of any known lead-based paint and/or lead-based paint hazards;
    - 2) Provide the family with an EPA-approved lead hazard information pamphlet, Protect Your Family from Lead in Your Home (available in English, Spanish, Russian, Arabic, Somali, and Vietnamese), to inform the family of the dangers of exposure to lead-based paint hazards; and

- 3) Provide any available records and reports related to the lead-based paint and/or lead-based paint hazards at the property (in units, common areas and exterior).  

Records and reports may include evaluation reports, reduction activity reports, clearance reports, and any additional information, such as the location of the lead-based paint or hazard or the condition of painted surfaces.
- b. The lease must also include a Lead Disclosure Addendum, signed and dated by the PHA, any leasing agent of the PHA, and the family, that:
  - 1) Contains the required Lead Warning Statement;
  - 2) Discloses the presence of known lead-based paint and lead-based paint hazards;
  - 3) Discloses whether the PHA has records or reports that are being provided or that there are no records or reports to disclose;
  - 4) Documents the receipt by the family of the EPA pamphlet, Protect Your Family from Lead in Your Home, and of records and reports on lead-based paint and lead-based paint hazards; and
  - 5) Includes a statement that acknowledges that the family received the lead disclosure statement, including any records or reports, and the pamphlet and certifies the accuracy of these statements.
- c. Units exempt from the lead-based paint requirements is limited to housing that:
  - 1) Has been certified as lead-based paint free;
  - 2) Was constructed after January 1, 1978;
  - 3) Is solely for the elderly or residential property designated exclusively for persons with disabilities (This housing is not exempt if a child or children under six (6) live or are expected to live in the housing. Note that under Fair Housing rules, the PHA cannot refuse to rent to households with children in order to avoid triggering lead-based paint regulations.); or
  - 4) Is a zero-bedroom dwelling unit (This housing is also not exempt if a child or children under six (6) live or are expected to live in the housing).
- d. Lead disclosures are required regardless of the presence of children in the family.
- e. Acknowledgement
  - 1) The disclosure of lead knowledge and records and reports must be acknowledged by the PHA by initials.
  - 2) The receipt of the PHA's disclosures (knowledge and records/reports) and of the EPA pamphlet must be acknowledged by the family by initials.
  - 3) The lead disclosure form must be signed and dated by both parties.

- 4) For lease renewals or rent increases, disclosure is required if there is new information, e.g., new lead knowledge or records or reports generated since the last disclosure.
2. Lead Safe Housing Rule (LSHR)

The HUD Lead Safe Housing Rule addresses the conditions that cause lead-based paint hazards for children and families in public housing and other federally assisted housing.

    - a. Under the 1999 rule, the PHA is required to perform lead-based paint inspections and abate all identified lead-based paint.
    - b. If the PHA did not complete the lead-based paint inspection, the PHA is required to perform lead-based paint risk assessments, interim controls of identified lead-based paint hazards, and periodic re-evaluations for hazards that may reoccur.
    - c. If the PHA performed risk assessments and interim controls, the PHA is also expected to complete lead-based paint abatement as part of modernization.
    - d. As of December 2020, the PHA should have either completed all lead-based paint abatement or have included it in regular capital needs planning.
    - e. The PHA is responsible for all the activities regarding the elevated blood lead levels (EBLL) response and must follow HUD's guidance in PIH Notices 2011-44 and 2017-13.
  3. Retention of Certification and Acknowledgment Information
    - a. The PHA will maintain records that provide evidence that the family and any purchaser of a low-income housing development constructed prior to 1978 has received the required lead-based paint notification.
    - b. The signature portion of the notification form will be retained in the PHA's family file for three (3) years after the family vacates the dwelling unit.

## **E. Lease Revisions or Modifications**

Modifications to the lease require a written rider signed by the PHA and the tenant.

1. The lease, all policies, rules, regulations, schedules, charges, and documents which are part of the lease by attachment or by reference may be modified from time to time by the PHA, provided the PHA gives at least a 30-day written notice to tenants and tenant organizations, setting forth the proposed modification, the reasons therefor, and providing the tenants and tenant organizations an opportunity to present written comment which the PHA shall take into consideration prior to the proposed modification being adopted and becoming effective.
2. The PHA may provide notice of changes to the lease and incorporated documents by either of the following methods:
  - a. Deliver or mail a copy of such notice to each tenant, or

- b. Post the notice in at least three (3) conspicuous places within each structure or building where affected dwelling units are located, as well as the Management Office, or if none, the Central Office of the PHA.
3. The PHA will ensure that all communications, including notifications, postings, or mailings will be accessible to persons with disabilities, limited English proficiency, or visual impairments.
4. If any change in the resident's status results in the need to change or amend any provision of the lease, or if the PHA desires to waive a provision with respect to the resident the existing lease is to be canceled and a new lease executed.

## **F. Termination of Lease**

Termination of the lease will be in accordance with the provisions of the lease the tenant has signed. The PHA may at any time terminate the tenancy for:

1. Serious or repeated violation of material terms of the lease, such as the following:
  - a. Failure to make payments due under the lease.
  - b. Failure to fulfill household obligations.
2. Being over the income limit for the public housing program.
3. Other good cause. Other good cause includes, but is not limited to, the following:
  - a. Criminal activity or alcohol abuse;
  - b. Discovery after admission of facts that made the tenant ineligible;
  - c. Discovery of material false statements or fraud by the tenant in connection with an application for assistance or with reexamination of income;
  - d. Failure of a family member to comply with CSSR, as grounds only for non-renewal of the lease and termination of tenancy at the end of the 12-month lease term; and
  - e. Failure to accept the PHA's offer of a lease revision to an existing lease:
    - 1) That is on a form adopted by the PHA;
    - 2) With written notice of the offer of the revision at least 60 calendar days before the lease revision is scheduled to take effect; and
    - 3) With the offer specifying a reasonable time limit within that period for acceptance by the family.

### **4. Lease Termination Notices**

The lease and the Termination and Eviction Policy will provide procedures to be followed by the PHA and the family in giving notice one to the other which will require that:

- a. Notices to the family will be in writing and delivered to the tenant or to an adult member of the tenant's household residing in the unit or sent by prepaid first-class mail properly address to the tenant; and

- b. Notices to the PHA will be in writing, delivered to the project office or the PHA central office or sent prepaid first-class mail properly addressed.
- c. If the tenant is visually impaired, all PHA notices will be in an accessible format.

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## CHAPTER 23: REEXAMINATIONS

The annual reexamination determines the continued eligibility of the public housing family, the required unit size, and the appropriate tenant rent. Interim reexaminations are made because of changes in the family's circumstances between annual reexaminations or the last interim reexamination.

### A. Annual Reexaminations

The PHA will conduct reexaminations at the following intervals:

1. Income-Base Rent:
  - a. The PHA will conduct a complete reexamination of family income, composition, and compliance with community service and self-sufficiency requirements, within 12 months of the previous annual reexamination or new admission for families paying income-based rent.
  - b. The PHA will make the appropriate adjustments in the tenant rent after consultation with the family and verification of the family's annual reexamination information.
2. Flat Rent:
  - a. The PHA will conduct a reexamination of family composition, compliance with community service and self-sufficiency requirements, and other criteria related to continued occupancy at least annually (every 12 months).
  - b. The PHA will conduct a reexamination of family income at least once every three (3) years.
  - c. At its discretion, the PHA may establish a policy requiring reexaminations of families paying flat rent at more frequent intervals, but not more frequently than annually unless the family request a reexamination based on hardship circumstances.
3. The PHA must determine compliance once each 12 months with community service and self-sufficiency requirements for all families who pay an income-based or flat rent, including nonexempt individuals.

### B. General Redetermination Requirements

The following redetermination requirements apply to all public housing families.

1. The annual reexamination date for the family will be aligned with the effective date of the family's lease.
2. The PHA will give each family the opportunity to choose between an income-based rent and a flat rent at the time of the annual reexamination.
3. Tenant rent increases or decreases as result of an annual reexamination or interim reexamination are always effective the first day of the month.

4. If the family fails to participate in the reexamination interview and/or fails to provide information required by the PHA, the family will be in violation of the lease and may be terminated from the public housing program.
5. If the PHA determines that a resident has falsified or misrepresented family income, composition, circumstances, conduct or behavior, the PHA will:
  - a. Evict the resident in accordance with state law and HUD regulations; or
  - b. Take such other remedial action as the PHA may deem necessary under pertinent HUD laws, rules, and regulations and PHA policies.
6. Any change in income resulting from the redetermination is annualized, even if the income is not expected to last for a full year. If the income changes again, the new amount of monthly income will be annualized again.
7. The PHA may require the family to move to an appropriate unit size based on the results of the reexamination.

### **C. Annual Reexamination Appointment**

The PHA will maintain an annual reexamination tracking system and approximately 30 days in advance of the annual reexamination effective date the PHA will begin the annual reexamination process.

1. Scheduling the Annual Reexamination Appointment
  - a. The PHA will schedule the annual reexamination appointment within reasonable hours after reasonable notice.
  - b. Reasonable hours to conduct the annual reexamination appointment are between 9:00 a.m. and 5:00 p.m., Monday through Friday (may include Saturday).
  - c. The PHA will provide the family a written annual reexamination appointment notice. The notice will:
    - 1) State the date of the annual reexamination appointment, the location, time, and what information is required to be brought to the appointment.
    - 2) State the head of household and all adult household members 18 years of age and older are required to attend the annual reexamination appointment.
    - 3) The PHA will advise the family if the family contains a member who is a person with disabilities, that the family may request, as a reasonable accommodation, a home visit as an alternate format for the PHA to conduct the annual reexamination. The PHA may also conduct the annual reexamination by home visit as an alternate format for elderly families.
  - d. The annual reexamination appointment may be conducted in the following format:
    - 1) In person, face-to-face appointment
    - 2) Telephone



- 3) Mail-in reexamination
  - 4) Email reexamination
  - 5) Video call/ video conference
  - 6) Home visits as a reasonable accommodation for person with disabilities or for elderly families
- e. The PHA will provide annual reexamination documents in an accessible format for families with disabilities or families with Limited English Proficiency.
  - f. The PHA will advise the family that a representative, of the family's choosing, may assist with the annual reexamination process.
2. Scheduling Conflict
- The PHA will advise the family how to and when to request another appointment if there is a scheduling conflict.
- a. The family may contact the PHA to reschedule the first annual reexamination appointment up to two (2) days prior to the appointment date. The family may contact the PHA by:
    - 1) Phone call
    - 2) Email
    - 3) Fax
  - b. The PHA will reschedule two (2) second annual reexamination appointments. The second annual re-examination appointment notice will be mailed or emailed promptly (within 10 days of the first appointment) and will be scheduled within 10 business days or a date which has been mutually agreed upon by the PHA and the family.
    - 1) If the family fails to appear for the second appointment, the PHA will send the family a notice of termination and advise the family of their rights to request a grievance.
    - 2) The PHA may grant an exception for failure to contact the PHA timely to reschedule the appointment if:
      - a) The family is able to document an emergency situation;
      - b) The family has experienced extenuating circumstances that prevented the family from canceling or attending the annual reexamination appointment; or
      - c) If the family request as a reasonable accommodation for a family member who is a person with a disability.
3. Failure of the family to respond to either annual reexamination notice may result in termination of assistance.

## D. PHA Interim Requirements

At any time, the PHA may conduct an interim reexamination of the family income and composition.

1. The PHA must process an interim reexamination whenever one is requested by the family.
2. The PHA will conduct an interim reexamination:
  - a. For families where an error was made at admissions or annual reexamination.
    - 1) The family will not be responsible for retroactive tenant rent for errors made by the PHA.
    - 2) The family will be responsible for retroactive tenant rent if the error was based on false or incomplete information supplied by the applicant or family.
3. The PHA will not conduct an interim reexamination of an increase in income (earned or unearned) between annual reexaminations.

## E. Community Service and Self-Sufficiency Requirements (CSSR)

This section outlines the community service and self-sufficiency requirements, provides a description of eligible activities, the responsibilities of the PHA and resident, and how the PHA will administer and document the requirement.

1. QHWRA mandates that each non-exempt adult family member (18 years old or older) who resides in public housing must contribute either:
  - a. Eight (8) hours of community service per month, or
  - b. Participate in an economic self-sufficiency program for eight (8) hours per month, or
  - c. Perform a combination of eight (8) hours of community service and participation in an economic self-sufficiency program per month.
  - d. The required community service contribution or self-sufficiency participation, or combination of both activities, may be completed at eight (8) hours each month or aggregated throughout the year, as long as 96 hours is completed by each annual reexamination.
2. The effective date of participation for all non-exempt family members is the date the family executes the lease containing the CSSR requirement. New admissions, as well as families in occupancy, are affected by this requirement.
3. The PHA will provide written notice to all applicants and residents of the CSSR requirement and describe the process to determine which family members are exempt from the requirement and the process to change the exemption status of family members.
4. The PHA may administer the CSSR requirement directly or may make the activities available to non-exempt family members through a contractor or partnership with qualifying organizations, including resident organizations, faith-based, and community agencies/organizations or institutions.

- a. The PHA will not provide names and contact information of agencies offering opportunities for residents, including persons with disabilities, to comply with the CSSR requirements.
  - b. The PHA will not coordinate with social service agencies, local schools, and human service offices to develop a referral list of names and agency contacts.
  - c. PHAs that administer a ROSS or Family Self-Sufficiency (FSS) program will partnership with the Program Coordinating Committee.
  - d. The PHA will create an agreement with the local organizations to allow the organizations to advertise their program, assist with transportation, childcare, or other barriers and be able to verify the CSSR hours completed by the non-exempt family members.
5. Community Service Activities:

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.

- a. The PHA will not provide guidance and a list of acceptable activities or advance approval of a community service activity to avoid the possibility of refusing to recognize the activity as eligible after the non-exempt family member performs it.
- b. Eligible community service activities include, but are not limited to:
  - 1) 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 daycare programs, homeless shelters, feeding programs, food banks (distributing either donated or commodity foods), or clothes closets (distributing donated clothing);
  - 2) Nonprofit organizations serving PHA residents or their children, such as: Boy or Girl Scouts, Boys or Girls Club, 4-H Clubs, Police Activities League (PAL), organized children's recreation, mentoring, or education programs, Big Brothers or Big Sisters, Garden Centers, community clean-up programs, beautification programs;
  - 3) Programs funded under the Older Americans Act, such as Green Thumb, Service Corps of Retired Executives, senior meals programs, senior centers, Meals on Wheels;
  - 4) 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;
  - 5) 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, outreach and assistance with PHA-run self-sufficiency activities including supporting computer learning centers; and,

c. The PHA will accept community services activities performed at for profit-motivated entities, volunteer work performed at homes or offices of general private citizens, and court-ordered or probation-based community service.

d. The PHA will not substitute community service activity performed by a non-exempt family member for work ordinarily performed by a PHA employee. The non-exempt family member may perform community service on PHA property or with or through PHA programs to assist with or enhance work done a PHA employee.

6. Economic Self-Sufficiency Activity:

Is any program designed to encourage, assist, train, or facilitate the economic independence of assisted families or to provide work experience for such families. It includes any work activities as defined in the Social Security Act.

a. Eligible economic self-sufficiency activities include, but are not limited to:

- 1) Job readiness or job training while not employed;
- 2) Employment counseling and work placement;
- 3) 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;
- 4) Education, including higher education (junior college or college);
- 5) Apprenticeships (formal or informal);
- 6) Substance abuse or mental health counseling;
- 7) Basic skills training;
- 8) Household management;
- 9) Reading, financial and/or computer literacy classes;
- 10) English as a second language and/or English proficiency classes;
- 11) Budgeting and credit counseling.

b. The PHA may coordinate the ROSS and Family Self-Sufficiency program, Individual Training and Services Plan (ITSP) with CSSR.

- 1) The PHA may include specific self-sufficiency activities into the ITSP;
- 2) The PHA may consider regular meetings with ROSS and FSS coordinator as CSSR activities.
- 3) ROSS and FSS coordinators may verify community service hours within the non-exempt family member's monthly logs.

7. Exempt Residents:

a. The PHA will exempt the following family members from the CSSR requirements:

- 1) The elderly, age 62 years of age or older;
- 2) Blind or disabled as defined under law and who certify that because of this disability, he/she is unable to comply with the CSSR requirement;  
Existing documentation will be accepted as evidence of disability; however, disabled family members are not automatically exempt from the requirement.
- 3) A family member who is the primary caretaker for someone who is blind or disabled.

4) An adult family member engaged in work activities. The PHA will consider 20 hours per week as the minimum number of hours for a work activity.

b. The non-exempt family member must be participating in one of the following work activities:

- 1) Unsubsidized employment;
- 2) Subsidized private-sector employment;
- 3) Subsidized public-sector employment;
- 4) Work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available;
- 5) On-the-job-training;
- 6) Job-search;
- 7) Community service programs;
- 8) Vocational educational training (not to exceed 12 months with respect to any individual);
- 9) Job-skills training directly related to employment;
- 10) 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; and
- 11) Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalency, in the case of a recipient who has not completed secondary school or received such a certificate.
- 12) Providing childcare services to an individual who is participating in a community service program.

c. A family member who meets the requirements of being exempted for having to engage in a work activity under the State program funded under Part A of Title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under any other welfare program of the State in which the PHA is located, including a State-administered Welfare-to-Work program;

- d. A family member receiving assistance, benefits, or services under a State program funded under Part A of Title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under any other State welfare program (Temporary Assistance for Needy Families (TANF) and Supplemental Nutrition Assistance Program (SNAP)) in which the PHA is located, including a State-administered Welfare-to-Work program, and who is in compliance with the requirements of such program.
  - e. Change in exempt status:
    - 1) When a non-exempt family member becomes exempt, it is his/her responsibility to report the change in exempt status and provide documentation to the PHA.
    - 2) When an exempt family member becomes non-exempt, it is his/her responsibility to report the change in status to the PHA.
  - f. The PHA will make the final determination whether to grant an exemption from CSSR. If a resident does not agree with the PHA's determination, the resident has the right to dispute the decision through the grievance process.
8. At lease execution or annual reexamination all adult family members of a public housing resident family must:
- a. Provide documentation, if applicable, that they qualify for an exemption from CSSR; and
  - b. Sign the CSSR Certification that they have received and read the CSSR Policy and understand that failure to comply with CSSR requirements will result in non-renewal of their lease, unless they are exempt for the CSSR requirement.
  - c. The effective date of participation of all non-exempt family members is the date the family executes the lease containing the CSSR requirement.
9. Acceptable Documentation Demonstrating Compliance with CSSR
- The PHA will verify annually exemptions to the CSSR requirement and compliance with CSSR requirements for non-exempt family members.
- a. At least 30 days before the annual reexamination and/or lease expiration, the PHA will review the exempt or non-exempt status and compliance of non-exempt adult family members.
  - b. At each regularly scheduled rent reexamination, each non-exempt family member must present a signed certification, on a form provided by the PHA, of their CSSR activities performed over the previous twelve 12 months.
  - c. Acceptable Documentation of Activities Completed Outside the PHA
    - 1) A signed certification to the PHA by such other organization that the family member has performed such qualifying activities; or

- 2) The PHA may accept a signed self-certification by the family member that he or she has performed such qualifying activities. The signed self-certification must include the following:
  - a) A statement that the tenant contributed at least eight (8) hours per month of community service not including political activities within the community in which the adult resides; or participated in an economic self-sufficiency program for at least eight (8) hours per month;
  - b) The name, address, and a contact person at the community service provider; or the name, address, and contact person for the economic self-sufficiency program;
  - c) The date(s) during which the tenant completed the community service activity, or participated in the economic self-sufficiency program;
  - d) A description of the activity completed; and
  - e) A certification that the tenant's statement is true.
  - f) The PHA will obtain third-party verification of the completion of CSSR activity completed outside of the PHA for the self-certification.
- d. The PHA will retain documentation of the CSSR performance or exemption in the family file.

#### 10. Noncompliance with CSSR

The PHA will not evict a family due to non-compliance with CSSR requirements. The PHA will provide a written notification to the family which will include:

- a. A brief description of the finding of non-compliance with CSSR.
- b. A statement that the PHA will not renew the lease at the end of the current 12-month lease term unless:
  - 1) The tenant enters into a written Work-Out Agreement with the PHA, or
  - 2) The family provides written assurance that is satisfactory to the PHA explaining that the tenant or other non-compliant resident no longer resides in the unit.
- c. The Tenant Agreement to Comply - The Work-Out Agreement
  - 1) The PHA will not review the lease upon expiration of the term unless:
    - a) The tenant or other noncompliant family member enters into a Work-Out Agreement, and
    - b) All other nonexempt family members are currently complying with the service requirement or are no longer residing in the unit.
  - 2) The Work-Out Agreement will include:
    - a) The means which the non-compliant non-exempt family member will comply with the CSSR requirement;

- b) The number of delinquent CSSR hours;
  - c) How the delinquent hours will be remedied during the next 12 months; and
  - d) The number of hours, if any, that will be required under the new lease.
- 3) If a family refuses to sign or fails to comply with the terms of the written Work-Out Agreement, the PHA will initiate termination of the tenancy at the end of the current 12-month lease. The termination is due to the family's failure to comply with lease requirements.
- d. The PHA will provide the following when initiating the termination of tenancy:
- 1) A 30-day notice to the tenant of the grounds for terminating the tenancy and for non-renewal of the lease;
  - 2) The tenant's right to request a grievance hearing on the PHA's determination;
  - 3) The right to request reasonable accommodations during the grievance process;
  - 4) The tenant's right to exercise any available judicial remedy to see timely redress for the PHA's nonrenewal of the lease because of noncompliance with the CSSR requirements;
  - 5) The tenant's rights to be represented by counsel;
  - 6) 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,
  - 7) A decision on the merits.
11. The PHA will comply with non-discrimination and equal opportunity requirements and affirmatively further fair housing in all the PHA's activities.



## CHAPTER 24: ZERO-INCOME FAMILIES

A zero-income family is a family who reports no source of income (earned or unearned) and no regular contributions and/or gifts during the most recent eligibility or reexamination process. A family who reports zero income will be required to provide information regarding how the family pays for necessary living expenses.

1. Special Reexaminations
  - a. The PHA will schedule a special reexamination of income and family composition with the family who reports zero income every 120 days using the same notice used for the annual reexamination process.
  - b. To ensure each zero-income family is treated consistently, the PHA will:
    - 1) Ask the family questions using the PHA's Zero Income Questionnaire.
    - 2) Generate the EIV Income and the IVT Reports for each family.
    - 3) Provide each family the EIV brochure, "What You Should Know About EIV".
    - 4) Advise each family about the minimum rent hardship exemption and how to request an exemption.
    - 5) Follow the HUD Verification Hierarchy and the PHA's verification procedures.
2. If the family reports no income (earned or unearned), regular monetary or non-monetary (in kind) contributions, or gifts from any source, all adult household members will be required to sign and date, under penalty of perjury, an individual zero income statement.
  - a. The family will be required to provide to the PHA receipts for all expenses (e.g., food and clothing, utility bills) for the most recent **three (3) months'** period.
  - b. The PHA will annualize the amount of the receipts, except for HUD mandatory income exclusions, and the information generated from the EIV Income and IVT Reports to determine annual income.
3. If the family reports or the PHA determines that the family is receiving regular monetary or non-monetary (in kind) contributions or gifts from any source, the value will be annualized to determine annual income.
  - a. When outside sources are paying bills or donating household goods on a regular basis, the value of these contributions (unless a HUD required exclusion) will be included as annual income.
  - b. The family will be required to provide the names and contact information for all sources of regular contributions or gifts.
4. If the family's income cannot be projected with any reasonable degree of accuracy, the PHA will continue to schedule a special reexamination every 120 days.
5. Tenant rent increases determined at a special reexamination shall be made effective the first day of the month following a 30-day notice to the family from the PHA.

## **CHAPTER 25: CONTINUED OCCUPANCY POLICY OF PUBLIC HOUSING OVER-INCOME (OI) FAMILIES**

HUD establishes income limits by family size for the area in which each PHA is located. These income limits will be published by HUD annually and are used to determine the family's initial eligibility and level of assistance for the public housing program. Section 103 of the Housing Opportunity Through Modernization Act (HOTMA) of 2016 amended the U.S. Housing Act of 1937 and placed an income limitation on families for continued occupancy in public housing units.

### **A. Applicability**

Section 103 of HOTMA applies to all PHAs operating a public housing program, including Moving to Work (MTW) Agencies, with one exception, a PHA which owns or operates fewer than 250 public housing units. This PHA may lease a public housing unit to a non-assisted OI family, in accordance with its PHA Annual Plan (or supporting documents), if all of the following conditions are satisfied:

1. There are no eligible low-income applicants on the waiting list;
2. There are no eligible low-income families applying for public housing assistance when the unit is leased to an OI family;
3. The PHA advertises the availability of public housing units to eligible low-income families including publication of a notice for at least 30 days in at least one newspaper of general circulation before offering the unit to an OI family;
4. The OI family rents the unit on a month-to-month basis at a rental amount which is not less than the cost to operate the unit;
5. The lease to the OI family provides that the OI family agrees to vacate the unit when it is needed by an eligible family; and
6. The PHA gives the OI family at least 30 days' notice to vacate the unit when it is needed for rental by an eligible family.

### **B. Determination of Over-Income Limit**

The PHA will determine the OI limit by multiplying the applicable income limit for a very low-income public housing family by a factor of 2.4.

1. The very low-income limit varies by family size.
2. The PHA will calculate the OI limit for each family size in its public housing program.
3. When determining the public housing family's OI status, the PHA will not include income that is excluded from such as amounts based on participation in the Family Self-Sufficiency (FSS) program and all families receiving the earned income disallowance (EID).
4. The PHA will compare the OI limit to the family's annual income during an annual or interim income reexamination.

If the family's annual income is greater than the OI limit, then the family exceeds the OI limit for the public housing program and will be notified.

5. Once the PHA has adopted its continued occupancy policy for public housing over-income families, the PHA will update the OI limits for the public housing program in its ACOP no later than 60 days after HUD publishes new income limits each year.

### **C. PHA Continued Occupancy Policy for Public Housing Over-Income Families**

The continued occupancy policy for public housing over-income families (hereinafter referred to as continued occupancy policy) adopted and implemented by the PHA is in compliance with the Fair Housing Act, Civil Rights, Section 504 of the Rehabilitation Act (Section 504), Title II of the Americans with Disabilities Act (ADA), and will grant reasonable accommodations that may be necessary for persons with disabilities.

1. When the PHA becomes aware, either through an annual or interim reexamination that a public housing program family's income, including families participating in the FSS program and all families receiving EID, exceeds the established income limit for the family size, the PHA will implement its continued occupancy policy to terminate the tenancy of the OI public housing family **or** allow the OI public housing family to remain in the public housing unit and charge the OI public housing family the alternative non-public housing rent.

2. The PHA's continued occupancy policy is to terminate the tenancy of the OI family.

Note: The PHA may not evict or terminate the tenancy of OI families in the public housing program based on income until the family has been over 120% area median income for 24 consecutive months and the PHA has implemented the continued occupancy policy in the PHA's written policies.

### **D. 24 Consecutive Months Grace Period**

The period of time an OI public housing family has to reside in their public housing unit is 24 consecutive months before the PHA enforces its continued occupancy policy.

1. Once the PHA has determined a public housing family to be over-income through an annual or interim reexamination, the effective date of the action will be the point in time for which the 24 consecutive month grace period begins.
2. If the PHA becomes aware, through a subsequent annual or interim reexamination, during the consecutive 24-month grace period that the family's income has decreased to an amount that is below the over-income limit, the family will be entitled to a new 24 consecutive month grace period if the PHA later determines that the family's income once again exceeds the over-income limit.
3. At all times prior to the end of 24 consecutive months, the family will continue to be public housing program participants.
4. There are no exceptions to the limitation on public housing tenancy for HUD assisted families who are determined to be over-income for 24 consecutive months.

5. During the 24 consecutive month grace period, the family will continue to pay their current rent choice amount (*i.e.*, income-based rent, flat rent, or if applicable, the prorated rent for mixed families).
6. Because there is a 24-month process to declare an OI public housing family ineligible for public housing assistance, large increases to the OI limit for higher rental markets may result in public housing families who are OI in the initial 12-months not being considered OI in the second 12 months as the OI limit is adjusted upward in subsequent years.
7. If the family has exceeded the OI limit for 24 consecutive months, the PHA will enforce its continued occupancy policy for public housing OI family to terminate the family's tenancy.

#### 8. Annual and Interim Reexaminations

For OI families who are in their grace period:

- a. Annual and interim reexaminations will be conducted in accordance with the PHA's Admissions and Continued Occupancy Policy (ACOP).
- b. An income reexamination must be conducted 12 months after the initial over-income determination, unless it has been determined the family's income fell below the over-income limit since the initial over-income determination.
- c. An income reexamination must be conducted 24 months after the initial over-income determination, unless it has been determined the family's income fell below the over-income limit since the second over-income determination.

### **E. Families Determined to be Over-Income Prior to the Final Rule**

On July 26, 2018 (2018 Notice), HUD announced the official applicable effective date of the provisions of Section 103 of HOTMA as September 24, 2018, and instructed PHAs to complete the process for amending their OI policy within six (6) months after the applicable date published.

1. Effective March 24, 2019, the PHA was required to update its Admissions and Continued Occupancy Policy (ACOP) to implement a continued occupancy policy of over-income public families based on the 2018 Notice. All OI policies were to include the imposition of the over-income limit in the public housing program, when the 24 consecutive month grace period would begin, and the notification requirements to the over-income families.
2. HUD did not enforce the PHA's continued occupancy policy based on the 2018 Notice that required the PHA to either terminate families who have been over income for two (2) consecutive years or charge over-income public housing families an alternative rent as HUD had not provided guidance on how to determine such rent.
  - a. If the PHA's continued occupancy policy opted to terminate, HUD determined that the PHA could elect to follow the policy but were not required to do so until the issuance of the Final Rule.

With the issuance of the Final Rule, the PHA must begin the termination procedure within the time frame specified in this policy.

- b. If the PHA elected not to terminate over-income families who exceed the grace period, the PHA was required to offer the families the option of paying an income-based rent or a flat rent at their next annual reexamination.

If the PHA's continued occupancy policy opted to charge an alternative rent, with the issuance of the Final Rule, the PHA must require the family to execute a new lease for Non-Public Housing Over-Income (NPHOI) families and charge the family the non-public housing rent no later than 60 days after the effective date of the Final Rule or at the next lease renewal, whichever is sooner.

3. OI public housing families who have already exceeded the 24 consecutive month grace period or two (2) consecutive reexamination cycles under the existing notification requirement are not entitled to another 24 consecutive month grace period.
4. If the PHA followed the previous existing notification which instructed the PHA to compare the OI limit to the family's adjusted income, the PHA does not need to redetermine the family's OI status based on the Final Rule guidance for annual or interim reexamination effective prior to the date of the Final Rule.
5. New notice requirements do not apply retroactively, so any family that has properly received notice under the previous existing notification requirement will not be required to receive new notices.

## **F. Notification of OI Families**

If the PHA determines the public housing family has exceeded the OI limit pursuant to an income reexamination, the PHA will provide written notification to the family of the OI determination.

1. Initial OI Limit Notification
  - a. The PHA will provide written notification to the OI public housing family no later than 30 days after the PHA's initial determination.
  - b. The notice must state that the family has exceeded the OI limit and continuing to exceed the OI limit for a total of 24 consecutive months will result in the PHA following its continued occupancy policy to terminate the tenancy of the OI family.
  - c. The notice will contain information on the OI family's right to request a hearing and instructions on how to request such hearing if the family disputes the PHA's determination.
  - d. The PHA will make note to the family's file to calculate the family's income 12 months after the initial determination to determine if the family remains over-income.
2. Second OI Limit Notification
  - a. The PHA will conduct an income reexamination 12 months after the initial OI determination, unless the PHA determined the family's income fell below the OI limit since the initial OI determination.

- b. If the PHA determines the family has exceeded the OI limit for 12 consecutive months, the PHA will provide written notification of this 12-month OI limit determination no later than 30 days after the income reexamination that led to the 12-month OI determination.
    - c. The notice will state that the family has exceeded the over-income limit for 12 consecutive months and continuing to exceed the over-income limit for a total of 24 consecutive months will result in the PHA following its continued occupancy policy to terminate the tenancy of the OI family.
    - d. The notice will contain information on the OI family's right to request a hearing and instructions on how to request such hearing if the family disputes the PHA's determination.
    - e. The PHA will make note to the family's file to calculate the family's income 24 months after the initial determination to determine if the family remains over-income.
  3. Third and Final OI Limit Notification
    - a. The PHA will conduct an income examination 24 months after the initial OI determination, unless the PHA determined the family's income fell below the OI limit since the second OI limit determination.
    - b. If the PHA determines the family has exceeded the OI limit for 24 consecutive months, the PHA will provide written notification of this 24-month OI limit determination no later than 30 days after the income reexamination that led to the 24-month OI limit determination.
    - c. The notice will state that the family has exceeded the OI limit for 24 consecutive months and in accordance with the PHA's continued occupancy policy for OI families, the PHA will terminate the family's tenancy.
    - d. The notice will contain information on the OI family's right to request a hearing and instructions on how to request such hearing if the family disputes the PHA's determination.
  4. Reexaminations Flat Rent Options
    - a. The PHA will no longer apply the three (3) year reexamination provision to families once the PHA determines that the family is over-income.
    - b. Once a PHA determines the family is over-income, the PHA will follow the documentation and notification requirements of this section.
  5. Effective Communication

The PHA will ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other disabilities.

    - a. For persons with vision impairments, upon request and free of charge, this may include brailled materials, large print, or materials on tape.

- b. 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. Section 504 and ADA requirements (24 CFR 8.6 and 24 CFR 8.28; 28 CFR part 35, Subpart E).

## **G. Termination of Tenancy of an Over-Income Family**

It is the PHA's continued occupancy policy to terminate the tenancy of over-income public housing families.

1. The PHA must terminate the tenancy of the OI family no more than six (6) months after the third and final written OI limit notice has been issued to the OI public housing family.
2. The PHA's notification to terminate the OI family's tenancy will state the period of time before tenancy termination.
  - a. It is the PHA's continued occupancy policy to terminate the tenancy of an OI public housing family 30 days after the third and final written OI limit notice has been issued to the OI public housing family.
  - b. The PHA will provide the appropriate notice of termination of tenancy (notice to vacate) in accordance with state and local laws.
3. The family's public housing lease will convert to month-to-month lease term to account for the period before termination of tenancy.
4. Families that are in the period before termination of tenancy continue to be public housing program participants and must abide by all the PHA's public housing requirements, including but not limited to:
  - a. Choice of Rent
    - 1) The PHA will continue to charge the OI public housing family the family's choice of income-based, flat rent, or if applicable prorated rent for mixed families during the period before termination.
    - 2) The family must continue to pay the tenant rent by its due date.
  - b. Annual and Interim Reexamination
    - 1) For OI families in the period before their tenancy termination, the PHA must conduct an interim reexamination of family income as required per the PHA's interim policies because the OI public housing family is still a public housing program participant prior to termination.
    - 2) However, decreases resulting from the income determination will not:
      - a) Reset the period before termination; or
      - b) Make the OI public housing family eligible to remain in the public housing program beyond the period before termination as per the PHA's continued occupancy policy.

c. Compliance with the Community Service and Self-Sufficiency Requirements.

OI non-exempt adult family members in the period before their tenancy termination must continue to comply with CSSR.

5. Waiting List: Preference

The PHA whose policy is to terminate OI families after the 24 consecutive month grace period may not use this preference and this preference may not be applied to current public housing families (*e.g.*, OI families facing termination of tenancy pursuant to PHA policies) or families who have vacated the public housing project.

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## CHAPTER 26: INSPECTIONS

Inspection of the PHA facilities and its public housing stock is essential to help the PHA keep on track towards meeting its mission to provide decent, safe, and sanitary housing to its public housing residents.

### A. Types of Inspections

There are several types of inspections which are an integral to the PHA in meeting certain required standards as prescribed by HUD.

1. The primary goal in performing routine inspections is to identify necessary corrections before problems become severe, dangerous, or expensive.
2. HUD's Real Estate Assessment Center (REAC) conducts annual physical inspections of the PHA's properties and the ongoing inspections afford the PHA the opportunity to be better prepared to correct any deficiencies in readiness for the REAC inspections.
3. PHA residents need to be aware that anytime a PHA employee is present in the resident's unit they are required to document if the "condition" of the unit and the family's housekeeping practices meet the PHA's housekeeping standards.
4. The PHA inspections may include but are limited to:
  - a. Move-in inspections
  - b. Move-out inspections
  - c. Annual Inspections/UPCS
  - d. Quality control inspections
  - e. Housekeeping and unit condition inspections
  - f. Suspected lease violation inspections
  - g. Emergency inspections
  - h. Preventive and routine maintenance inspections
  - i. A time that the family, a PHA employee, or other interested person determines that a special inspection is necessary

### B. Move-In/Move-Out Unit Inspections

HUD regulations requires the PHA to inspect the unit prior to move-in and at move-out.

1. Move-In Inspection
  - a. The PHA and a family member (or family representative) 18 years of age or older will inspect the unit to record the condition of the unit and equipment provided in the unit (including verifying applicable serial numbers) prior to move-in and commencement of occupancy by the family.

- b. The PHA will provide a written statement (e.g., a completed inspection form) of the condition of the unit and equipment in the unit.
    - 1) Both, the family and the PHA, must agree on the condition of the unit, including any maintenance and/or deficiencies needing repair, by signing the completed inspection form.
    - 2) The PHA will retain a copy of the statement in the family file and provide a copy of the statement to the family.
  - c. Applicant Refusal of the Unit
    - 1) An applicant may refuse the unit if the unit is not safe, decent, and sanitary (e.g., the unit is not ready for occupancy due to deficiencies).
    - 2) An applicant who refuses a unit because of deficiencies will not lose their position on the waiting list.
2. Move-Out Inspection
- a. The unit and the premises will be inspected jointly by the family and the PHA, unless the family has vacated the unit without giving notice to the PHA and/or is unavailable. In such case, the PHA will inspect the unit independently.
  - b. The PHA will inspect the unit to record the condition of the unit and equipment provided at the time the family vacates the unit.
    - 1) The PHA will provide the family written notice of the move-out inspection.
    - 2) The family has the option to be present at the move-out inspection.
    - 3) The inspection will serve as a guide in determining damages beyond normal wear and tear when comparing it to the move-in inspection.
  - c. The PHA will provide a written statement identifying the difference in the condition of the unit and equipment from move-in to move-out, which will be the basis for any charges against the security deposit if the maintenance/repairs needed exceeds normal wear and tear.

### **C. Annual Inspections/UPCS**

The PHA must maintain its units in a manner that meets the physical condition standards in order to be considered decent, safe, sanitary, and in good repair.

1. The PHA is required to inspect each project annually in accordance with HUD's Uniform Physical Condition Standards (UPCS).
2. UPCS addresses the following major areas:
  - a. Site,
  - b. Building exterior Building systems,
  - c. Dwelling units,

- d. Common areas, and
  - e. Health and safety
3. Site
- a. The site components, such as fencing and retaining walls, grounds, lighting, mailboxes/project signs, parking lots/driveways, play areas and equipment, refuse disposal, roads, storm drainage and walkways must be free of health and safety hazards and be in good repair.
  - b. The site must not be subject to material adverse conditions, such as abandoned vehicles, dangerous walks or steps, poor drainage, septic tank back-ups, sewer hazards, excess accumulations of trash, vermin or rodent infestation or fire hazards.
4. Building exterior
- a. Each building on the site must be structurally sound, secure, habitable, and in good repair.
  - b. Each building's doors, fire escapes, foundations, lighting, roofs, walls, and windows, where applicable, must be free of health and safety hazards, operable, and in good repair.
5. Building systems
- Each building's domestic water, electrical system, elevators, emergency power, fire protection, HVAC, and sanitary system must be free of health and safety hazards, functionally adequate, operable, and in good repair.
6. Dwelling units
- a. Each unit within a building must be structurally sound, habitable, and in good repair. All areas and aspects of the unit (for example, the unit's bathroom, call-for-aid (if applicable), ceiling, doors, electrical systems, floors, hot water heater, HVAC (where individual units are provided), kitchen, lighting, outlets/switches, patio/porch/balcony, smoke detectors, stairs, walls, and windows) must be free of health and safety hazards, functionally adequate, operable, and in good repair.
  - b. Where applicable, the unit must have hot and cold running water, including an adequate source of potable water (note for example that single room occupancy units need not contain water facilities).
  - c. If the unit includes its own sanitary facility, it must be in proper operating condition, usable in privacy, and adequate for personal hygiene and the disposal of human waste.
  - d. The unit must include at least one battery-operated or hard-wired smoke detector, in proper working condition, on each level of the unit.
7. Common areas
- a. The common areas must be structurally sound, secure, and functionally adequate for the purposes intended.

- b. The basement/garage/carport, restrooms, closets, utility, mechanical, community rooms, day care, halls/corridors, stairs, kitchens, laundry rooms, office, porch, patio, balcony, and trash collection areas, if applicable, must be free of health and safety hazards, operable, and in good repair.
  - c. All common area ceilings, doors, floors, HVAC, lighting, outlets/switches, smoke detectors, stairs, walls, and windows, to the extent applicable, must be free of health and safety hazards, operable, and in good repair.
  - d. These standards for common areas apply, to a varying extent, to all HUD housing, but will be particularly relevant to congregate housing, independent group homes/residences, and single room occupancy units, in which the individual units (sleeping areas) do not contain kitchen and/or bathroom facilities.
8. Health and safety
- a. All areas and components of the housing must be free of health and safety hazards.
  - b. These areas include, but are not limited to, air quality, electrical hazards, elevators, emergency/fire exits, flammable materials, garbage and debris, handrail hazards, infestation, and lead-based paint.  
  
For example, the buildings must have fire exits that are not blocked and have handrails that are undamaged and have no other observable deficiencies.
  - c. The unit must have no evidence of infestation by rats, mice, or other vermin, or of garbage and debris.
  - d. The unit must have no evidence of electrical hazards, natural hazards, or fire hazards.
  - e. The units and common areas must have proper ventilation and be free of mold, odor (e.g., propane, natural gas, methane gas), or other observable deficiencies.
  - f. The unit must comply with all requirements related to the evaluation and reduction of lead-based paint hazards and have available proper certifications of such.
9. Compliance with state and local codes
- a. The physical condition standards in this section do not supersede or preempt State and local codes for building and maintenance with which HUD housing must comply.
  - b. HUD housing must continue to adhere to these codes.
10. Although the PHA's annual physical inspection of the public housing units is no longer a component of the PHAS (Public Housing Assessment System) management operations score, the PHA will consider the following alternatives to satisfy the statute's intent and simultaneously free up PHA resources:
- a. Inspect a representative sample of units
  - b. Establish a unit risk hierarchy based on historical records:
    - 1) Identify units that habitually inspect well and schedule the inspection less frequently.

- 2) Identify units which represent maintenance challenges and schedule the inspection more frequently.
  - c. The inspections will serve as a guide to identify needed maintenance or repairs and to assess any damage above and beyond normal wear and tear.
  - d. The PHA will assess charges to the family for any damage above normal wear and tear.
11. The inspection form will be kept by the PHA and a copy will be given to the family if there are deficiencies.
12. If the unit fails inspection due to housekeeping or family caused damages, the family will be given 10 days to correct the items identified during the inspection, after which a follow-up inspection will be conducted to ensure the family has corrected the items.
  - a. The family may be required to attend housekeeping classes to prevent the possibility of eviction.
  - b. Failure of the family to maintain a safe, decent and sanitary unit and premises will result in lease termination.

#### **D. Scheduling Inspections**

All PHA inspections of units will be conducted during normal business hours.

1. The PHA will provide the family at least two (2) days' notice before entry, prior to any inspection.
  - a. The PHA will encourage a member of the household 18 years of age or older to be present at the inspection.
  - b. The family must allow the PHA to inspect the unit at reasonable times with advance notice.
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.
3. If the tenant and all adult members of the household are absent from the unit at the time of entry, the PHA will leave in the unit a written statement specifying the date, time and purpose of entry prior to leaving the unit.
4. The PHA will conduct follow-up housekeeping inspections if the family's housekeeping practices or other circumstances require.
5. Rescheduling the inspection
  - a. The family must notify the PHA at least 24 hours prior to the scheduled inspection to reschedule the inspection.
  - b. The PHA will reschedule the inspection no more than once unless the family has a verifiable good cause to delay the inspection.
  - c. If the family misses the rescheduled inspection, the family will have violated the lease and may be terminated from public housing assistance.

## **CHAPTER 27: PROGRAM INTEGRITY**

Fraud is a criminal act in which individuals, groups, or businesses steal taxpayers' monies from HUD and its programs. Fraud can also lead to acts of violent crime. When fraud occurs, residents and tenants become victims and HUD's programs are abused. Tenants who make false statements regarding their income or family size, or alter official documents, are committing fraud. HUD-assisted rental housing employees who engage in bribery, contract bid rigging, embezzlement, or who alter, forge, or destroy records are committing fraud.

### **A. Investigation of Suspected Abuse or Fraud**

The PHA will initiate an investigation of a family in the event of one or more of the following circumstances:

1. Referrals, Complaints, or Tips
  - a. The PHA will follow up on referrals from other agencies, companies or persons which are received by mail, email, fax, telephone, or in person, which allege that a family is in non-compliance with, or otherwise, violating the lease, or any other program rules.
  - b. Such follow-up will be made providing that the referral contains at least one item of information that is independently verifiable.
  - c. A copy of the allegation will be retained in the family's file.
  - d. Anonymous complaints will be investigated if the information received contains specific allegations that can be independently verified. If the anonymous complaint is not specific, the information will be retained in files, but will not be used to initiate investigations.
2. PHA Detection of Suspected Abuse or Fraud
  - a. PHA Staff Awareness and Observations
    - 1) The PHA staff (to include inspection and maintenance personnel) will maintain high awareness of circumstances that may indicate program abuse or fraud, such as unauthorized persons residing in the household and indications of unreported income. The observations will be documented in the family's file.
    - 2) PHA staff discovers (as a function of a certification or reexamination, an interim reexamination, or a quality control review), information or facts that conflict with previous file data, the PHA's knowledge of the family, or is discrepant with statements made by the family.
  - b. PHA Quality Control File Reviews

On a random basis, an appropriate number of family files will be reviewed for accuracy and completeness. Such reviews will be completed by knowledgeable PHA staff who was not directly involved in the processing of such files. Such reviews shall include, but are not limited to:

    - 1) Assurance that verification of all income and deductions is present;

- 2) Changes in reported SSNs or dates of birth are noted;
  - 3) File documents are authentic;
  - 4) Ratio between reported income and expenditures is accurately computed; or
  - 5) Review of signatures are consistent with previously signed file documents.
3. Verification or Documentation

A follow-up will be made if the PHA receives EIV verification, independent verification, or documentation that conflicts with representations in the family's file (such as public record information, or credit bureau report, or reports from other agencies).

## **B. Steps to Investigating Allegations of Possible Abuse and Fraud**

If the PHA determines that an allegation or referral warrants follow-up, the PHA staff member responsible for the family file will conduct the follow-up investigation. The steps taken will depend upon the nature of the allegation and may include the items listed below. In all cases, the PHA will secure the written authorization from the family for the release of information.

1. Interviews with head of household or other family members.
  - a. The PHA will discuss the allegation (or details thereof) with the head of household or family member by scheduling an appointment with the family.
  - b. A high standard of courtesy and professionalism will be maintained by the PHA staff person who conducts such interviews.
  - c. Under no circumstances will inflammatory language, accusations, or any unprofessional conduct or language be tolerated.
  - d. If possible, an additional staff person will attend such interviews.
2. Employers and Ex-Employers

Employers or ex-employers may be contacted to verify wages that may have been previously undisclosed or misreported.
3. Other Agencies

Investigators, caseworkers, or representatives of other benefit agencies may be contacted.
4. Public Records
  - a. If relevant, the PHA will review public records kept in any jurisdictional courthouse.
  - b. Examples of public records which may be checked are; real estate, marriage, and divorce, uniform commercial code financing statements, voter registration, judgments, court or police records, state wage records, utility records and postal records.
5. Credit Bureau Inquiries (CBI)

In cases involving previously unreported income sources, a CBI (with proper authorization by the family) may be made to determine if there is financial activity that conflicts with the reported income of the family. CBI inquiries may be made in the following circumstances:



- a. If at the time of the final eligibility determination the information provided by the applicant conflicts with information obtained through outside sources or third-party verifications.
  - b. When the family's expenditures exceed reported income, and no plausible explanation is given.
  - c. When an allegation is received by the PHA wherein unreported income sources are disclosed.
6. Verification of Credit
- In cases where the financial activity conflicts with file data, a Verification of Credit form may be mailed to the creditor in order to determine the unreported income source
7. Neighbors/Witnesses
- Neighbors and/or other witnesses may be interviewed if it is believed that they have direct or indirect knowledge of facts pertaining to the PHA's review.

### **C. Responding to Allegations of Possible Abuse and Fraud**

The PHA will review allegations that contain one or more independently verifiable facts.

1. An internal file review will be conducted to determine:
  - a. If the subject of the allegation is a PHA public housing resident and, if so, to determine if the information reported has been previously disclosed by the family.
  - b. It will then be determined if the PHA is the most appropriate authority to do a follow-up (more so than police or social service). Any file documentation of past behavior, as well as corroborating complaints, will be evaluated.
2. If at the conclusion of the preliminary file review, there is/are fact(s) contained in the allegation which conflict with file data, and the fact(s) are independently verifiable, the PHA will initiate an investigation to determine if the allegation is true or false.

### **D. Maintaining Evidence and Statements Obtained by the PHA**

Documents and other evidence obtained by the PHA during the course of an investigation will be kept in the family's file, or in a separate "work file."

### **E. Evaluation of Findings**

If it is determined that a program violation has occurred, the PHA will review the facts to determine:

1. The type of violation (procedural, non-compliance, fraud);
2. Whether the violation was intentional or unintentional;
3. What amount of money (if any) is owed by the family; and
4. If the family is eligible for continued participation in the public housing program.



## F. Resolving Confirmed Violations

Once a program violation has been documented, the PHA will propose the most appropriate remedy based upon the type and severity of the violation.

### 1. Procedural Non-Compliance

This category applies when the family "fails to" observe a procedure or requirement of the PHA, but does not misrepresent a material fact, and there is no retroactive payment owed by the family.

#### a. Examples of Non-Compliance Violations are:

- 1) Failure to appear at a pre-scheduled appointment;
- 2) Failure to return verification in the time period specified by the PHA.

#### b. Warning Notice to the Family

In such cases, a notice will be sent to the family which contains the following:

- 1) A description of the non-compliance and the procedure, policy or obligation which was violated;
- 2) The date by which the violation must be corrected, or the procedure complied with;
- 3) The action which will be taken by the PHA if the procedure or obligation is not complied with by the date specified by the PHA;
- 4) The consequences of repeated (similar) violations.

### 2. Procedural Non-Compliance - Retroactive Payments

When the family owes money to the PHA for failure to report required changes, the PHA will issue a notice form. This notice form will contain the following:

- a. A description of the violation and the date(s);
- b. Any amounts owed to the PHA;
- c. A 10-business day response period; and
- d. The right to disagree and to request an informal hearing with instructions for the request of such hearing.

#### 1) Family Fails to Comply with PHA's Notice.

If the family fails to comply with PHA's notice, and a material provision of the lease has been violated, the PHA will initiate termination of tenancy.

#### 2) Family Complies with PHA's Notice.

- a) When the family complies with the PHA's notice, the PHA will meet with the family to discuss and explain the program provision that was violated.
- b) The PHA will complete a family counseling report, provide a copy to the family, and retain a copy in the family's file.

## **G. Misrepresentations**

When the family falsifies, misstates, omits, or otherwise, misrepresents a material fact which results (or would have resulted) in an underpayment of the family's share, the PHA will evaluate whether or not the family had knowledge that their actions were wrong, and the family willfully violated the lease or the law.

1. Knowledge that the action or inaction was wrong
  - a. This will be evaluated by determining if the family was made aware of public housing program requirements and prohibitions.
  - b. The signature of the head of household, spouse, co-head, and other adult household members 18 years old or older on various PHA documents, such as but not limited to the Application for Admission, Application for Continued Assistance, lease, document to report an interim change, Personal Declaration, and Things You Should Know are adequate to establish knowledge of wrongdoing.

2. The family willfully violated the law

Any of the following circumstances will be considered adequate to demonstrate willful intent:

- a. An admission by the family of the misrepresentation;
- b. The act was done repeatedly;
- c. If a false name or SSN was used;
- d. If there were admissions to others of the illegal action or omission;
- e. The family omitted material facts which were known to them (e.g., employment of self or other household members);
- f. The family falsified, forged, or altered documents; and
- g. The family uttered and certified to statements at a mandatory reexamination or interim reexamination, which were later independently verified to be false.

## **H. The Tenant Conference for Serious Violations and Misrepresentations**

When the PHA has established that material misrepresentation(s) has occurred, the PHA will schedule a tenant conference with the family representative and the PHA staff person who is most knowledgeable about the circumstances of the family misrepresentation(s).

The tenant conference will take place prior to any proposed action by the PHA.

1. The purpose of the tenant conference is to review the information and evidence obtained by the PHA with the family, and to provide the family an opportunity to explain any documented findings which conflict with representations in the family's file.
  - a. The PHA will take into consideration any documents or mitigating circumstances presented by the family.

- b. The family will be given 10 business days to furnish any mitigating evidence.**
2. The secondary purpose of the tenant conference is to assist the PHA in determining the course of action most appropriate for the family's case. Prior to the final determination of the proposed actions, the PHA will consider:
  - a. The duration of the violation and number of false statements;
  - b. The family's ability to understand the rules;
  - c. The family's willingness to cooperate and to accept responsibility for the family's actions regarding the amount of money involved;
  - d. The family's past history; and
  - e. Whether or not criminal intent has been established.

### **I. Disposition of Cases Involving Misrepresentation**

In all cases of misrepresentation involving efforts to recover monies owed, the PHA may pursue, depending upon its evaluation of the criteria stated above, one or more of the following actions:

1. Criminal Prosecution

If the PHA has established criminal intent, and the case meets the criteria for prosecution, the PHA will refer the case to the local state or District Attorney, notify HUD's Regional Inspector General for Investigations (RIGI), and terminate the public housing assistance.

2. Administrative Remedies

The PHA will terminate the public housing assistance and demand payment of restitution in-full.

3. PHA Legal Action

**If an amount of \$5,000 or more dollars is owed to the PHA due to family fraud, the PHA will seek restitution through legal judicial channels.**

4. Continue Assistance

Contingent upon full lump-sum restitution or minimal term repayment plan and warning that repeat of the offense will result in immediate termination of public housing assistance.

### **J. Notifying Family of Proposed Action**

- 1. The PHA will notify the family, by pre-paid first-class mail, of the proposed action no later than five (5) business days after the tenant conference.**
2. All notices will advise the family of their right to an informal hearing.

## CHAPTER 28: DEBT OWED TO THE PHA

When an action or inaction of the family results in the family underpaying the amount of the tenant rent, the PHA must hold the family liable to repay the under payment of tenant rent to the PHA. This tenant rent underpayment is referred to as retroactive rent.

### A. Repayment Agreement for Families

The family is required to reimburse the PHA if the family was charged less tenant rent than required by HUD's rent formula, due to the family's underreporting, failure to report income, a temporary minimum rent hardship exemption, or payment owed under the schedule of charges. The family is required to reimburse the PHA for the difference between the tenant rent that should have been paid and the tenant rent that was charged.

1. The family may owe the PHA retroactive rent due to any of the following:
  - a. The applicant family owes the PHA monies from a previously tenancy or assistance
  - b. The family's failure to report income
  - c. The family underreporting of income
  - d. The family's failure to report or underreported changes in deductions or allowances
  - e. Delinquent charges for damages
  - f. Delinquent charges for excess utility payments
  - g. Retroactive tenant rent
  - h. Other unreported or underreported changes
  - i. Temporary minimum rent hardship exemption
2. The PHA must determine retroactive rent amounts as far back as the PHA has documentation of family unreported or underreported income. Documents may include but is not limited to:
  - a. Initial, reexamination, and interim applications
  - b. EIV Income Reports, IVT Report, Income Discrepancy Reports
  - c. Form HUD-50058 and supporting documents

### B. Establishing the Repayment Agreement

The Repayment Agreement is a formal document prepared by the PHA and entered into between the PHA and the family whereas the head of household acknowledges the debt and the amount owed to the PHA. It is similar to a promissory note but contains more details regarding the nature of the debt, the terms of repayment, special provisions of the agreement, and the remedies available to the PHA upon default of the agreement.

1. The Repayment Agreement must be:
  - a. In writing;
  - b. Dated;
  - c. Include the total retroactive rent amount owed;
  - d. Amount of lump sum payment made at the time of execution of the Repayment Agreement, if applicable;
  - e. The monthly repayment amount; and
  - f. Signed by both the PHA and head of household.
2. The Repayment Agreement shall contain at a minimum the following provisions:
  - a. Reference of the paragraph in the public housing lease whereby if the family is in non-compliance with the Repayment Agreement, that the family may be subject to termination of tenancy or assistance, or both.
  - b. A statement that the monthly retroactive rent repayment amount is in addition to the family's regular tenant rent contribution.
  - c. A statement that the monthly retroactive rent repayment amount is payable to the PHA.
  - d. The terms of the Repayment Agreement may be renegotiated if there is a decrease or increase in the family's income.
  - e. Late or missed payments constitute default of the Repayment Agreement and may result in termination of tenancy and/or assistance.

### **C. Retroactive Payment Amount and Timeframe**

The PHA shall set the monthly retroactive payment at an amount the family can afford based on the family's income.

1. The family has the option to repay the retroactive rent balance as follow:
  - a. In a lump sum payment;
  - b. Monthly installments; or
  - c. A combination of a lump sum payment and monthly installments.

#### **2. Lump Sum Payment**

The PHA will require the family to make a down payment of the retroactive rent amount.

- a. The down payment amount shall be not less than 25% of the total amount of the retroactive rent owed to the PHA.
- b. The down payment amount shall be subtracted from the total amount of the retroactive rent owed to the PHA and the difference shall be paid in monthly payments until paid in full.

### 3. Monthly Retroactive Rent Payments

- a. The monthly retroactive rent payment plus the amount of the tenant rent the family pays at the time the Repayment Agreement is executed should be affordable and not exceed 40% of the family's monthly adjusted income.
- b. Monthly retroactive rent payments are due payable to the PHA by the 15<sup>th</sup> day of the month and shall be considered delinquent on the 20<sup>th</sup> day of the month.
  - 1) If the 15<sup>th</sup> day of the month falls on a Saturday or Sunday, the retroactive payment will be due the following Monday.
  - 2) If the 15<sup>th</sup> day of the month falls on a holiday (federal, state, or local), the retroactive payment will be due the 16<sup>th</sup> day of the month. If the 16<sup>th</sup> day of the month falls on a Saturday or Sunday, the retroactive payment will be due the following Monday.
- c. The PHA shall not impose a late fee for delinquent retroactive rent payments.
- d. The family, at its discretion, will be allowed, with no penalty, to pay more than the required monthly payment amount.
- e. The retroactive rent payments are payable to the PHA, and retroactive payments will be accepted by money order only.

### 4. Retroactive Rent Repayment Time Period

The PHA shall have full discretion in establishing the number of months in the Repayment Agreement for the family to repay the debt owed to the PHA.

- a. The period in which the retroactive rent amount will be repaid will be based on the amount of the lump sum payment made at the time the Repayment Agreement was executed, the monthly payments, the retroactive rent balance, and affordability for the family.
- b. The PHA may consider family circumstances and family income when establishing the number of months in the Repayment Agreement.

## D. Enforcing Repayment Agreements

The PHA shall not require terms or prohibitive payment that will force the family to leave the program.

1. HUD does not authorize any PHA-sponsored amnesty or debt forgiveness programs.
2. The family shall be required to make monthly payments until the debt is paid in full.
3. The PHA may terminate the family's assistance if the family is two (2) or more months delinquent on the payments.
4. The PHA shall terminate the family's assistance if the family:
  - a. Fails to make payments as agreed on an existing or new Repayment Agreement.

- b. Refuses to enter into a Repayment Agreement
5. Public Housing Unit Transfers
- a. Prior to transferring to another PHA public housing unit, the family must pay the retroactive rent amount in full.
  - b. The PHA will allow a family with a retroactive balance to transfer to another unit if the family's retroactive rent payment is current and the transfer is for the following reasons:
    - 1) To protect the health and safety of victims of a VAWA crime.
    - 2) As a reasonable accommodation for a family with a member who is a person with disabilities.
    - 3) Family size exceeds the maximum occupancy standard
    - 4) Protection of witnesses to violent crime as verified by a law enforcement agency or District Attorney
    - 5) Victims of harassment
    - 6) Victims of hate crimes
    - 7) A natural disaster declared
  - c. If a request to transfer is denied, the family will be advised in writing of the reasons therefore and advised of their right to request an informal hearing.

#### **E. Repayment Agreement with Previous Tenant or Program Participation**

In some instances, families who were previously on a federally assisted housing program moved owing the PHA, another PHA, or a Multifamily housing program a debt.

1. If such a family applies for public housing assistance and during the applications process it is found that the applicant was a previous tenant who left owing a debt to the PHA, another PHA, or Multifamily program, the PHA will require the applicant to:
  - a. If the debt is owed to the PHA, the applicant must pay the debt in full to the PHA before being issued offered a public housing unit, or
  - b. If the debt is owed to another PHA or Multifamily program, the applicant must enter into a Repayment Agreement with the other PHA or Multifamily program to whom the debt is owed, and pay the debt in full before being offered a public housing unit.
2. If the applicant states the debt owed to the PHA, other PHA, or Multifamily program has been paid in full, the PHA will require the applicant to provide documentation from the other PHA or the Multifamily program who the debt was owed to verify that the debt was paid in full. The PHA will research its records to determine if the debt to the PHA was paid in full.

3. If the applicant is currently in a Repayment Agreement with the PHA, another PHA, or a Multifamily program, the PHA will require the applicant to:
  - a. If the debt is owed to the PHA, the applicant must pay the debt in full to the PHA before being offered a unit, or
  - b. If the debt is owed to another PHA or Multifamily program, the applicant must provide documentation from the PHA or Multifamily program who holds the Repayment Agreement and pay the debt in full before being offered a unit.

## **F. Ineligibility for Repayment Agreements**

The PHA will not enter into more than one Repayment Agreement with the family.

1. The PHA will not enter into a Repayment Agreement with a family that currently has an active Repayment Agreement in effect.
2. The PHA will not enter into another Repayment Agreement if the family already has a Repayment Agreement in effect and incurs any additional debt to the PHA.
  - a. Any new debt to the PHA must be paid in full within 30 days of notice to the family of the new debt.
  - b. Failure for the family to pay the new debt in full may be grounds for termination of assistance.
3. The PHA will not enter into a Repayment Agreement with a family that has breached a previous Repayment Agreement with the PHA, another PHA, or Multifamily program to pay amounts owed to the PHA, another PHA, or Multifamily program.
4. The PHA shall not offer a Repayment Agreement to the family if the amount of the retroactive rent owed to the PHA is in excess of \$5,000.
  - a. The PHA will terminate the family's assistance, and
  - b. The PHA shall make every effort to recover the debt using a variety of collection tools, including but not limited to:
    - 1) Collection agencies
    - 2) Small claims courts
    - 3) Civil lawsuit
    - 4) State income tax set-off program

## **G. Debts Owed to PHAs and Terminations**

HUD maintains a national repository of debts owed to PHAs and adverse information of former participants who have voluntarily or involuntarily terminated participation in the public housing program (including the Disaster Housing Assistance Program).

1. This PHA will maintain this information within HUD's EIV system, Debts Owed to PHA's and Termination Module.



2. The PHA will collect the following adverse information once the family's participation in the public housing program has ended, whether the family voluntarily or involuntarily moves out of the public housing unit:
  - a. Amount of any balance the family owes the PHA (up to \$500,000) and explanation for balance owed (i.e., unpaid rent, retroactive rent (due to unreported income and/or change in family composition) or other charges such as damages, utility charges, etc.);
  - b. Whether or not the family has entered into a Repayment agreement for the amount that the family owes the PHA;
  - c. Whether or not the family has defaulted on a Repayment Agreement;
  - d. Whether or not the PHA has obtained a judgment against the family;
  - e. Whether or not the family has filed for bankruptcy; and
  - f. The negative reason(s) for the family's end of participation or any negative status (i.e., abandoned unit, fraud, lease violations, criminal activity, etc.) as of the end of participation date.
3. The PHA shall maintain the debt owed and termination information in EIV for a period of 10 years from the end of participation date or such date consistent with state law.

#### **H. Remaining Family Members and Prior Debt**

1. As a party to the lease, remaining members of a resident family (other than head of household or spouse) 18 years of age or older will be responsible for retroactive rent, charges or other indebtedness incurred by the former head of household or spouse.
2. Remaining family members under the age of 18 shall not be held responsible for retroactive rent incurred by the former head of household.
  - a. A minimum rent hardship exemption previously granted to a family owing retro-active rent will be automatically revoked and the family will be required to pay the retro-active rent in full or enter into a repayment agreement for any retroactive rent owed, including rent owed during the hardship exemption period.
  - b. The PHA is required to and therefore shall report the terms of the executed repayment agreement and any unpaid debts to the PHA to HUD.

## **CHAPTER 29: RECORDS MANAGEMENT**

### **A. EIV Printouts**

The PHA is authorized to maintain the EIV Income and other reports in the tenant file for the duration of tenancy and no longer than three (3) years from the end of participation (EOP) date.

1. The PHA will maintain at a minimum, the last three (3) years of the form HUD-50058 and supporting documentation for all regular and interim reexaminations of family income.
2. The PHA will maintain all records for a period of at least three (3) years from the effective date of the action.

### **B. Authority to Obtain Criminal Records**

HUD authorizes the PHA to obtain criminal conviction records from a law enforcement agency and use the criminal conviction records obtained from the law enforcement agency to screen applicants for admission to or terminate families from the public housing program.

### **C. Receipt of Information from Law Enforcement Agencies**

When the law enforcement agency receives the PHA's request, the agency must promptly release to the PHA a certified copy of criminal conviction records concerning the household member they have in their possession or under their control.

National Crime Information Center (NCIC) records must be provided in accordance with NCIC procedures.

The law enforcement agency may charge a reasonable fee for this service, but any fee charged by the agency for this service may not be passed on to the applicant.

### **D. Criminal Records**

Consistent with limitations on the use of criminal records, the PHA will ensure that criminal records, including sex offender registration information, received from a law enforcement agency, state, or local agency are:

1. Maintained confidentially;
  - a. Housed in a locked file with access restricted 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.
  - b. The PHA must not retain criminal conviction records for longer periods, even if the records are stored separately from the family's file.
2. Not misused or improperly disseminated; and

3. Destroyed once the purpose(s) 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.
  - a. For denial of admission
    - 1) If the PHA admits an applicant family to the public housing program, the PHA will destroy, by shredding, the criminal records no later than five (5) days after admission to the program.
    - 2) If the family is denied admission to the public housing program based on the criminal record, the PHA will retain the criminal record during the period allowed for requesting an informal hearing and if requested, until the informal hearing has been completed.
    - 3) The PHA will destroy, by shredding, the criminal record no later than five (5) days after the period allowed to request an informal hearing has expired or no later than five (5) days after receiving the informal hearing decision.
  - b. For termination of assistance
    - 1) If the PHA proposes termination of the family assistance from the public housing program based on the criminal record, the PHA will retain the criminal record during the period allowed for requesting an informal hearing and if requested, until the informal hearing has been completed.
    - 2) The PHA will destroy, by shredding, the criminal record no later than five (5) days after the period allowed to request an informal hearing has expired or no later than five (5) days after receiving the informal hearing decision.
  - c. If the family files a civil lawsuit for the denial of admission, termination of assistance, negligence, or breach of the PHA's disclosure of the criminal record, the PHA will destroy the criminal records no later than five (5) days after the statute of limitations has passed or the disposition of the civil lawsuit.
4. Sex offender registration criminal information
  - a. The PHA will not disclose any sex offender registration information obtained by the PHA.
  - b. The PHA will retain a record of the type of screening and the date the screening was performed for all sex offender registration criminal records.
  - c. The records management requirements do not apply to sex offender registration information that is public information or is obtained by the PHA other than from a state or local agency responsible for the collection or maintenance of such information.

## **E. Permitted Use and Disclosure of Criminal Records**

Permitted use and disclosure of criminal records received by the PHA may only be used for applicant screening and/or for lease enforcement and termination.

## 1. Disclosure of criminal records

- a. The PHA may disclose the criminal conviction which the PHA received from a law enforcement agency only as follows:

- 1) 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.

For example, if the PHA is seeking to terminate assistance to a public housing tenant on the basis of criminal activity/sex offender status as shown in criminal conviction records, the records may be disclosed to PHA employees performing functions related to the termination, or to the PHA hearing officer conducting an administrative grievance hearing concerning the proposed termination.

- 2) For use in connection with judicial eviction proceedings by the PHA to the extent necessary in connection with a judicial eviction proceeding.

For example, criminal conviction records may be included in pleadings or other papers filed in an eviction action, may be disclosed to parties to the action or the court, and may be filed in court or offered as evidence.

## 2. Penalties for improper release of information

### a. Criminal Penalty

Conviction for a misdemeanor and imposition of a penalty of not more than \$5,000 is the potential for:

- 1) Any person, including an officer, employee, or authorized representative of the PHA, who knowingly and willfully requests or obtains any information concerning an applicant for, or tenant of the PHA under false pretenses; or
- 2) Any person, including an officer, employee, or authorized representative of the PHA, who knowingly and willfully discloses any such information in any manner to any individual not entitled under any law to receive the information.

### b. Civil Liability

The PHA may be held liable to any applicant for, or tenant of, the PHA who is affected by either of the following:

- 1) A negligent or knowing disclosure of criminal records information obtained under statutory authority about such person by an officer, employee, or authorized representative of the PHA if the disclosure is not authorized by this section; or
- 2) An applicant for, or tenant of, of the PHA may seek relief against a PHA for inappropriate disclosure by bringing a civil action for damages and such other relief as may be appropriate against the PHA.
- a) The United States district court in which the affected applicant or tenant resides, in which the unauthorized action occurred, or in which the officer, employee, or representative of the PHA alleged to be responsible resides, has

jurisdiction.

- b) Appropriate relief may include reasonable attorney's fees and other litigation costs.

## **F. Use of Criminal Records**

If the PHA proposes to deny admission or terminate assistance for criminal activity as shown in the criminal record obtained from a law enforcement agency, the PHA must:

1. Denial of Admission
  - a. Provide the subject of the record and the applicant with a copy of the criminal record.
  - b. Give the family an opportunity to dispute the accuracy and relevance of that record, in the informal review process.
2. Termination of Assistance
  - a. Notify the household of the proposed action to be based on the information, and
  - b. Provide the subject of the record and the tenant with a copy of the criminal record.
  - c. Give the family an opportunity to dispute the accuracy and relevance of that record in the informal hearing process.
3. All information about a victim of a VAWA crime that is provided to the PHA and utilized for the purpose of terminating the assistance of the perpetrator or a household who has a member of the household who is a perpetrator of a VAWA crime shall be maintained confidential pursuant to the Violence Against Women Act.

Note: The opportunity for an informal hearing must be provided before a denial of admission or termination of assistance on the basis of such information.

## **CHAPTER 30: OTHER MATTERS**

The following pertains to requirements and/or references to guidelines for other matters involving admissions and occupancy.

### **A. Smoke-Free Living Environment**

The PHA is dedicated to protecting the health and safety of its residents. In recognition that direct exposure to smoke or involuntary exposure to secondhand smoke can cause respiratory illness, heart disease, asthma, cancer and/or other adverse health effects and to reduce the risk of fires and maintenance cost, the PHA has implemented and adopted the Smoke-Free in Public Housing Policy.

1. The PHA prohibits the use of prohibited tobacco products in all public housing living units and interior areas, including but not limited to hallways, rental and administrative office, community centers, day care centers, laundry centers, and similar structures as well as in outdoor areas within 25 feet from public housing and administrative office buildings in which public housing is located.
2. Prohibited tobacco products are defined as items that involve the ignition and burning of tobacco leaves, such as (but not limited to) cigarettes, cigars, pipes and waterpipes (hookahs).

### **B. Pet Ownership**

The dwelling lease establishes the PHA's policy on pet ownership. The PHA has a separate Pet Ownership Policy as an attachment to the lease. policies for family and elderly/disabled Pet Ownership rules.

### **C. Transfers**

The dwelling lease requires the resident to transfer to a dwelling unit of appropriate size, based on family composition, upon appropriate notice by the PHA that such a dwelling unit is available. The PHA has a separate policy on the Transfers and Transfer Waiting List.

### **D. Emergency Transfer Plan (ETP)**

1. The PHA shall adopt and follow the procedures in a model Emergency Transfer Plan which will provide that a tenant receiving rental assistance through or residing in a unit subsidized under the PHA, who is a victim of domestic violence, dating violence, sexual assault or stalking qualifies for an emergency transfer if:
  - a. The tenant expressly requests the transfer; and
  - b. The tenant reasonably believes there is a threat of imminent harm from further violence if the tenant remains within the same dwelling unit that the tenant is currently occupying; or
  - c. In the case of a tenant who is a victim of sexual assault, either the tenant reasonably believes there is a threat of imminent harm from further violence if the tenant remains

within the same dwelling unit that the tenant is currently occupying, or the sexual assault occurred on the premises during the 90-calendar-day period preceding the date of the request for transfer.

The tenant who is a victim of sexual assault may make an imminent harm request regardless of when or where the sexual assault occurred and the PHA may permit more than 90-calendar days from the date of the sexual assault.

2. The tenant may qualify for either an internal emergency transfer or external transfer:
  - a. An internal emergency transfer is the relocation of a tenant to another unit where the tenant would not be categorized as a new applicant; that is, the tenant may reside in the new unit without having to undergo an application process.
  - b. An external emergency transfer is the relocation of a tenant to another unit where the tenant would be categorized as a new applicant; that is the tenant must undergo an application process in order to reside in the new unit.
3. The tenant may seek an internal emergency transfer and an external emergency transfer concurrently if a safe unit is not immediately available.
4. The PHA shall maintain existing VAWA strict confidentiality measure in its Emergency Transfer Plan as to not disclose the location of the new unit to the abuser.
5. The PHA will make the Emergency Transfer Plan available upon request and when feasible, make the plan publicly available.
6. The PHA will keep a record of all emergency transfers requested under its Emergency Transfer Plan and the outcome of the requests. The PHA shall retain these records for a period of three (3) years or for a period of time as specified by program regulations. The PHA must report the requests and outcomes to HUD annually.
7. An emergency transfer request must not be construed to supersede any PHA eligibility or other occupancy requirements.

## **E. Collection**

The PHA dwelling lease contains the PHA's policies with respect to the amount of rental payments, the due date, and charges for late payment and returned checks.

## **F. Termination of Lease**

The PHA maintains a separate Termination and Eviction Policy for additional guidance.

## **G. Grievance Procedures**

The PHA maintains a Grievance Procedures policy that is incorporated by reference in the lease and is posted in the Management Office.

## **H. Community Service and Self-Sufficiency Requirements**

The PHA has a separate Community Service/Self-Sufficiency Policy.

## **I. Housekeeping Standards**

The dwelling lease establishes the PHA's policy on housekeeping standards. The PHA has separate Housekeeping Standards Policy.

## **J. Resident Initiatives Policy**

The PHA supports resident initiative for all its families. A separate policy has been developed for this program and is incorporated in this document by reference.

## **K. Preemption of Restrictions on Placement of Direct Broadcast Satellite, Multi-channel Multipoint Distribution Service and Television Broadcast Antennas**

1. Under the Telecommunications Act of 1996 as amended effective January 1999 and October 25, 2000, the Federal Communications Commission (FCC) adopted the Over-The-Air Reception Devices Rule regarding restrictions on viewer's ability to receive video programming signals from direct broadcast satellites (DBS), multi-channel multipoint distribution (wireless cable) providers (MMDS) and television broadcast stations (TVBS).
2. This rule prohibits restrictions that impair the installation, maintenance or use of antennas used to receive video programming.
3. The rule applies to video antennas including direct-to-home satellite dishes that are less than one meter (39.37") in diameter (any size in Alaska), TV antennas and wireless cable antennas.
4. The rule prohibits most restrictions that:
  - a. Unreasonably delay or prevent installation, maintenance or use;
  - b. Unreasonably increase the cost of installation, maintenance or use; or
  - c. Preclude reception of an acceptable quality signal.
    - 1) The rule applies to acceptable size antennas placed on property that is rented (including public housing) on property which is under the tenant's exclusive use or control (i.e., balconies, patios, designated yard areas, etc.). Local governments and landlords may enforce restrictions that do not impair installation, use or maintenance of these antennas as well as restrictions needed for safety or historic preservation.
    - 2) The PHA will not unreasonably restrict the installation of antennas by residents if:
      - a) The unit has a tenant use only area such as a balcony, patio or designated yard area for which they are solely responsible (mowing, watering, etc.).
      - b) The installation will not block or restrict access or egress to or from the unit or otherwise violate health and safety codes.
      - c) The installation does not result in damage to the unit (i.e., holes in walls or ceiling).



- d) The installation of an interior antenna does not damage the unit beyond normal wear and tear.
  - e) The resident submits a request in writing asking to install an outside antenna. Inside antennas do not require approval in writing.
  - f) The resident agrees to restore any interior and exterior changes to original condition before vacating the unit. Otherwise, charges for repairs will apply.
- d. The PHA will not assess any fees designed to unreasonably restrict the tenant's right to install antennas as long as the tenant is in compliance with the limitations of this rule.

## **L. Occupancy of Police Officers**

The PHA reserves the right to place Police Officers who would not otherwise be eligible in the PHA's units, if it is determined that their presence would contribute to the safety of and security of residents. The number and location of units and a description of the terms and conditions for them to occupy units is identified in the PHA's annual plan.

## **M. Minimum Heating Standards**

If the PHA is in a state, territory, or local with existing minimum heating standards, the PHA shall utilize their respective local minimum heating standards for the public housing dwelling units.

Where state or local minimum heating standards do not exist, the PHA shall use the following HUD established minimum heating requirements for public housing dwelling units:

1. Minimum Temperature:
  - a. If PHA-controlled, the minimum temperature in each unit must be at least 68 degrees Fahrenheit.
  - b. If tenant-controlled, then the heating equipment must have the capability of heating to at least 68 degrees Fahrenheit.
2. Minimum Temperature Capability:
  - a. The PHA is allowed flexibility in maintenance of the indoor temperature when the outdoor temperature approaches the designed-day temperature.
    - 1) The designed-day temperature refers to the lowest expected outdoor temperature that a heating system was designed to accommodate and still maintain the desired indoor temperature.
    - 2) This should translate to an outdoor temperature in the 1<sup>st</sup> to 5<sup>th</sup> percentiles of low outdoor temperatures for an area.
  - b. At no point should indoor temperatures in occupied space drop below 55 degrees Fahrenheit. This flexibility applies when at least one of the below criteria are met:
    - 1) The outside temperature reaches or drops below the design day temperature, or

- 2) The outside temperature is within five (5) degrees Fahrenheit of the designed-day temperature for more than two (2) continuous days.
3. Measurement:  
Temperature measurements must be taken three (3) feet above the floor and two (2) feet from an exterior wall in the habitable room.

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**APPENDIX A: HUD VERIFICATION HIERARCHY AND TECHNIQUES**

<b>HUD Verification Hierarchy and Techniques</b>		
<b>Level</b>	<b>Verification Technique</b>	<b>Ranking</b>
<b>1</b>	<b>Upfront Income Verification (UIV)</b> , using HUD's <b>Enterprise Income Verification (EIV) System</b> and the <b>Income Validation Tool (IVT)</b> . Not available for income verifications of new applicants.	<b>Highest</b> (Mandatory)
<b>2</b>	Upfront Income Verification ( <b>UIV</b> ) using non-HUD system.	<b>Highest</b> (Optional)
<b>3</b>	<b>Written Third-Party Verification</b>	<b>High</b> (Mandatory to supplement EIV reported income sources and when EIV has no data; Mandatory for non-EIV reported income sources; Mandatory when tenant disputes EIV-reported employment and income information and is unable to provide acceptable documentation to support dispute.)
<b>4</b>	<b>Written Third-Party Verification Form</b>	<b>Medium-Low</b> (Mandatory if written third party verification documents are not available or rejected by the PHA; and when the applicant or tenant is unable to provide acceptable documentation)
<b>5</b>	<b>Oral Third-Party Verification</b>	<b>Low</b> (Mandatory if written third party verification is not available)
<b>6</b>	<b>Tenant Declaration</b>	<b>Low</b> (Use as a last resort when unable to obtain any type of third-party verification)

**APPENDIX B: LIST OF CHARGES IN ADDITION TO TENANT RENT**

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**APPENDIX C: UTILITY ALLOWANCES OR CONSUMPTION ALLOWANCES**

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**APPENDIX D: DEVELOPMENTS OF SITES BY TYPE**

Name of Development	Total # Units	General Occupancy (former Family Units)	Mixed Population (former Elderly Units)	Designated Elderly Units	Designated Handicap Units

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**APPENDIX E: PHA INCOME LIMITS**

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**APPENDIX F: TABLE OF FLAT RENTS**

Unit Size	Flat Rent

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**APPENDIX G: SECURITY DEPOSITS**

<b>Security Deposit Requirements</b>
One month's Total Tenant Payment at time of move-in

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**APPENDIX H: IRS PUBLICATION 502-MEDICAL AND DENTAL EXPENSES**

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**APPENDIX I: TERMINATION AND EVICTION POLICY**

*See separate policy attached*

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**APPENDIX J: GRIEVANCE PROCEDURES**

*See separate policy attached*

DRAFT

**APPENDIX K: TRANSFERS AND TRANSFER WAITING LIST**

*See separate policy attached*

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**APPENDIX L: HOUSEKEEPING STANDARDS POLICY**

*See separate policy attached*

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**GLOSSARY**

<b>Acronyms Used in the HCV Program</b>	
<b>Acronym</b>	<b>Definition</b>
ACC	Annual Contributions Contract
ADA	The Americans with Disabilities Act
BR	Bedroom
CFR	Code of Federal Regulations
CIS	U.S. Citizenship and Immigration Services
CPI	Consumer Price Index
EBL	Elevated Blood-Lead Level
EID	Earned Income Disallowance
EIV	Enterprise Income Verification System
FDIC	Federal Deposit Insurance Corporation
FHA	Federal Housing Administration
FHEO	Fair Housing and Equal Opportunity
FICA	Federal Insurance Contributions Act
FMR	Fair Market Rent
FOIA	Freedom of Information Act
FSS	Family Self-Sufficiency
FUP	Family Unification Program
FY	Fiscal Year
FYE	Fiscal Year End
GAO	Government Accounting Office

HA	Housing Agency
HHS	U.S. Department of Health and Human Services
HOTMA	Housing Opportunities Through Modernization Act
HUD	U.S. Department of Housing and Urban Development
IMS	Inventory Management System
IRS	Internal Revenue Service
IVT	Income Validation Tool
LBP	Lead-Based Paint
LEP	Limited English Proficiency
MF	Multifamily Housing Program
MSA	Metropolitan Statistical Area
MTW	Moving to Work
NDNH	National Directory of New Hires
NOFA	Notice of Funding Availability
NPHOI	Non-Public Housing Over-Income Family
OI	Over-Income Family
OIG	HUD Office of the Inspector General
OMB	U.S. Office of Management and Budget
PASS	Plan to Achieve Self-Support
PHA	Public Housing Authority
PHP	Public Housing Participant
PIC	PIH Information Center



PIH	Public and Indian Housing
PMSA	Primary Metropolitan Statistical Area
QC	Quality Control
QHWRA	Quality Housing and Work Responsibility Act
RAD	Rental Assistance Demonstration
REAC	Real Estate Assessment Center
SAFMR	Small Area Fair Market Rent
SAVE	Systematic Alien Verification for Entitlements Program
SSA	Social Security Administration
SWICA	State Wage Information Collection Agency
TPS	Temporary Protective Status
UA	Utility Allowance
UIV	Upfront Income Verification
URP	Utility Reimbursement Payment
VAWA	Violence Against Women Reauthorization Act of 2013
VCA	Voluntary Compliance Agreement

## DEFINITIONS

### Abandonment

Means absence of the resident from the dwelling, without notice to the PHA, for one full rental period or in excess of 30 days, whichever is less; providing such absence occurs only after tenant rent for the dwelling unit is delinquent.

### ACC Expiration Date

The last day of the term during which a particular public housing development is subject to all or any of the provisions of the Annual Contributions Contract (ACC). The ACC term for a particular development expires at the latest of:

1. The end of the "Debt Service Completion Date," which is the last day of a one-year period beginning with, and inclusive of, the last debt service Annual Contribution Date for the development, as determined under the ACC (e.g., if the last debt service Annual Contribution Date is June 15, 1983, the one-year period continues through the end of the day on June 14, 1984, which is the debt Service Completion Date); or
2. The end of the date of full repayment of any indebtedness of the PHA to the Federal government in connection with the development; or
3. The end of the last date of an extension of the term of the ACC provisions related to development operation, as effected under 24 CFR, Sections 969.105, Extension of ACC upon Payment of Operating Subsidy, or 969.106, ACC Extension in Absence of Current Operating Subsidy.

### Accessible

When used with respect to the design, construction, or alteration of a facility or a portion of a facility other than an individual dwelling unit, means that the facility or portion of the facility when designed, constructed or altered, can be approached, entered, and used by individuals with physical disabilities. The phrase "accessible to and usable by" is synonymous with accessible.

When used with respect to the design, construction, or alteration of an individual dwelling unit, means that the unit is located on an accessible route, and when designed, constructed, altered or adapted, can be approached, entered, and used by individuals with physical disabilities.

A unit that is on an accessible route and is adaptable and otherwise in compliance with the standards set forth in 24 CFR, Part 8, Section 8.32, is "accessible" within the meaning of this paragraph.

When a unit in an existing facility which is being made accessible as a result of alterations is intended for use by a specific qualified individual with disabilities (e.g., a current occupant of such unit or of another unit under the control of the same recipient, or an applicant on a waiting list), the unit will be deemed accessible if it meets the requirements of applicable standards that address the particular disability or impairment of such person.

**Accessible Route**

A continuous unobstructed path connecting accessible elements and spaces in a building or facility that complies with the space and reach requirements of applicable standards prescribed by 24 CFR, Part 8, Section 8.32.

An accessible route that serves only accessible units occupied by persons with hearing or vision impairments need not comply with those requirements intended to effect accessibility for persons with mobility impairments.

**Actual Income from Assets**

If the cash value of the family total net assets is \$5,000 or less, the asset income is the actual income to be derived from the assets.

**Actual and Imminent Threat**

Refers to a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. 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, and the length of time before the potential harm would occur.

**Adaptability**

The ability of certain elements of a dwelling unit, such as kitchen counters, sinks, and grab bars, to be added to, raised, lowered, or otherwise altered, to accommodate the needs of persons with or without disabilities, or to accommodate the needs of persons with different types or degrees of disability.

For example, in a unit adaptable for a hearing-impaired person, the wiring for visible emergency alarms may be installed, but the alarms need not be installed until such time as the unit is made ready for occupancy by a hearing-impaired person.

**Adjusted Income**

Annual income less allowable HUD deductions and allowances:

- \$480 for each dependent;
- \$400 for any elderly family or disabled family;
- The sum of the following, to the extent the sum exceeds three percent of annual income: Unreimbursed medical expenses of any elderly family or disabled family; and Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and
- Any reasonable childcare expenses necessary to enable a member of the family to be employed or to further his or her education.

**Admission**

The point when the family becomes a participant in the program.

**Adult**

A person who is 18 years of age or older, or has been convicted of a crime as an adult under any federal, state or tribal law

**Affiliated Individual**

A spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in the place of a parent or guardian (for example, the affiliated individual is a person in the care, custody, or control of that individual); or

Any individual, tenant, or lawful occupant living in the household of that individual.

**Alternative Non-Public Housing Rent**

This is the monthly amount the PHA must charge non-public housing over-income (NPHOI) families, allowed by PHA policy to remain in a public housing unit and who have completed the 24 consecutive month grace period.

It is 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.
  - For the Public Housing Capital Fund, the amount of Capital Funds provided to the unit will be calculated as the per unit Capital Fund assistance provided to a PHA for the development in which the family resides for the most recent funding year for which Capital Funds have been allocated;
  - For the Public Housing Operating Fund, the amount of Operating Funds provided to the unit will be calculated as the per unit amount provided to the public housing project where the unit is located for the most recent funding year for which a final funding obligation determination has been made;
  - HUD will publish such funding amounts no later than December 31 each year.

**Annual**

Occurring once a year.

**Annual Contributions Contract (ACC)**

A contract under the Housing Act of 1937, as amended, between HUD and the PHA, containing the terms and conditions under which the Department assists the PHA in providing decent, safe, and sanitary housing for low-income families.

The ACC must be in a form prescribed by HUD, under which HUD agrees to provide assistance in the development, modernization, and/or operation of a low-income housing development under

the Act, and the PHA agrees to develop, modernize, and operate the development in compliance with all provisions of the ACC and the Act, and all HUD regulations and implementing requirements and procedures.

A written agreement between HUD and a PHA to provide annual contributions to the PHA to cover housing assistance payments and other expenses pursuant to the Act.

### **Annual Income**

Annual income includes all amounts, monetary or not, which:

- Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
- Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
- Which are not specifically excluded by law, regulation or notice.
- Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

### **Applicant**

A family or individual that has applied for admission to the public housing program but is not yet a program participant.

### **Application for Admission**

A written form, completed in accordance with PHA requirements, signed by the applicant, and submitted to the PHA. The purpose of the application is to determine whether the applicant is eligible for public housing.

### **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.

For example, auxiliary aids for persons with impaired vision may include readers, Braille materials, audio recordings, and other similar services and devices.

Auxiliary aids for persons with impaired hearing may include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TDD's), interpreters, note takers, written materials, and other similar services and devices.

### **Bifurcate**

To divide a lease as a matter of law, subject to the permissibility of such process under the requirements of the applicable HUD-covered program and State or local law, such that certain tenants or lawful occupants can be evicted or removed and the remaining tenants or lawful occupants can continue to reside in the unit under the same lease requirements or as may be revised depending upon the eligibility for continued occupancy of the remaining tenants and lawful occupants.

**Building Entrance on an Accessible Route**

An accessible entrance to a building that is connected by an accessible route to public transportation stops, to accessible parking and passenger loading zones, or to public streets or sidewalks, if available. A building that complies with ANSI A117.1-1986 or a comparable standard complies with the requirements of this paragraph.

**Check-meter**

A device for measuring utility consumption within each individual dwelling unit where the utility service is supplied to the PHA through a Master-meter System. The PHA pays the Utility Supplier of the Utility Service on the basis of the Master-meter readings and uses the Check-meter to determine whether and to what extent the Utility consumption of each dwelling unit is in excess of the Allowance for PHA-Furnished Utilities.

**Child**

A member of the family, other than the family head or spouse, who is under 18 years of age.

**Childcare Expenses**

Amounts anticipated being paid by the family for the care of children under thirteen (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 be gainfully employed, to actively seek employment or to further his or her education, and only to the extent such amounts are not reimbursed.

The amount deducted shall reflect reasonable charges for childcare, and in the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of income.

Reasonable childcare expenses, as defined by the PHA, shall not exceed the actual costs incurred.

**CIS**

U.S. Citizenship and Immigration Services, formerly the U.S. Immigration and Naturalization Service (INS).

**Citizen**

A citizen by birth, naturalization, or national of the United States.

**Co-Head**

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.

**Common Space**

Space available for use by assisted families and other occupants of the unit.

**Common Use Areas**

Rooms, spaces or elements, inside or outside of a building, that are made available for the use of residents of a building or the guests thereof. These areas include hallways, lounges, lobbies, and

laundry rooms, refuse rooms, mailrooms, recreational areas and passageways among and between buildings.

### **Community Service**

The performance of voluntary work or duties in the public benefit that serve to improve the quality of life and/or enhance resident self-sufficiency, or/and increase the self-responsibility of the resident within the community in which the resident resides.

### **Complainant**

Any resident whose grievance is presented to the PHA or at the project management office.

### **Computer Matching**

The agreement that describes the responsibilities and obligations of the parties participating in a computer match.

Information in EIV is derived from computer matching programs initiated by HUD with the Social Security Administration (SSA) and the U.S. Department of Health and Human Services (HHS), for all program participants with valid personal identifying information (name, date of birth (DOB), and social security number (SSN)) reported on the form HUD-50058.

### **Consent Form**

Any consent form approved by HUD to be signed by assistance applicants and participants for the purpose of obtaining income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and payments of retirement income), and return information for unearned income from the Internal Revenue Service.

The consent forms expire after a certain time and may authorize the collection of other information from assistance applicants or participants to determine eligibility or level of benefits.

### **Consolidated ACC**

HUD's annual Grant Funding Exhibits to the ACC, which together with the ACC, constitute the annual grant agreement for the PHA's public housing program.

### **Contiguous MSA**

In portability, an MSA that shares a common boundary with the MSA in which the jurisdiction of the initial PHA is located.

### **Continued Assistance Family**

This is a mixed family who meets all the following requirements:

- The family was receiving assistance under a Section 214 covered program on June 19, 1995; and
- Whose head of the household or spouse has eligible immigration status according to the requirements of the restrictions on assistance to non-citizens; and

- The family does not include any person (who does not have eligible immigration status) other than:
  - The head of the household;
  - Any spouse of the head of the household;
  - Any parents of the head of the household;
  - Any parents of the spouse;
  - Any children of the head of the household or spouse.

This does not define “family” for purposes of eligibility at the PHA (see “Family” in this Definitions section).

### **Contract of Participation**

A contract is a form approved by HUD, entered into between a participating family and a PHA operating an FSS program that sets forth the terms and conditions governing participation in the FSS program. The contract of participation includes all individual training and services plans entered into between the PHA and all members of the family who elect to participate in the FSS program. These plans are attached to the contract of participation as exhibits.

### **Controlled Substance**

A drug or chemical whose manufacture, possession, or use is regulated by a government, such as illicitly used drugs or prescription medications that are designated by law.

### **Covered Families**

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 a member of the family must participate in an economic self-sufficiency program as a condition of such assistance.

### **Covered Person**

A tenant, any member of the tenant’s household, a guest or another person under the tenant’s control.

### **Currently Engaging In**

With respect to behavior such as illegal use of a drug, other drug-related criminal activity, or other criminal activity, currently engaging in, means that the individual has engaged in the behavior recently enough to justify a reasonable belief that the individual’s behavior is current.

### **Dating Violence**

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.

**Days**

- Calendar days: Means every day on the calendar, including weekends and holidays. For purposes of the Administrative Plan, "day" without the prefix "calendar" means, every day on the calendar.
- Consecutive days: Means days that follow without interruption or gaps.

Business days: Means the hours of operations of the PHA, excluding weekends and holidays.

**Decent, Safe and Sanitary Housing (In Good Repair)**

Housing is decent, safe, sanitary, and in good repair if the requirements of 982.401 (Housing Quality Standards) and the Uniform Physical Condition Standards implemented by HUD in September of 1998 are met.

**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.

**Dilapidated Housing**

See the definitions of Substandard Housing.

**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 (including co-head), spouse, or sole member is a person with a disability. It may include 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 (or "Person with a Disability")**

This definition no longer includes any person whose "disability" is solely related to drug or alcohol dependency.

**Disallowance**

An exclusion from annual income.

**Discriminatory Housing Practice**

The Fair Housing Act prohibits housing discrimination on the basis of race, color, national origin, religion, sex, familial status, and disability.

An act that is unlawful under Sections 804, 805, 806, or 818 of the Fair Housing Act.

**Displaced Person/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.

**Divestiture Income**

Imputed income from assets disposed of by an applicant or tenant in the last two years for less than fair market value.

**Domestic Violence**

Includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

The term "spouse or intimate partner of the victim" includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

**Drug**

A controlled substance as defined in section 102 of the Controlled Substances Act.

**Drug Abuse Treatment Facility**

An entity: that holds itself out as providing, and provides, diagnosis, treatment, or referral for treatment with respect to illegal drug use; and that is either an identified unit within a general care facility, or an entity other than a general medical care facility.

**Drug-Related Criminal Activity**

The illegal manufacture, sale, distribution, or use of a drug, or possession of a drug with intent to manufacture, sell, distribute or use the drug.

**Drug-Trafficking**

The illegal selling, transporting, or importing of unlawful control substances.

**Dwelling**

Any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.

**Earned Income**

Earned income means income or earnings included in annual income from wages, tips, salaries, other employee compensation, and self-employment. (See 24 CFR 5.609.) Earned income does not include any pension or annuity, transfer payments, any cash or in-kind benefits, or funds deposited in or accrued interest on the FSS escrow account established by a PHA on behalf of a participating family.

**Economic Self-Sufficiency Program**

Any program designed to encourage, assist, train or facilitate the economic independence of HUD-assisted families or to provide work for such families.

These programs include job training, employment counseling, work placement, basic skills training, education, English proficiency, financial or household management, apprenticeship and any program necessary to ready a participant for work (including a substance abuse or mental health treatment program), or other work activities.

**Elderly Family**

Elderly family means a family whose head (including co-head), spouse, or sole member is a person who is at least 62 years of age. It may include 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.

**Elements of Due Process**

Means an eviction action or termination of tenancy in a State or local court in which the following safeguards are required:

- Adequate notice to the resident of the grounds for terminating the tenancy and for eviction.
- Opportunity for the resident to examine all relevant documents, records and regulations of the PHA, prior to the trial, for the purpose of preparing a defense.
- Right of the resident to be represented by counsel.
- Opportunity for the resident 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 resident may have.
- A decision on the merits.

**Elevated Blood Lead Level**

A confirmed concentration of lead in whole blood of a child under age 6 equal to or greater than the concentration in the most recent guidance published by the U.S. Department of Health and Human Services (HHS) on recommending that an environmental intervention be conducted.

**Eligible Families**

Current residents of public housing and applicants who have been screened and notified they are eligible but a unit is not yet available for them.

**Emergency Condition**

A situation in which failure to supply immediate relief would pose a serious threat to the life, health, or safety of the applicant for admission.

**Enrollment**

Enrollment means the date that the FSS family entered into the contract of participation with the PHA.

**Enterprise Income Verification (EIV) System**

Is a web-based computer system that contains employment and income information of individuals who participate in HUD rental assistance programs.

**Escrow Deposit**

An amount in dispute with respect to rent or other charges which must be paid by the family and held by the PHA pending resolution of a grievance. Escrows are not required for families requesting minimum rent hardship exemption or contesting a reduction in welfare benefits.

**Evidence of Citizenship or Eligible Immigration Status**

The documents that must be submitted as evidence of citizenship or eligible immigration status.

**Expedited Grievance**

The procedure established by the PHA for any grievance concerning a termination of tenancy or eviction that involves:

- Any criminal activity that threatens the health, safety and right to peaceful enjoyment of the PHA's public housing premises by other residents or employees of the PHA; or
- Any drug-related or violent criminal activity on or off PHA premises.

**Extremely Low-Income Family**

A "very low-income family" whose annual income does not exceed the higher of:

- The poverty guidelines established by the Department of Health and Human Services applicable to the family of the size involved ( except in Puerto Rico or any other territory or possession of the United States); or
- 30% of the median income for the area, as determined by HUD, with adjustment for smaller and larger family, except that HUD may establish income ceilings higher or lower than 30% of the area median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

**Eviction**

Means any action initiated by the PHA to regain possession of the unit and use of the premises.

**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 (42 U.S.C. 3601 et seq.).

**Fair Market Rent (FMR)**

The rent that would be required to be paid in the particular housing market area in order to obtain privately owned, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. This Fair Market Rent includes utilities (except telephone). Separate Fair Market Rents will be established by HUD for dwelling units of varying sizes (number of bedrooms) and will be published in the Federal Register in accordance with 24 CFR Part 888.

**Familial Status**

Familial status covers:

- Families with children under the age of 18,
- Pregnant persons
- Any person in the process of securing legal custody of a minor child (including adoptive or foster parents)
- Persons with written permission of the parent or legal guardian

Under the Fair Housing Act, a family may not be discriminated against because of familial status.

**Family**

Family 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 an elderly person, displaced person, disabled person, near-elderly person, or any other single person; or
- A group of persons residing together, and such group includes, but is not limited to:
  - A family with or without children (a child who is temporarily away from 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; and

- The remaining member of a tenant family.

**Family Income**

Means monthly income as defined in HUD regulations, i.e., annual income divided by 12.

**Family Project (Family Development/General Occupancy Development)**

Any development assisted under Section 9 of the U.S. Housing Act of 1937, which is not an elderly development. For this purpose, an elderly development is one that was designated for occupancy by the elderly at its inception (and has retained that character) or, although not so designated, for which the PHA gives preferences in tenant selection (with HUD approval) for all units in the development to elderly families. A building within a mixed-use development which meets these qualifications shall, for the purposes of 24 CFR, Part 965, Subpart H, Lead-Based Paint Poisoning Prevention, be excluded from any family development. Zero bedroom units, for the purposes of Subpart H, are excluded from any family development.

**Family Self-Sufficiency (FSS)**

Family Self-Sufficiency program or FSS program means the program established by a PHA within its jurisdiction to promote self-sufficiency among participating families, including the provision of supportive services to these families, as authorized by section 23 of the U.S. Housing Act of 1937.

**FSS Account**

FSS account means the FSS escrow account authorized by section 23 of the U.S. Housing Act of 1937.

**FSS Credit**

FSS credit means the amount credited by the PHA to the participating family's FSS account.

**FSS Family**

FSS family or participating family means a family that resides in public housing, and that elects to participate in the FSS program, and whose designated head of the family has signed the contract of participation.

**FSS-Related Service Program**

Means any program, publicly or privately sponsored, that offers the kinds of supportive services described in the definition of "supportive services" set forth in regulations.

**FSS Slots**

FSS slots refer to the total number of public housing units that comprise the minimum size of a PHA's public housing FSS program.

**Federal Preference**

The Quality Housing and Work Responsibility Act of 1998 has permanently eliminated federal preferences. However, the language and criteria of the former Federal preferences may be retained or adopted by the PHA as their local preferences. Therefore, these definitions remain

without the reference to "Federal". Means a resident selection preference for admission of applicant families that are any of the following:

- Involuntarily displaced;
- Living in substandard housing (including families that are homeless or living in a shelter for the homeless);
- Paying more than 50 percent of family income for rent.

### **Federally Assisted Housing**

- Public housing;
- Housing receiving project-based or tenant-based assistance under Section 8 of the U.S. Housing Act of 1937;
- Housing that is assisted under Section 202 of the Housing Act of 1959, as amended by section 801 of the National Affordable Housing Act;
- Housing that is assisted under Section 202 of the Housing Act of 1959; as such section existed before enactment of the National Affordable Housing Act;
- Housing that is assisted under Section 811 of the National Affordable Housing Act;
- Housing financed by a loan or mortgage insured under section 221(d)(3) of the National Housing Act that bears interest at a rate determined under the proviso of section 221(d)(5) of such Act;
- Housing insured assisted or held by HUD or by a State or local agency under section 236 of the National Housing Act;
- Housing assisted by the Rural Development Administration under section 514 or section 515 of the Housing Act of 1949.

### **Fixed Source of Income**

A family member with a fixed source of income is a family member whose income includes periodic payments at reasonably predictable levels from one or more of the following sources:

- Social Security, Supplemental Security Income (SSI), Supplemental Disability Insurance;
- Federal, state, local, or private pension plans;
- Annuities or other retirement benefit programs, insurance policies, disability or death benefits, or other similar types of periodic receipts; or
- Any other source of income subject to adjustment by a verifiable COLA or current rate of interest

### **Flat Rent**

Flat rent is determined annually by the PHA and is based on the market rental value of the unit. The PHA will establish a flat rent for each public housing unit that is:

- No less than 80% of the applicable Fair Market Rent (FMR); or

- No less than 80% of an applicable small area FMR (SAFMR) or unadjusted rent, if applicable, as determined by HUD, or any successor determination, that more accurately reflects local market conditions and is based on an applicable market area that is geographically smaller than the applicable market area. If HUD has not determined an applicable SAFMR or unadjusted rent, the PHA must rely on the applicable FMR; or
- Established based on an exception from HUD.

The PHA must revise, if necessary, the flat rent amount for a unit no later than 90 days after HUD issues the new FMRs.

For unit where utilities are tenant-paid, the PHA must adjust the flat rent downward by the amount of a utility allowance for which the family might otherwise be eligible.

If a new flat rent would cause a family's rent to increase by more than 35%, the family's rent increase must be phased in at 35% annually until such time that the family chooses to pay the income-based rent, or the family starts to pay the established flat rent.

### **Full-Time Student**

A person attending school or vocational training on a full-time basis based on the standards of the institution.

### **Gender Identity**

Means the gender with which a person identifies, regardless of the sex assigned to that person at birth and regardless of the person's perceived gender identity.

Perceived gender identity means the gender with which a person is perceived to identify based on that person's appearance, behavior, expression, other gender related characteristics, or sex assigned to the individual at birth or identified in documents.

### **Good Faith**

Means honesty in fact, in the conduct of the transaction concerned, as evidenced by all surrounding circumstances.

### **Grievance**

Any dispute which a resident may have with respect to PHA action or failure to act in accordance with the individual resident's lease, or PHA regulations which adversely affect the individual resident's rights, duties, welfare, or status.

### **Guest**

Only for purposes of 24 CFR Part 5, Subpart A and I, and Parts 882, 960, 966, and 982, 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. The requirements of parts 966 and 982 apply to a guest as so defined.



**Handicap/Disability**

With respect to a person, a physical or mental impairment which substantially limits one or more of such person's major life activities; a record of having such an impairment, or being regarded as having such an impairment. This term does not include current, illegal use of or addiction to a controlled substance (as defined in Section 102 of the Controlled Substances Act; 21 U.S.C. 802). For the purpose of 24 CFR Part 100, Discriminatory Conduct Under the Fair Housing Act, an individual shall not be considered to have a disability solely because that individual is a transvestite (a person, especially a male, who dresses in the clothing of the opposite sex for psychological reasons).

**Handicapped/Disabled 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.

**Handicapped/Disabled Person**

A person having a physical or mental impairment that:

1. Is expected to be of long-continued and indefinite duration;
2. Substantially impedes the person's ability to live independently; and
3. Is of such a nature that such ability could be improved by more suitable housing conditions.

**Has a Record of Such an Impairment**

As used in the definition of Disability, 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.

**Head of Household**

The head of household is the adult member of the family who is designated for purposes of determining income eligibility and rent.

**Hearing Officer/Hearing Panel**

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 individual or individuals do not need legal training.

**Homelessness**

The Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH Act) revised the definition of homeless for HUD's homeless assistance programs. While the HUD regulations maintain four categories for defining people who are homeless, the PIH definition for IMS-PIC reporting (Form 50058) is narrowed to the following two categories:

Category 1: An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:

- An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground; **or**
- An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, State, or local government programs for low-income individuals); **or**
- An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;

Category 4: Any individual or family who:

- Is **fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking**, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence; **and**
- Has no other residence; **and**
- Lacks the resources or support networks, e.g., family, friends, and faith-based or other social networks, to obtain other permanent housing.

### **HOTMA (Housing Opportunity Through Modernization Act of 2016)**

On July 29, 2016, HOTMA was signed into law (Pub. L. 114–201, 130 Stat. 782). HOTMA makes numerous changes to statutes governing HUD programs, including sections 3, 8, and 16 of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) (1937 Act).

In addition to amending regulations for HUD's public housing and Section 8 programs, the HOTMA Final Rule revises the program regulations for several other HUD programs. HUD did this in the interest of aligning its requirements across its programs or because the underlying program statute required HUD to make the revisions. These include the regulations for:

- HUD's Community Development Block Grants,
- HOME Investment Partnerships,
- Housing Trust Fund,
- Housing Opportunities for Persons With AIDS,
- Supportive Housing for the Elderly (Section 202), and
- Supportive Housing for Persons with Disabilities (Section 811) programs.

Since HUD and other federal agencies may use the regulations revised as part of this rulemaking in the calculation of income for other programs or activities, the public should be aware that the effects of this rulemaking are not limited to the programs listed in this rule and preamble.

- **Household**

Includes everyone who lives in the unit. Household members are used to determine the unit size.

**Housing Agency (HA)**

A State, county, municipality or other governmental entity or public body authorized to administer the program. The term "HA" has been replaced by the term "PHA" (Public Housing Agency) and no longer includes an Indian Housing Authority (IHA).

**Housing Assistance Limitation for Single Persons**

A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a resident family may not be provided public housing and other project-based assistance in a housing unit with two or more bedrooms.

**Housing Manager/Assistant Housing Manager**

A Housing Manager is any person who, irrespective of title, is responsible for the day-to-day management and operation, which may include the supervision of employees, of a low-income housing development or developments. An Assistant Housing Manager is any person who, irrespective of title, is responsible for assisting a Housing Manager in performing his/her managerial responsibilities.

**Housing Provider (Responsible Entity)**

1. The owner or manager of the housing facility;
2. The owner or manager of the common and public use areas of a housing facility, when the dwelling units are individually owned;
3. The term "housing provider" may include any person or entity that operates a housing facility. The term "housing provider" includes any person or entity that represents the property owners of a community in their housing interest, including homeowners or resident associations, whether or not there is common ownership operation of any portion of a community.

**Housing Subsidies**

Means, assistance to meet the costs and expenses of temporary shelter, rental housing or homeownership, and includes rent, mortgage or utility payments.

**HUD**

The Department of Housing and Urban Development or its designated officer or employee.

**HUD Field Office**

Any HUD Office that has been delegated authority under the U.S. Housing Act of 1937 to perform functions pertaining to the area in which the PHA is located.

**Immigration and Naturalization Service (INS)**

Now called the U.S. Citizenship and Immigration Services (CIS).

**Imputed Income from Asset**

Imputed income from assets is calculated by multiplying the total cash value of all family assets by the average passbook savings rate as determined by the PHA.

**Imputed Welfare Income**

The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

**Income Limits**

HUD establishes Extremely Low-Income, Very Low-Income and Low-Income limits that are used to determine if assisted housing program applicants qualify for admission to HUD-assisted programs. These income limits are based on HUD estimates for area median family income (using Metropolitan Statistical Areas or Primary Metropolitan Statistical Areas as defined by the Office of Management and Budget (OMB), and the Bureau of the Census definition of family) with specific statutorily permissible adjustments. If the income limits based on this approach would be less than if based on the relevant State non-metropolitan median family income level, income limits are based on the State non-metropolitan family income level.

**Income-Based Rent**

An amount based on the projected family income for the subsequent 12 month period.

**Individual Training Services Plan**

Means a written plan that is prepared for the head of the FSS family, and each adult member of the FSS family who elects to participate in the FSS program, by the PHA in consultation with the family member, and which sets forth:

- The supportive services to be provided to the family member;
- The activities to be completed by that family member; and
- The agreed upon completion dates for the services and activities. Each individual training and services plan must be signed by the PHA and the participating family member, and is attached to, and incorporated as part of the contract of participation. An individual training and services plan must be prepared for the head of the FSS family.

**Individual with a Disability**

A person having a physical or mental impairment that: (a) is expected to be of long-continued and indefinite duration; (b) substantially impedes the person's ability to live independently, and (c) is of such a nature that such ability could be improved by more suitable housing conditions.

## **Is Regarded as Having an Impairment**

As used in the definition of Disability, means:

- Has a physical or mental impairment that does not substantially limit one or more major life activities, but that is treated by another person as constituting such a limitation;
- 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; or
- Has none of the impairments defined under the definition of "physical or mental impairment," below, but is treated by another person as having such an impairment.

## **Jurisdiction**

The area in which the PHA has authority, under state and local law, to administer the public housing program.

## **Kin-GAP Payments**

Kin-GAP payments are subsidies that go to, or on behalf of, children leaving the juvenile court system to live with a relative or legal guardian. This is an excluded income.

## **Kinship Care Payments**

Kinship care payments are foster care subsidies that go to, or on behalf of, children living with a relative or legal guardian. This is an excluded income.

## **Law Enforcement Agency**

The National Crime Information Center (NCIC), police departments, and other law enforcement agencies that hold criminal conviction records. (Note that the NCIC is a division of the Federal Bureau of Investigation (FBI)).

## **Lead-Based Paint**

Paint or other surface coatings that contain lead equal to or exceeding 1.0 milligram per square centimeter or 0.5 percent by weight or 5,000 parts per million (ppm) by weight.

Lead is a highly toxic metal that may cause a range of health problems, especially in young children. When lead is absorbed into the body, it can cause damage to the brain and other vital organs, like the kidneys, nerves and blood.

## **Lease**

A written agreement between the PHA and the tenant for the leasing of a unit to the tenant. The lease establishes the conditions for occupancy of the unit by a family with public housing assistance.

## **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 by the PHA to be essential to the care and well-being of the person or persons;

- Is not obligated for support of the person or persons; and
- Would not be living in the unit except to provide necessary supportive services.

**Local Preference**

A preference used by the PHA to select among applicant families.

**Location (or Site)**

A term used to identify units located in any common geographical area. It may be a development, a portion of a development, two or more developments, or an entire development plus one or more portions of another development. If the units are divided by a major architectural or topographical barrier, such as a freeway, stream or retaining wall, that substantially impairs mutual access, the separated units constitute separate locations or sites.

**Low-Income Family**

A family whose annual income does not exceed 80% of the median income for the area, as determined by HUD, with adjustments for smaller and larger families.

HUD may establish income limits higher or lower than 80% of the median income for the area on the basis of its finding that such variations are necessary because of the prevailing levels of construction costs or unusually high or low-income family.

**Major Life Activities**

As used in the definition of Disability, means functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

**Management Contract**

A written agreement between a resident management corporation and a PHA as provided by 24 CFR 964.35, Management Responsibilities.

**Marriage**

Marriage certified by a formal marriage license, or an informal marriage, as may be specified in State or local laws or regulations.

**Master-Meter System**

A Utility distribution system in which a PHA is supplied Utility Service by a Utility supplier, through a system meter or meters, and distributes the Utility Service to its residents.

**Medical Expenses**

Those 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. (Medical expenses are allowable only for Elderly or Disabled Families.)

**Minimum Rent**

Is the PHA-determined minimum TTP amount. The minimum rent is the least a family will contribute toward rent and utilities. The PHA can set the minimum rent anywhere from \$0 to \$50.

**Minor**

A person who is under the age of legal competence, unless otherwise determined by state Law.

**Mixed Family**

A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

**Mixed Population Project**

A public housing project, or portion of a project that is reserved for elderly families and disabled families at its inception (and has retained that character). If the project was not so reserved at its inception the PHA has obtained HUD approval to give preference in Tenant Selection for all units in the project (or portion of project) to elderly families and disabled families. These projects formerly were known as elderly projects.

**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, including Puerto Rico, the U.S. Virgin Islands, Guam, Canal Zone, etc.

**Near-Elderly Person/Family**

Near-elderly family means a family whose head (including co-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**

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 home-ownership 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.

In determining net family assets, the PHA shall include the value of any assets disposed of by an applicant or family for less than fair market value, including a disposition in trust, but not in a



foreclosure or bankruptcy sale, during the two (2) 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 family received important consideration not measurable in dollar terms.

**Non-citizen**

A person who is neither a citizen nor a 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. These families will no longer be public housing program (PHP) participants.

**Normal Wear and Tear**

Means deterioration which occurs, based upon the use for which the rental unit is intended, without negligence, carelessness, accident, abuse or intentional damage of the premises, equipment or chattels of the PHA by the resident, members of the resident's household, or by his/her invitees or guests. However, uncleanliness does not constitute normal wear and tear.

**Occupancy Standards**

These standards are established by the PHA for determining the number of bedrooms required for families of different sizes and compositions.

**Older Person**

A person 55 years of age or older.

Other Person Under the Tenant's Control, for the Purposes of the Definition of Covered Person (Drug-Related and Criminal Activity)

The person, although not staying as a guest (as defined under "guest") in the unit, is, or was at the time of the activity in question, on the premises (as defined under "premises") because of an invitation express or implied 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.

**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.

**Overcrowded**

A unit that does not meet the following PHA occupancy standards.



**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 § 5.603(b) of this title, by a factor of 2.4. HUD has codified this definition.

**Participant**

Has the following meaning for the programs referred to in the regulations.

1. Part 960: a resident under the program.
2. Part 905: a resident or homebuyer under the program.

**Partnership Process**

A specific and ongoing process that is designed to ensure that residents, resident groups, and the PHA work in a cooperative and collaborative manner to develop, implement and monitor the CIAP or CGP. At a minimum, a PHA shall ensure that the partnership process incorporates full resident participation in each of the required program components.

**Passbook Rate**

The interest rate, as determined by the PHA, used in calculating the imputed income from assets over \$5,000.

**Passbook Rate Calculation**

The PHA will use the actual Savings National Rate that is in effect on the first day of the PHA's fiscal year. The PHA will review the Savings National Rate annually and adjust it accordingly on the first day of the PHA's fiscal year. Current and historical Savings National Rates may be accessed at [www.fdic.gov/regulations/resources/rates/](http://www.fdic.gov/regulations/resources/rates/).

**Person with Disabilities for Eligibility**

Is person who:

- Has a disability, as defined in 42 U.S.C. 423;
- Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that: Is expected to be of long-continued and indefinite duration; Substantially impedes his or her ability to live independently, and Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or
- Has a developmental disability as defined in 42 U.S.C. 6001;
- Does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome;
- For purposes of qualifying for low-income housing, does not include a person whose disability is based solely on any drug or alcohol dependence; and

- Means "individual with handicaps", as defined in §8.3 of this title, for purposes of reasonable accommodation and program accessibility for persons with disabilities.

### **Person with Disabilities for Reasonable Accommodations**

Any person who:

- Has a physical or mental impairment that substantially limits one or more major life activities;
- Has a record of such impairments; or
- Is regarded as having such an impairment.

### **PHA Plan**

The annual plan and the 5-year plan as adopted by the PHA and approved by HUD.

### **PHAS (Public Housing Assessment Program)**

The revised assessment program for public housing authorities that became effective on October 1, 1998, and applies first to housing authorities with fiscal years ending September 30, 1999.

### **Physical or Mental Impairment**

As used in the definition of Disability, includes:

- Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculo-skeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; Genitourinary; 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, Human Immunodeficiency Virus infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.

### **Police Officer**

A person determined by the PHA to be, during the period of residence of that person in public housing, employed on a full-time basis as a duly licensed professional police officer by a Federal, State or local government or by any agency of these governments. An officer of an accredited police force of a housing agency may qualify.

### **Premises**

Means, facilities, appurtenances, areas and other facilities held out for use of the resident, or whose use is promised to the resident coincidental with occupancy of a dwelling unit. For purposes of Drug-Related and Criminal Activity, premises means, the building or complex or development in which the public housing unit is located, including common areas and grounds.

**Preponderance of Evidence**

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.

**Previously Unemployed**

With regard to the earned income disallowance, a person with disabilities 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.

**Processing Entity**

The person or entity that, under any of the programs covered in 24 CFR, Part 5.210-5.238, is responsible for making eligibility and related determinations and any income reexaminations.

**Project (Development)**

Includes any of the following that meet the requirements of 24 CFR, Part 964, Resident Participation and Management in Public Housing:

- One or more contiguous buildings;
- An area of contiguous row houses;
- Scattered site buildings.

The whole of one or more residential structures and appurtenant structures, equipment, roads, walks, and parking lots which are covered by a single contract for Federal financial assistance or application for assistance, or are treated as a whole for processing purposes, whether or not located on a common site.

**Project (Development) for the Elderly or Disabled (24 CFR, Section 942.3)**

Means any development assisted under the United States Housing Act of 1937 (other than under Section 8 or Section 17 of the Act), including any building within a mixed-use development, that was designated for occupancy by the elderly or disabled at its inception, or, although not so designated, for which the PHA gives preference in Tenant Selection (with HUD approval) for all units in the development (or for a building within a mixed-use development) to elderly or disabled families. For the purposes of 24 CFR, Part 942, Pet Ownership in Public Housing for the Elderly or Disabled, this term does not include developments assisted under the Low-Rent Housing Homeownership Opportunity program--Turnkey III; 24 CFR, Part 5.300 et al, or under Title II of the U.S. Housing Act of 1937--Indian Housing; 24 CFR, Part 905.

**Promptly**

Means within 10 calendar days

**Prorated Tenant Rent**

For families that include both members who are citizens or have eligible immigration status and members who do not have eligible immigration status (or elect not to state that they have

eligibility), the amount of tenant rent is prorated based on the percentage of household members who are citizens or have established eligible immigration status.

Prorated tenant rent does not apply to families exceeding the income limits or over-income families.

### **Public Housing Agency (PHA)**

Any state, county, municipality, or other governmental entity or public body, (or agency or instrumentality thereof) that is authorized to engage in or to assist in the development or operation of low-income housing. For the purposes of 24 CFR, Part 942, Resident Participation and Management in Public Housing, the term Public Housing Agency does not include Indian Housing Authorities.

### **Public Use Areas**

Interior or exterior rooms or spaces of a building that are made available to the general public. Public use may be provided at a building that is privately or publicly owned.

### **Qualified EID Family**

A family receiving public housing assistance:

- Whose annual income increases as a result of employment of a family member and who was previously unemployed for one or more years prior 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 responsible entity 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 reasonable accommodation is a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with disabilities to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces, or to fulfill their program obligations.

### **Reasonable Modification**

Is a structural change made to existing premises, occupied or to be occupied by a person with a disability, in order to afford such person full enjoyment of the premises.

Reasonable modifications can include structural changes to interiors and exteriors of dwellings and to common and public use areas.

Examples include the installation of a ramp into a building, lowering the entry threshold of a unit, or the installation of grab bars in a bathroom. Under the Fair Housing Act, prohibited discrimination includes a refusal to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises.

### **Reexaminations**

The PHA must reexamine the income and composition of all families at least once 12 months. The family is required to submit any certification, release, information or documentation that the PHA or HUD has determined necessary.

The PHA will adjust the total tenant payment, offer the family a choice of rent, and verify compliance with the community service and self-sufficient requirement for non-exempt household members, during the reexamination process.

### **Remaining Members**

Means a person who was a member of a household occupying a PHA unit, and who remains in the unit after other members of the household have departed, usually because of marriage, separation, divorce, death, or long-term illness requiring placement in a nursing home or other facility.

### **Rent**

See definitions of rent as stated in Rent Burden Preference as noted below.

### **Resident**

Means a person entitled, under a rental agreement (lease), to occupy a unit in peaceful possession, to the exclusion of others, and includes the owner of a mobile home renting premises, other than a lot or parcel in a mobile home park, for use as a site for the location of the mobile home.

### **Resident Council**

An incorporated or unincorporated non-profit organization or association that meets each of the following requirements:

- It must be representative of the residents it purports to represent.
- It may represent residents in more than one development or in all of the developments of a PHA, but it must fairly represent residents from each development that it represents.
- It must adopt written procedures providing for the election of specific officers on a regular basis (but at least once every three years).
- It must have a democratically elected governing board. The voting membership of the board must consist of residents of the development or developments that the resident organization or resident council represents.

**Resident Groups**

Democratically elected resident groups such as PHA-wide resident groups, area-wide resident groups, single development resident groups, or RMCs.

**Resident Management**

The performance of one or more management activities for one or more developments by a resident management corporation under a management contract with the PHA.

**Resident Management Corporation**

The entity that proposes to enter into, or enters into, a management contract with a PHA that meets the requirements of 24 CFR, Part 964, Subpart C, Resident Management Under Section 20 of the U.S. Housing Act of 1937. The corporation must have each of the following characteristics:

- It must be a non-profit organization that is incorporated under the laws of the State in which it is located.
- It may be established by more than one resident organization or resident council, so long as each such organization or council (a) approves the establishment of the corporation and (b) has representation on the Board of Directors of the corporation.
- It must have an elected Board of Directors.
- Its bylaws must require the Board of Directors to include representatives of each resident organization or resident council involved in establishing the corporation.
- Its voting members must be residents of the development or developments it manages.
- It must be approved by the resident council. If there is no council, a majority of the households of the development must approve the establishment of such an organization to determine the feasibility of establishing a corporation to manage the development.
- It may serve as both the resident management corporation and the resident council, so long as the corporation meets the requirements of 24 CFR, Part 964, for a resident council.

**Responsible Entity**

The PHA administering the low-income public housing program under an ACC with HUD.

**Retail Service**

Purchase of utility service by PHA residents directly from the utility supplier.

**Section 214**

Section 214 of the Housing and Community Development Act of 1980, as amended (42 U.S.C. 1436a). Section 214 restricts HUD from making financial assistance available for non-citizens unless they meet one of the categories of eligible immigration status specified in Section 214.

**Section 214 Covered Programs**

Programs to which the restrictions imposed by Section 214 apply are programs that make available financial assistance pursuant to the United States Housing Act of 1937 (42 U.S.C. 1437-

1440), Section 235 or Section 236 of the National Housing Act (12 U.S.C. 1715z-1) and Section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s).

### **Section 504**

Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, prohibits discrimination on the basis of disability in program and activities conducted by HUD or any federal agency that receive financial assistance.

### **Security Deposit**

Means an amount of currency delivered to the PHA by the family as a pledge to abide by terms or conditions of the rental agreement.

### **Sexual Assault**

Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent.

### **Sex-Offender**

HUD determines a sex-offender to be someone who is required to be registered in a state lifetime sexual offender registry.

### **Sexual Orientation**

Means one's emotional or physical attraction to the same and/or opposite sex (*e.g.*, homosexuality, heterosexuality, or bisexuality).

### **Single Person**

A person who lives alone, or intends to live alone, and who does not qualify as an elderly family, a displaced person, or the remaining member of a resident family.

### **Social Security Number**

The number that is assigned to a person by the Social Security Administration of the Department of Health and Human Services, and that identifies the record of the person's earnings that are reported to the Administration.

The social security number has nine digits separated by hyphens, as follows: 000-00-0000. It does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary under the Social Security System.

### **Special Admission**

Admission of an applicant that is not on the PHA waiting list or without considering the applicant's waiting list position.

### **Specified Welfare Benefit Reduction**

A reduction of welfare benefits, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program or because of welfare agency sanction against a family member for noncompliance with a welfare



agency requirement to participate in an economic self-sufficiency program. It does not include a reduction or termination of welfare benefits by the welfare agency:

1. at expiration of a lifetime or other time limit on the payment of welfare benefits;
2. because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements;
3. because a family member has not complied with other welfare agency requirements.

### **Spouse**

Spouse refers to the marriage partner who is someone you need to divorce in order to dissolve the relationship. It includes the partner in a common law marriage.

It does not cover boyfriends, girlfriends, significant others, or co-head.

### **Stalking**

The term 'stalking' means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others; or suffer substantial emotional distress.

Stalking may include to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person; and/or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; 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 harm to: (i) that person; (ii) a member of the immediate family of that person; or (iii) the spouse or intimate partner of that person. Immediate family member means, with respect to a person- - a spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in loco parentis; or any other person living in the household of that person and related to that person by blood and marriage.

### **State**

Any of the States of the United States of America, the District of Columbia, the territories and possessions of the United States (American Samoa, Guam, Northern Mariana Islands, Puerto Rico, U.S. Virgin Islands) and Indian tribes.

### **Statement of Family Responsibility**

An agreement, in the form prescribed by HUD, between the PHA and a family to be assisted under the Program, stating the obligations and responsibilities of the two parties.

### **Surcharge**

The utility supplier installs, owns, and operates a utility meter that includes consumption for at least one building/property and there are meters (check-meters) installed to measure consumption for each of the individual units in the building/property. The PHA sets allotments for allowable utility consumption for each unit and surcharges residents for consumption that exceeds the allotted amount. The PHA may own the individual dwelling unit meters, or the utility



supplier may own the meters. Independent of who owns the utility meters, the PHA is responsible for surcharging residents.

### **Supportive Services**

Those appropriate services that a PHA will make available, or cause to be made available to an FSS family under a contract of participation, and may include:

- **Childcare:** Childcare of a type that provides sufficient hours of operation and serves an appropriate range of ages;
- **Transportation:** Transportation necessary to enable a participating family to receive available services, or to commute to their places of employment;
- **Education:** Remedial education; education for completion of secondary or post-secondary schooling;
- **Employment:** Job training, preparation, and counseling; job development and placement; and follow-up assistance after job placement and completion of the contract of participation;
- **Personal welfare:** Substance/alcohol abuse treatment and counseling;
- **Household skills and management:** Training in homemaking and parenting skills; household management; and money management;
- **Counseling:** Counseling in the areas of: The responsibilities of homeownership; Opportunities available for affordable rental and homeownership in the private housing market, including information on an individual's rights under the Fair Housing Act; and Money management; and
- **Other services:** Any other services and resources, including case management, reasonable accommodations for individuals with disabilities, that the PHA may determine to be appropriate in assisting FSS families to achieve economic independence and self-sufficiency.

### **SWICA**

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.

### **Tenant**

The person or persons (other than a live-in aide) who executed the lease as lessee of the dwelling unit.

### **Tenant (Resident) Participation**

A process of consultation between residents and the PHA concerning matters affecting the management of public housing, as a means of providing residents with information about PHA plans and decisions and affording them opportunities to make comments and recommendations, on an advisory basis, about those plans and decisions.

**Tenant Rent**

- The amount payable monthly by the family as rent to the PHA.
- Where all utilities (except telephone & cable) and other essential housing services are supplied by the PHA, tenant rent equals Total Tenant Payment.
- Where some or all utilities (except telephone & cable) and other essential housing services are not supplied by the PHA, and the cost thereof is not included in the amount paid as rent, tenant rent equals Total Tenant Payment less the allowance for tenant-purchased utilities.

**Term**

Means the period of occupancy specified in the rental agreement. Effective April 28, 2000, the term of the lease agreement for public housing units is 12 months and automatically renewable except for non-compliance with the community service requirement, where applicable.

**Total Tenant Payment**

Is the minimum family contribution to the gross rent and is calculated as the greater of:

- 30% of monthly adjusted income;
- 10% of monthly income;
- The welfare rent (in as-paid states only);
- The PHA minimum rent;

**Unit Size**

Unit size or size of unit refers to the number of bedrooms in a dwelling unit.

**Unreimbursed Medical Expense Costs**

This deduction is granted only to elderly or disabled families. A range of medical expenses and services can be claimed to the extent that the total medical expenses exceed three percent (3%) of annual income. Determination of eligibility for reimbursement of expenses will be consistent with the current IRS Publication 502.

**Upfront Income Verification (UIV)**

Is 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.

**U.S. Citizenship and Immigration Services (CIS)**

Formerly called the Immigration and Naturalization Service (INS).

**Utilities**

Water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection, and sewage services. Telephone service is not included.

## Utility Allowance

The cost of utilities (except telephone & cable) and other housing services for an assisted unit that is not included in the tenant rent, but is the responsibility of the family occupying the unit, and an amount equal to the estimate made and adopted by the 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

Where applicable, the utility reimbursement shall be paid to the family in the manner provided in the pertinent program regulations. A PHA or owner may pay the utility reimbursement directly to the utility company without the consent of the family; however, the PHA must advise the family of the amount paid.

## VAWA

The Violence Against Women Act of 1994, as amended (42 U.S.C. 13925 and 42 U.S.C. 14043e *et seq.*).

## VAWA Crimes

Collectively domestic violence, dating violence, sexual assault, or stalking.

## Verification Technique Definitions:

- Upfront Income Verification (UIV) (Level 6)
  - Using HUD's Enterprise Income Verification (EIV system and the Income Validation Tool (IVT) (not available for income verification of new applicants)
- Upfront Income Verification (UIV) (Level 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.
- Written Third Party Verification (Level 4)
  - An original or authentic document generated by a third-party source dated either within the 60-day period preceding the reexamination or PHA request date.
- Written Third-Party Verification Form (Level 3)
  - A standardized form to collect information from a third-party source (also known as traditional third-party verification). The form is completed by the third party by hand (in writing or in typeset). PHAs send the form directly to the third-party source by mail, or email.
- 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.

- Tenant Declaration (Level 1)
  - The tenant submits an affidavit or notarized statement of reported income and/or expenses to the PHA.

### **Very Low-Income Family**

A low-income family whose annual income does not exceed 50% of the median income for the area, as determined by HUD, with adjustments for smaller and larger families.

HUD may establish income limits higher or lower than 50% of the median income for the area, on the basis of its finding that such variations are necessary because of unusually high or low family incomes.

### **Veteran**

A person who served in the active military, naval, or air service, and who was discharged or released under conditions other than dishonorable.

### **Violent Criminal Activity**

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 likely to cause, serious bodily injury or property damage.

### **Waiting List Admission**

An admission from the PHA waiting list.

### **Welfare Assistance**

Welfare or other payments to families or individuals, based on need, that are made under programs funded, separately or jointly, by federal, state, or local governments (including assistance provided under the Temporary Assistance for Needy Family (TANF) program).

### **Welfare Rent**

The portion of welfare assistance specifically designated to meet the family's actual housing costs.

## NOTICE

The Nelrod Company has made its best efforts to comply with regulations, laws, and Federal/local policies. The Nelrod Company does not offer advice on legal matters or render legal opinions. We recommend that this policy be reviewed by the Housing Authority's general counsel and/or attorney prior to approval by the Board of Commissioners.

The Nelrod Company is not responsible for any changes made to these policies by any party other than The Nelrod Company.

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