

NOTICE OF PUBLIC MEETINGS AND PUBLIC HEARING
Lakeland Housing Authority
FY 2027 Annual Agency Plan, Budgets, Policies and the Moving to Work (MTW)
Amendment to the Agency Plan

The Lakeland Housing Authority (LHA) has scheduled two public meetings on its **FY 2027 Annual Agency Plan, Budgets, Policies and the Moving to Work (MTW) Amendment to the Agency Plan** with the Resident Advisory Board and the general public on June 12, and July 3, 2026, at 8:30 am, the meeting (s) will be conducted inside the Lakeland Housing Authority Conference Room. The plan will be posted at www.lakelandhousing.org for forty-five (45) days starting May 21, 2026. You can also send your comments in writing to 430 Hartsell Avenue, Lakeland Florida 33815, attention “Agency Plan 2027”.

The Public Hearing is scheduled for July 17, 2026, at 8:30 a.m.

LHA has developed its Agency Plan in accordance with the Quality Housing and Work Responsibility Act of 1998 including, but not limited to, additional updates received from the Department of Housing and Urban Development.

The 5 Year Plan, Annual Agency Plan, Budgets, MTW Amendment, Capital Funds budgets, policies and addendums are available for review at the above address between the hours of 8:00 a.m. and 5:00 p.m., Monday through Thursday, beginning on May 21, 2026, and ending on July 6, 2026. The plan will be posted for 45 days. Inquiries and comments may be directed to Carlos Pizarro, Senior-Vice-president of Housing, at cpizarro@lakelandhousing.org and/or Charles Glover, Regional Director, at Cglover@lakelandhousing.org and/or Florida Relay services at 711 and/or by visiting: www.LakelandHousing.org.

Copies of the Plans, Policies and Amendments will be also available for review at the following locations:

- www.lakelandhousing.org
- City of Lakeland Community Redevelopment Agency--228 South Massachusetts Avenue, Lakeland, FL 33801
- All the properties and locations within the Lakeland Housing Authority portfolio.

The Housing Authority of the City of Lakeland dated May 21, 2026.

L2027 05/21; 2026-Public and Legal Notice



Annual PHA Plan (MTW Agency)

U.S. Department of Housing and Urban Development Office of Public and Indian Housing

OMB No. 2577-0226 Expires: 12/31/2027

Purpose

The 5-Year and Annual PHA Plans provide a ready source for interested parties to locate basic PHA policies, rules, and requirements concerning the PHA's operations, programs, and services. They also inform HUD, families served by the PHA, and members of the public of the PHA's mission, goals, and objectives for serving the needs of low-, very low-, and extremely low-income families.

Applicability

Form HUD-50075-ST is completed annually by Standard PHAs or Troubled PHAs. PHAs with zero public housing units must continue to comply with PHA Plan requirements until they close out their Section 9 programs (ACC termination).

A. PHA Information

PHA Name	Housing Authority of the City of Lakeland
PHA Code	FL011
PHA Type	Standard PHA ☒ Troubled PHA ☐ Moving to Work (MTW) Agency ☒
PHA Plan for Fiscal Year Beginning (MM/YYYY)	01/2027
Fiscal Year of Plan (Effective)	01/01/2027 – 12/31/2027
PHA Inventory (ACC Units at Start of FY)	Public Housing Units: 257 Housing Choice Vouchers: 1,416 Total Combined: 1,673
PHA Plan Submission Type	Annual Submission ☒ Revised Annual Submission ☐

Public Availability of Information: The Annual PHA Plan and all information relevant to the public hearing and proposed PHA Plan are available for inspection by the public at: City of Lakeland CRA (228 S. Massachusetts Ave., Lakeland, FL 33801); Housing Authority of the City of Lakeland (430 Hartsell Avenue, Lakeland, FL 33815); all properties and locations within the LHA portfolio; and electronically at <https://lakelandhousing.org/>.

PHA Consortia: Joint PHA Plan ☐

Participating PHAs	PHA Code	Program(s) in the Consortia	Program(s) not in the Consortia	No. of Units PH	No. of Units HCV

B. Plan Elements

B.1 Revision of Existing PHA Plan Elements

☒ Statement of Housing Needs and Strategy for Addressing Housing Needs

- ☒ Deconcentration and Other Policies that Govern Eligibility, Selection, and Admissions
- ☒ Financial Resources
- ☒ Rent Determination
- ☒ Operation and Management
- ☒ Grievance Procedures
- ☒ Homeownership Programs
- ☒ Community Service and Self-Sufficiency Programs
- ☒ Safety and Crime Prevention (VAWA)
- ☒ Pet Policy
- ☒ Asset Management
- ☒ Substantial Deviation
- ☒ Significant Amendment/Modification

Narrative – Description of Revisions:

The Housing Authority of the City of Lakeland (LHA) updated its FY 2027 Annual PHA Plan effective 01/01/2027 to ensure full compliance with HUD requirements and to reflect agency-wide program modernization initiatives, including implementation of the Housing Opportunities Through Modernization Act (HOTMA) and the National Standards for the Physical Inspection of Real Estate (NSPIRE), as applicable.

The Plan elements identified above were reviewed and revised to: (i) align local policies with current HUD rules, regulations, and guidance; (ii) document the agency's ongoing public housing repositioning strategy; and (iii) clarify program administration and resident protections consistent with due process requirements.

Housing Needs and Strategy: LHA updated its description of local housing needs and strategic response to reflect increasing housing cost burdens and limited supply of deeply affordable housing, particularly for extremely low-income households, elderly families, and persons with disabilities.

Deconcentration/Admissions: LHA reaffirmed its commitment to affirmatively further fair housing (AFFH) and maintains deconcentration policies through its ACOP and HCV Administrative Plan, including nondiscrimination, reasonable accommodation, and accessible communications practices.

Financial Resources and Rent Determination: LHA updated references to available resources and rent policy governance to reflect HOTMA-aligned income, asset, and verification provisions and to maintain consistency across Public Housing and HCV policies.

Operations/Management and Inspections: LHA updated its operations and management standards to reflect the transition to NSPIRE requirements and to ensure enforcement coordination that protects families from owner-caused deficiencies and provides required notices and due process.

Substantial Deviation/Significant Amendment: LHA maintains its criteria for substantial deviation and significant amendment consistent with 24 CFR Part 903 and includes repositioning-related disclosures, including RAD/Section 18 actions, as applicable.

Deconcentration Policy (Field Office Review)

LHA's deconcentration policy is included within the ACOP and the HCV Administrative Plan. LHA is committed to affirmatively furthering fair housing by conducting analysis to identify impediments to fair housing choice, taking actions to overcome impediments, and maintaining records reflecting analyses and actions taken, consistent with federal civil rights obligations.

B.2 New Activities

- ☒ Choice Neighborhoods Grants
- ☒ Modernization or Development
- ☒ Demolition and/or Disposition
- ☒ Designated Housing for Elderly and/or Disabled Families
- ☒ Conversion of Public Housing to Tenant-Based Assistance
- ☒ Conversion of Public Housing to PBRA or PBV under RAD (including Faircloth-to-RAD)
- ☒ Homeownership Program under Section 32, 9 or 8(y)
- ☒ Occupancy by Over-Income Families
- ☒ Non-Smoking Policies
- ☒ Project-Based Vouchers
- ☒ Units with Approved Vacancies for Modernization
- ☒ Other Capital Grant Programs

Narrative – Planned Activities for FY 2027:

LHA is an MTW Expansion Agency (Cohort 4) and will continue implementing MTW initiatives, HUD regulatory updates, and its public housing repositioning strategy. LHA's overarching objective is to preserve and modernize aging assets, expand housing choice, and improve cost effectiveness while maintaining compliance with HUD requirements.

HOTMA Implementation: LHA will implement HOTMA final rule provisions as applicable, including revised income and asset definitions, streamlined verification options, triennial reexaminations for fixed-income households, and updated interim reexamination requirements.

RAD / Section 18 Repositioning: LHA will continue its approved repositioning plan utilizing RAD/Section 18 Small PHA Blend transactions. Under this approach, a portion of units within converting projects will be removed from Section 9 via Section 18 disposition with replacement Tenant Protection Vouchers (TPVs), and a minimum

portion will convert under RAD to long-term Section 8 Project-Based Voucher (PBV) assistance. This strategy supports portfolio sustainability and the planned closeout of the Section 9 ACC following completion of repositioning actions.

Projects and Developments (FY 2027 focus):

- Renaissance at Washington Ridge (FL011000003): planned FY 2027 conversion/rehabilitation under a RAD/Section 18 Small PHA Blend, with PBV assistance supporting long-term preservation.
- Portfolio-wide planning and implementation actions continue for Dakota Park; Twin Lakes Estates Phases I and II; Cottages at Williamstown; and Colton/Bonnet (John Wright Homes and Cecil Gober Villas), consistent with HUD approvals and established timetables.
- Twin Lakes Estates Phase III (Faircloth-to-RAD): LHA's Faircloth development pipeline remains planned, with conversion to PBV upon delivery, consistent with HUD guidance and LHA's repositioning plan.

PBV: LHA will use PBVs to support redevelopment, preservation, and relocation resources, consistent with 24 CFR Part 983 and deconcentration and civil rights requirements.

NSPIRE: LHA will apply NSPIRE standards for inspections as required and will coordinate enforcement actions with due process protections and tenant safeguards.

B.3 Progress Report

LHA continues to make progress toward the mission and goals described in its 5-Year and Annual Plans by advancing repositioning activities, improving operational compliance, and expanding resident services and self-sufficiency supports. During the prior plan year, LHA continued planning and public process activities for repositioning actions, maintained program operations across Public Housing and HCV, and strengthened policy alignment for HOTMA and NSPIRE implementation. In FY 2027, LHA will continue these efforts with a focus on executing scheduled conversion and rehabilitation actions and sustaining housing assistance to eligible families.

B.4 Capital Improvements

See Capital Fund 5-Year Action Plan in EPIC approved by HUD (most recent approval on file in EPIC).

B.5 Most Recent Fiscal Year Audit

Were there any findings in the most recent FY Audit? Yes ☐ No ☒

If yes, describe: N/A

C. Other Document and/or Certification Requirements

C.1 Resident Advisory Board (RAB) Comments

Did the RAB(s) have comments to the PHA Plan? Yes ☐ No ☒ (If yes, attach comments and include analysis/response.)

C.2 Certification by State or Local Officials (HUD-50077-SL)

Form HUD-50077-SL, Certification by State or Local Officials of PHA Plans Consistency with the Consolidated Plan, will be submitted as an electronic attachment to the PHA Plan.

C.3 Civil Rights Certification / Certification Listing Policies and Programs Revised (HUD-50077-ST-HCV-HP)

Form HUD-50077-ST-HCV-HP, PHA Certifications of Compliance with PHA Plan, Civil Rights, and Related Laws and Regulations (Including PHA Plan Elements that Have Changed), will be submitted as an electronic attachment to the PHA Plan.

C.4 Challenged Elements

Did the public challenge any elements of the Plan? Yes ☐ No ☒ (If yes, attach challenged elements and PHA response.)

HUD-50077 Certifications (Submission Package Insert)

Acting on behalf of the Board of Commissioners of the Housing Authority of the City of Lakeland (FL011), the undersigned certifies that the FY 2027 Annual PHA Plan (effective 01/01/2027) has been prepared and submitted in accordance with the requirements of Section 5A of the U.S. Housing Act of 1937, as amended, HUD regulations at 24 CFR Part 903, the MTW Operations Notice (as applicable), and HOTMA implementation requirements, and that all required public process steps (including public notice, availability, and hearing) have been completed.

Chairperson / Authorized Official (Print Name)	
Signature	
Date	

Board Resolution (Insert)

RESOLUTION NO. _____

A RESOLUTION APPROVING AND AUTHORIZING THE SUBMISSION OF THE FY 2027 ANNUAL PHA PLAN (HUD-50075-ST), HUD-50077 CERTIFICATIONS, AND ALL SUPPORTING DOCUMENTS TO THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD).

WHEREAS, the Housing Authority of the City of Lakeland ("LHA") is required to maintain HUD-approved PHA Plans; and

WHEREAS, HUD requires that the Board of Commissioners approve the Annual PHA Plan and authorize execution of required certifications; and

WHEREAS, the Board has reviewed the FY 2027 Annual PHA Plan effective January 1, 2027 and determines it is in the best interest of the Housing Authority and consistent with applicable HUD requirements;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners hereby approves the FY 2027 Annual PHA Plan (HUD-50075-ST) and authorizes the Chair to sign HUD Forms 50075-ST and 50077 and associated certifications and assurances, and directs the Executive Director to submit the full package to HUD.

Adopted this ____ day of _____, 2026.	
Chair (Signature)	
Secretary (Signature)	
Attest (Print Name/Title)	

HUD Submission Attachment Checklist

- ☒ HUD-50075-ST Annual PHA Plan (FY 2027, effective 01/01/2027)
- ☒ HUD-50075-MTW Supplement (if applicable)
- ☒ Form HUD-50077-SL (Consistency with Consolidated Plan)
- ☒ Form HUD-50077-ST-HCV-HP (Civil Rights / Plan Elements Changed)
- ☒ Resident Advisory Board (RAB) Comments (if any) + PHA analysis/response
- ☒ Public Notice / Hearing Documentation
- ☒ Board Resolution authorizing submission
- ☒ Deconcentration Policy (via ACOP/Admin Plan reference)
- ☒ Capital Fund 5-Year Action Plan reference (EPIC)
- ☒ Supporting policies (ACOP, HCV Admin Plan) and required attachments

Amendment to the 2026 Annual PHA Plan (MTW) and the 2025–2029 Five-Year PHA Plan
Lakeland Housing Authority added to the 2027 Annual Plan

This Significant Amendment is adopted to describe the Lakeland Housing Authority’s (“LHA”) proposed repositioning of its public housing portfolio under the RAD/Section 18 Small PHA Blend authority and related actions. Through this strategy, LHA proposes to convert its remaining public housing units from Section 9 assistance to Section 8 Project-Based Voucher (PBV) assistance and to close out its Section 9 ACC program, consistent with HUD guidance.

Under a RAD/Section 18 Blend, a PHA may combine the two programs in a single transaction, allowing a portion of the units in a converting project to be removed from the public housing program under Section 18 and replaced with Tenant Protection Vouchers (TPVs), while the remaining units convert under RAD to long-term PBV assistance. The rents for TPVs are often higher than RAD contract rents; when those vouchers are project-based, this increases net operating income, supports greater debt capacity, and improves tax credit leverage in leveraged transactions. This structure strengthens the financial feasibility and long-term sustainability of LHA’s portfolio while preserving affordability.

For LHA’s remaining public housing portfolio, LHA proposes to utilize a Small PHA Blend structure with approximately ten percent (10%) of units converting under RAD to PBV and approximately ninety percent (90%) of units disposed of under Section 18 with replacement assistance provided through TPVs, as permitted for PHAs with 250 or fewer public housing units under their ACC. This approach is intended to facilitate the orderly repositioning of LHA’s portfolio and the closeout of the Section 9 ACC following completion of the repositioning actions.

In parallel with these actions, LHA also plans to develop new ACC units at Twin Lakes Estates Phase III (a 98-unit development), including 28 public housing units, which LHA intends to convert to Section 8 PBV assistance under RAD immediately after the units come online, ensuring preservation of long-term affordability while aligning the portfolio with LHA’s repositioning strategy.

50075-ST, Section B.2, New Activities

Development #1 – Dakota Park

PIC Development ID: FL011000002

Total Public Housing Units: 20

Proposed Action: Dakota Park will be disposed of under Section 18 in connection with a redevelopment/new construction transaction, with replacement assistance provided through TPVs. This action will reduce LHA’s total ACC unit count to 237 units, thereby making LHA eligible to utilize the RAD/Section 18 Small PHA Blend authority for its remaining portfolio.

Development #2 – Twin Lakes Estates Phase I

2/20/2026

PIC Development ID: FL011000006

Total Public Housing Units: 10

Proposed Action: Twin Lakes Estates Phase I will convert under a RAD/Section 18 Small PHA Blend.

- Nine (9) units (90%) will be disposed of under Section 18 with TPVs.
- One (1) unit (10%) will convert under RAD to PBV.

Development #3 – Twin Lakes Estates Phase II

PIC Development ID: FL011000007

Total Public Housing Units: 14

Proposed Action: Twin Lakes Estates Phase II will convert under a RAD/Section 18 Small PHA Blend.

- Thirteen (13) units (90%) will be disposed of under Section 18 with TPVs.
- One (1) unit (10%) will convert under RAD to PBV.

Development #4 – Cottages at Williamstown

PIC Development ID: FL011000005

Total Public Housing Units: 48

Proposed Action: Cottages at Williamstown will convert under a RAD/Section 18 Small PHA Blend, with approximately ninety percent (90%) of units disposed under Section 18 with TPVs and at least ten percent (10%) converted under RAD to PBV.

Development #5 – Renaissance at Washington Ridge

PIC Development ID: FL011000003

Total Public Housing Units: 108

Proposed Action: Renaissance at Washington Ridge will convert under a RAD/Section 18 Small PHA Blend (rehabilitation), with approximately ninety percent (90%) of units disposed under Section 18 with TPVs and at least ten percent (10%) converted under RAD to PBV. In addition, the development will the new construction of 30 townhome units, which approximately 10 units will receive PBVs from LHA's Housing Choice Voucher inventory.

Development #6 – Colton/Bonnet (John Wright Homes and Cecil Gober Villas)

PIC Development ID: FL011000001

Total Public Housing Units: 57

Proposed Action: Colton/Bonnet will convert under a RAD/Section 18 Small PHA Blend, with approximately ninety percent (90%) of units disposed under Section 18 with TPVs and at least ten percent (10%) converted under RAD to PBV, with the specific scope to be finalized consistent with HUD approvals.

Development #7 – Twin Lakes Estates Phase III (Pipeline, New Construction)

2/20/2026

Proposed Public Housing Units: 28 (within a 98-unit development)

Proposed Action: LHA will develop 28 new ACC units, under Faircloth authority, at Twin Lakes Estates Phase III and will convert those units to Section 8 PBV assistance under RAD immediately after the units come online (Faircloth-to-RAD), preserving long-term affordability while aligning with LHA's repositioning strategy.

Section 9 ACC Closeout Disclosure

Through the implementation of the RAD/Section 18 Small PHA Blend across the developments listed above, together with the conversion of newly developed ACC units at Twin Lakes Estates Phase III to PBV assistance under RAD, LHA intends to remove its remaining public housing units from Section 9 assistance and to close out its Section 9 ACC program, consistent with applicable HUD guidance.

This Amendment documents both (i) the project-specific Section 18 dispositions and TPV assistance and (ii) LHA's portfolio-wide repositioning strategy and Section 9 ACC closeout, and shall be effective upon approval by the LHA Board of Commissioners and HUD following completion of the required public notice and comment process.

**Repositioning Plan for Conversion of Remaining Public Housing Units to Section 8 Assistance and
Section 9 ACC Closeout
Lakeland Housing Authority**

PIH 2024-40 (HA): RAD/Section 18 Small PHA Blend. For any PHA with 250 or fewer public housing units under its ACC, at the PHA's discretion, up to ninety percent (90%) of the units in a Converting Project may be disposed of under Section 18 and at least ten percent (10%) of the units must be converted under RAD. The PHA is not required to remove all its remaining public housing units through a Small PHA Blend transaction. However, to be eligible for the Small PHA blend, in addition to the PHA Plan requirements the PHA must submit to the HUD Field Office a feasible repositioning plan approved by the PHA's Board of Commissioners and acceptable to HUD that shows how the PHA will remove the remainder of its public housing assets and will result in the closeout of the PHA's Section 9 ACC consistent with PIH Notice 2019-13 or successor notice (see further guidance that HUD will post) .

PIC	Development Name	ACC Units	Action	Scope	Year of Removal
FL011-2	Dakota Park	20	Sec 18 DDA#0013834	New Construction	2026
FL011-6	Twin Lakes Estates Phase I	10	RAD/Sec 18 Small PHA Blend	Straight-No Rehab	2026
FL011-7	Twin Lakes Estates Phase II	14	RAD/Sec 18 Small PHA Blend	Straight-No Rehab	2026
FL011-5	Micro-Cottages at Williamstown	48	RAD/Sec 18 Small PHA Blend	Straight-No Rehab	2026
FL011-3	Renaissance at Washington Ridge	108	RAD/Sec 18 Small PHA Blend	Rehabilitation	2027
FL011-1	Colton/Bonnet (John Wright Homes and Cecil Gober Villas)	57	RAD/Sec 18 Small PHA Blend	TBD	2029
	Total	257			

Proposed	Twin Lakes Estates Phase III	28	Faircloth-to-RAD	New Construction	2028

HUD Authorization for Faircloth-to-RAD Development Following Small PHA RAD/Section 18 Conversion

HUD has confirmed that the Lakeland Housing Authority may proceed with the development of Faircloth units following implementation of its Small PHA RAD/Section 18 Blend. As stated by HUD (Jane Hornstein, email dated July 21, 2023), the Authority may “build out [its] Faircloth units after [completing] a Small RAD/Section 18 Blend,” provided the Repositioning Plan addresses the timing and approach to ACC closeout.

Consistent with this guidance, LHA's Repositioning Plan contemplates the removal of remaining ACC units through the Small PHA Blend while advancing new construction of Faircloth units through the Restore-Rebuild (Faircloth-to-RAD) program, under which such units will be converted to Section 8 assistance through a streamlined RAD transaction upon delivery.



LHA RESIDENT'S SERVICE DEPARTMENT PROGRAM

2027

Prepared for
Board of Commissioners

Prepared by
Carlos R. Pizarro An, Senior Vice-President



Lakeland Housing Authority

Resident Services Department – Creation Plan (Final Expanded Scope)

Department Purpose (Updated)

The Resident Services Department will serve as Lakeland Housing Authority's **centralized unit responsible for resident services across Public Housing, Housing Choice Voucher (HCV), LIHTC, ROSS, FSS, and Moving to Work (MTW) initiatives.**

The department will support residents in achieving **economic stability, housing stability, and long-term self-sufficiency**, while ensuring **regulatory compliance, program coordination, and outcome tracking** across all applicable HUD and tax credit programs.

HUD identifies resident self-sufficiency, employment incentives, and service coordination as core goals across ROSS, FSS, HCV, and MTW frameworks. [\[hud.gov\]](https://www.hud.gov), [\[hudexchange.info\]](https://www.hudexchange.info)

1. Expanded Programs & Portfolio Coverage

A. Housing Choice Voucher (HCV) – FSS Services

The Resident Services Department will **administer and deliver Family Self-Sufficiency (FSS) services to Housing Choice Voucher households**, in addition to Public Housing residents.

Services will include:

- Enrollment of HCV households into FSS
- Execution and management of **FSS Contracts of Participation**
- Development and monitoring of **Individual Training and Services Plans (ITSPs)**
- Escrow account management related to earned income increases
- Ongoing case management and coaching toward employment and education goals

HUD explicitly authorizes and encourages FSS participation for **both Public Housing and Housing Choice Voucher households**. [\[hud.gov\]](https://www.hud.gov), [\[hud.gov\]](https://www.hud.gov)

B. Moving to Work (MTW) Initiative Support

The Resident Services Department will **support the design, implementation, and resident engagement components of LHA's Moving to Work (MTW) initiatives.**

MTW allows housing authorities flexibility to:

- Promote employment and self-sufficiency
- Design local, innovative resident-focused strategies
- Align housing assistance with economic mobility goals

[\[hud.gov\]](https://www.hud.gov), [\[hudexchange.info\]](https://www.hudexchange.info)

The department will not administer rent policy or subsidy determinations, but will **support MTW initiatives through resident-facing services and engagement**, including:

- Employment readiness and workforce supports
- Education and credentialing pathways
- Financial literacy and asset-building activities
- Resident outreach, education, and counseling related to MTW changes
- Outcome tracking tied to MTW statutory goals

MTW initiatives are required to support work incentives, self-sufficiency, and housing choice outcomes, making Resident Services a natural operational partner. [\[hud.gov\]](https://www.hud.gov)

2. Updated Scope of Resident Programs & Activities

The department will coordinate **all required and voluntary resident programs** for:

- Public Housing
- Housing Choice Voucher (HCV)
- LIHTC properties
- ROSS programs
- FSS programs

- MTW initiatives (resident-facing components)

Core Program Areas (Unchanged but Expanded Applicability)

Education & Workforce

- GED and adult education
- Job readiness and soft skills
- Resume and application assistance
- Career pathway referrals

Technology & Digital Literacy

- Computer literacy classes
- Online job search navigation
- Assistance accessing HCV, MTW, education, and benefits portals

Health & Wellness

- Health screenings
- Preventive care education
- Disability and aging-in-place coordination

Financial Capability

- Financial literacy
- Budgeting and banking
- FSS escrow education
- Asset-building workshops

HUD program guidance consistently recognizes these services as foundational to self-sufficiency outcomes across housing platforms. [\[hud.gov\]](https://www.hud.gov), [\[hud.gov\]](https://www.hud.gov)

3. Staffing Model – Clarified Cross-Program Roles

Resident Services Manager (1 FTE)

Additional Responsibilities

- Coordinate resident-facing components of MTW initiatives
 - Ensure integration of Public Housing, HCV, FSS, and LIHTC services
 - Support MTW annual planning with resident engagement data
 - Maintain compliance documentation across multiple program types
-

ROSS Service Coordinator (1 FTE)

Additional Responsibilities

- Coordinate services for Public Housing and MTW-affected households
 - Support resident education related to MTW initiatives
 - Ensure service alignment with MTW statutory goals
-

FSS Case Managers (2 FTE)

Additional Responsibilities

- Serve both **Public Housing and HCV FSS participants**
- Align FSS goals with MTW employment and asset-building strategies
- Track outcome metrics applicable to FSS and MTW performance reporting

HUD confirms FSS case management plays a central role in advancing employment behavior and engagement among HCV households. [\[huduser.gov\]](https://www.huduser.gov)

Part-Time Resident Services Teacher (0.5 FTE)

Additional Responsibilities

- Support MTW and HCV households through:
 - Workforce readiness
 - Digital literacy
 - Financial education
 - Deliver place-based services supporting MTW activities
-

4. Strategic Value to LHA (Updated)

With these additions, the Resident Services Department:

- Centralizes **all resident services across housing platforms**
- Reduces operational silos between Public Housing, HCV, LIHTC, FSS, and MTW
- Strengthens MTW implementation through resident engagement and outcomes
- Improves HUD compliance readiness and audit confidence
- Enhances resident success through coordinated wraparound services

HUD explicitly identifies self-sufficiency, employment incentives, and resident engagement as statutory goals for MTW agencies. [\[hud.gov\]](https://www.hud.gov), [\[hudexchange.info\]](https://www.hudexchange.info)

Executive Summary Statement

The Resident Services Department will serve as Lakeland Housing Authority's centralized hub for resident programs, self-sufficiency services, and Moving to Work support across Public Housing, Housing Choice Voucher, LIHTC, ROSS, and FSS programs, ensuring compliance, efficiency, and improved resident outcomes.

Resident Services Compliance Crosswalk HUD • LIHTC • Moving to Work (MTW)

1. Regulatory Oversight & Authority

Area	HUD (PH & HCV)	LIHTC	MTW
Governing Authority	U.S. Housing Act of 1937; 24 CFR	IRC §42; State Housing Finance Agency	MTW Statute; MTW Agreement
Oversight Agency	HUD, PIH	IRS via State HFA	HUD, PIH
Nature of Requirements	Programmatic & regulatory	Tax compliance & extended use	Alternative compliance under HUD waiver authority
Applicability to Resident Services	Required (PH, HCV-FSS)	Conditional (QAP, Reg. Agreement)	Required for resident-facing MTW initiatives

[\[ecfr.gov\]](https://ecfr.gov/), [\[novoco.com\]](https://novoco.com/), [\[graystoneig.com\]](https://graystoneig.com/)

2. Resident Services & Self-Sufficiency Requirements

Compliance Area	HUD (PH & HCV)	LIHTC	MTW	Resident Services Role
Self-Sufficiency Programming	Required (PH CSSR, FSS PH & HCV)	Often required by QAP or extended use	Statutory objective	Program design, delivery, tracking
Community Service Requirements	Required for non-exempt PH residents	Not required	May be modified or waived	Coordination & documentation
Education & Employment Services	Directly encouraged	Often committed	Core MTW objective	Delivery & referrals
Health & Wellness Activities	Permitted & encouraged	Permitted	Permitted	Coordination & partnerships
Digital Literacy / Workforce Access	Permitted	Permitted	Often funded through MTW	Direct programming

[\[hud.gov\]](https://hud.gov/), [\[files.hude...hange.info\]](https://files.hude...hange.info/), [\[graystoneig.com\]](https://graystoneig.com/)

3. Documentation & Recordkeeping

Requirement	HUD (PH & HCV)	LIHTC	MTW	Department Responsibility
Resident Participation Records	Required	Best practice	Required for MTW eval	Maintain logs & files
Case Management Records	Required (ROSS/FSS)	Not required	Required for MTW outcomes	Centralized files
Escrow Account Tracking (FSS)	Required	N/A	Used in asset-building MTW	FSS case managers
Policies & Procedures	ACOP, Admin Plan	Tenant Selection Plan	MTW Supplement	Coordination & updates
Audit / Monitoring Support	MOR & HUD reviews	State compliance reviews	HUD MTW reviews	File prep & response

[\[ecfr.gov\]](https://ecfr.gov/), [\[novoco.com\]](https://novoco.com/), [\[hud.gov\]](https://hud.gov/)

4. Fair Housing, Civil Rights & Equal Access

Area	HUD	LIHTC	MTW	Resident Services Role
Fair Housing Act	Mandatory	Mandatory	Non-waivable	Training & monitoring
Section 504 / ADA	Mandatory	Mandatory (if federal funds)	Non-waivable	Accommodation coordination
VAWA Protections	Mandatory	Often incorporated	Non-waivable	Resident education & referrals
Language Access (LEP)	Required	Often required	Required	Program access & materials

[\[legalclarity.org\]](#), [\[novoco.com\]](#), [\[hud.gov\]](#)

5. Funding & Cost Allowability (Resident Services Perspective)

Area	HUD	LIHTC	MTW	Department Role
Service Coordination Funding	ROSS, FSS Admin Fees	No direct funding	MTW fungibility	Budget alignment
Allowable Service Costs	Yes (defined activities)	Limited, non-rent services	Broad flexibility	Cost tracking
Asset-Building Programs	FSS escrow model	Not allowed to affect rent	MTW Cohort 4	Program coordination

[\[singleaudit.org\]](#), [\[goldcoastschools.com\]](#)

6. Reporting & Performance Measurement

Area	HUD	LIHTC	MTW	Resident Services Role
Annual Reporting	ROSS, FSS, PH/HCV	State compliance reports	MTW Annual Plan & Report	Data aggregation
Outcome Measurement	Increasing emphasis	Not required	Required	Outcome tracking
Public Process	Limited	None	Required (MTW hearings)	Resident engagement

[\[goldcoastschools.com\]](#), [\[singleaudit.org\]](#)

7. Key Risk Areas & Department Mitigation

Risk	Program	Mitigation by Resident Services
CSSR Non-Compliance	Public Housing	Tracking & verification system
FSS File Errors	PH & HCV	Centralized FSS case management
Missing Resident Services Commitments	LIHTC	Standardized programming calendar
MTW Resident Harm / Confusion	MTW	Resident education & outreach
Audit Findings	All	Centralized documentation

[\[hud.gov\]](#), [\[federalregister.gov\]](#)

Executive Summary

The Resident Services Department functions as Lakeland Housing Authority's compliance bridge across HUD, LIHTC, and MTW by centralizing resident programming, documentation, and outcome tracking while supporting statutory self-sufficiency objectives and reducing audit risk.

Below is a **practical, inspection-ready Resident Services Compliance Checklist** to be used for **day-to-day operations, HUD reviews, LIHTC monitoring, and MTW reporting**.

It is written so staff can literally **check boxes**, and leadership can quickly verify compliance.

Lakeland Housing Authority
Resident Services Compliance Checklist
HUD • LIHTC • HCV • FSS • MTW

A. Governance, Plans & Policies

- ☐ Resident Services Department charter approved
- ☐ Roles and responsibilities clearly defined (Manager, ROSS, FSS, Teacher)
- ☐ Admissions & Continued Occupancy Policy (ACOP) reflects resident services support (PH)
- ☐ HCV Administrative Plan reflects FSS and resident services coordination
- ☐ FSS Action Plan approved and current (PH & HCV)
- ☐ Program Coordinating Committee (PCC) established and active (FSS)
- ☐ MTW Annual Plan/Supplement includes resident-facing initiatives
- ☐ LIHTC Regulatory Agreements / QAP commitments reviewed for resident-service obligations

B. Program Coverage & Eligibility

- ☐ Public Housing resident services implemented
- ☐ Housing Choice Voucher (HCV) FSS households served
- ☐ LIHTC resident service commitments identified by property
- ☐ ROSS-eligible residents identified and offered services
- ☐ MTW-affected households identified for outreach and education

C. Required & Core Resident Programs

Education & Workforce

- ☐ GED / Adult basic education available (on-site or referral)
- ☐ Job readiness / employability workshops offered
- ☐ Resume and job application assistance provided
- ☐ Workforce partner referrals documented

Digital & Computer Literacy

- ☐ Computer literacy classes scheduled
- ☐ Internet navigation and online application assistance available
- ☐ Access to job search and benefit portals supported

Health & Wellness

- ☐ Health screenings offered or coordinated
- ☐ Preventive health education provided
- ☐ Mental health and disability referrals documented

Financial Capability

- ☐ Financial literacy workshops conducted
- ☐ Budgeting and banking access assistance provided
- ☐ Asset-building education aligned with FSS/MTW objectives

D. Public Housing Community Service & Self-Sufficiency (CSSR)

- ☐ CSSR policy reflected in ACOP
- ☐ Residents screened for CSSR applicability and exemptions
- ☐ Approved community service / self-sufficiency activities identified
- ☐ Resident participation tracked monthly

- ☐ Exemptions properly documented
 - ☐ Non-compliance addressed per policy
-

E. Family Self-Sufficiency (FSS) – PH & HCV

- ☐ Eligible households recruited (PH & HCV)
 - ☐ FSS Contracts of Participation (COPs) executed
 - ☐ Individual Training & Services Plans (ITSPs) on file
 - ☐ Escrow accounts established and reconciled
 - ☐ Case notes maintained for each participant
 - ☐ FSS annual reporting completed
 - ☐ Graduations and escrow disbursements documented
-

F. ROSS Program Compliance

- ☐ ROSS Service Coordinator position funded/trained
 - ☐ Resident needs assessments completed
 - ☐ Service referrals documented
 - ☐ Partnerships active (education, workforce, health)
 - ☐ ROSS reporting submitted timely
 - ☐ Outcome data tracked (not just activities)
-

G. LIHTC Resident Services

- ☐ Resident services required by Regulatory Agreement identified
 - ☐ Programs implemented as committed (location & frequency)
 - ☐ Participation logs maintained
 - ☐ No fees charged that impact rent compliance
 - ☐ Documentation available for state compliance reviews
 - ☐ Services do not conflict with IRC §42 requirements
-

H. Moving to Work (MTW) – Resident Services Support

- ☐ Resident Services staff briefed on MTW initiatives
 - ☐ Resident education materials developed
 - ☐ Outreach conducted for MTW-affected households
 - ☐ Employment/self-sufficiency services aligned to MTW goals
 - ☐ Outcome data collected for MTW Annual Report
 - ☐ Public engagement documented (meetings, feedback)
-

I. Fair Housing, Civil Rights & Equal Access

- ☐ Fair Housing training completed by staff
 - ☐ Section 504 / ADA accommodations coordinated
 - ☐ VAWA protections incorporated into resident engagement
 - ☐ Limited English Proficiency (LEP) access addressed
 - ☐ Programs offered without discrimination
-

J. Documentation & Recordkeeping

- ☐ Participation rosters maintained
- ☐ Case management files centralized and secured
- ☐ MOUs and partner agreements on file
- ☐ Policies and procedures updated annually

- ☐ Files organized for HUD, LIHTC, and MTW audits
 - ☐ Record retention requirements followed
-

K. Reporting, Monitoring & Oversight

- ☐ HUD reviews (MOR, ROSS, FSS) supported
 - ☐ LIHTC state compliance monitoring supported
 - ☐ MTW Annual Plan and Annual Report supported
 - ☐ Internal compliance reviews conducted at least annually
 - ☐ Corrective actions documented and tracked
-

L. Risk Management & Quality Control

- ☐ Compliance gaps identified and logged
 - ☐ Staff corrective training provided as needed
 - ☐ Resident complaints addressed and documented
 - ☐ Continuous improvement discussion held quarterly
-

HOUSING CHOICE VOUCHER PROGRAM ADMINISTRATIVE PLAN



The Housing Authority of the City of Lakeland

2026/2027

The Housing Authority of the City of Lakeland
Lakeland, Florida

**HOUSING CHOICE VOUCHER PROGRAM
ADMINISTRATIVE PLAN**

ADOPTED BY PHA BOARD OF COMMISSIONERS

RESOLUTION NO.: _____

DATE OF ADOPTION: _____

EFFECTIVE DATE OF IMPLEMENTATION:

Housing Choice Voucher Program Administrative Plan Implementation Schedule

Staff Training Date, if needed: _____

Distribution to Functional Areas

This Plan has been distributed to staff in the following departments:

- ☐ SECTION 8 MANAGERS
- ☐ SECTION 8 ADMISSIONS/OCCUPANCY STAFF
- ☐ FINANCIAL STAFF
- ☐ REASONABLE RENT DETERMINATION (RRD) STAFF
- ☐ INSPECTORS
- ☐ OTHER: SPECIFY: _____

Date Policy Prepared: 7/30/2025

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INTRODUCTION AND STATEMENT OF LOCAL OBJECTIVES

The **The Housing Authority of the City of Lakeland**, 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 Section 8 Tenant-Based Housing Choice Voucher (HCV) program. The PHA enters into an Annual Contributions Contract (ACC) with HUD to administer the HCV program requirements on behalf of HUD.

The HCV program is the federal government's major housing program for assisting very low-income families, the elderly, and persons with disabilities. A family is issued a housing choice voucher to find a safe, decent, and sanitary unit of the family's choice, in the private rental market, where the owner agrees to rent the unit under the HCV program. The assisted unit must meet minimum standards of health and safety as determined by HUD and the PHA. The PHA will pay the owner a housing subsidy on behalf of the family and the family is responsible for paying the difference between the housing subsidy and the rent to the owner.

The PHA has developed an Administrative Plan that provides for written policies pertaining to the admissions and continued occupancy of HCV program participants. The Administrative Plan is basically organized in the order of concerns that the PHA encounters in the selection of applicants from the PHA waiting list to reexamining families for continued assistance.

The PHA shall administer the HCV program in compliance with the Fair Housing Act of 1937 (FHAct), 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, the PHA Plan, the Administrative Plan, the PHA's Procedures Manual, the PHA Personnel Policy, and state, and local housing laws.

OVERVIEW OF THE PHA

The PHA was established in 1958 and empowered with the responsibility and authority to maintain the Housing Choice Voucher (HCV) program for the City of Lakeland, Florida. In 2022, the PHA was selected as a Moving to Work (MTW) agency through the Asset Building Cohort of the MTW Expansion, which was authorized by the 2016 MTW Expansion Statute. The PHA's participation in the MTW program is through the end of its fiscal year 2043.

MTW is a demonstration program for PHAs that provides them the opportunity to design and test innovative, locally designed strategies that use federal dollars more efficiently, help residents find employment and become self-sufficient, and increase housing choices for low-income families. MTW allows PHAs exemptions from many existing HCV regulations and provides funding flexibility with how the PHAs use their federal funds.

The PHA entered into a MTW Amendment to the Annual Contribution Contract (MTW ACC Amendment) which amended (superseded) the ACC terms and conditions in effect between the PHA and HUD for the HCV program. As a participant in the MTW demonstration, the PHA must operate in accordance with the express terms and conditions set forth in the MTW Operations

Notice. The MTW Operations Notice may be superseded or amended by HUD at any time during the 20-year MTW term.

The PHA is only exempted from specific provisions of the FHAct and its implementing regulations as specified in the MTW Operations Notice. Each such exemption also extends to sub-regulatory guidance to the extent that the sub-regulatory guidance implements the provision of the FHAct or its implementing regulations exempted pursuant to the MTW Operations Notice.

The PHA remains subject to all other applicable requirements including but not limited to those in Title 24 of the Code of Federal Regulations and Title 42 of the U.S. Code, Appropriations Acts, Annual Contributions Contracts, notices of funding availability under which the PHA has received funds, and the applicable requirements (collectively referred to as Requirements) listed in the MTW Operations Notice, as they may be amended or implemented in the future. Accordingly, if any Requirement, other than the provisions of the FHAct and its implementing regulatory requirements or sub-regulatory guidance exempted pursuant to exemption or authorization granted by the MTW ACC Amendment, the PHA, as a MTW agency, remains subject to that Requirement.

HUD-approved MTW activities are noted in this Administrative Plan.

A. Legal Jurisdiction

The area of operation of the PHA is geographically defined as Polk & Highland County.

B. Mission Statement

Our mission is to provide quality, affordable housing and self-sufficiency opportunities in an effective and professional manner.

C. Statement of Local Objectives

The following objectives of the PHA support the above mission statement:

- To provide decent, safe, and sanitary living conditions;
- To provide improved living conditions for very low-income families while maintaining their rent payments at an affordable level;
- To promote personal, economic, and social upward mobility to assist HCV participants to make the transition from subsidized to non-subsidized housing; and
- To provide an incentive to private property owners/landlords to rent to low-income families by offering timely assistance payments and excellent service.

D. Organizational Structure

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

- HCV Director
- HCV Manager

E. Section 8 Program Administered

The PHA administers the following Section 8 vouchers and programs:

- **Tenant-Based Vouchers**
Enables low-income families to lease safe, decent, and affordable privately owned units of the family's choosing.
- **Project-Based Vouchers**
Project-Based Vouchers (PBVs) are a component of the PHA's HCV program.
The PHA is not allocated additional funding for PBV units. The PHA uses its tenant-based voucher funding to allocate project-based units to a project. Projects are typically selected for PBVs through a competitive process managed by the PHA, although in certain cases, projects may be selected non-competitively.
PBV are tied to the unit and not the family.
- **HUD_VASH Voucher**
HUD-Veterans Affairs Supportive Housing (VASH) program combines HCV rental assistance for homeless veterans with case management and clinical services provided by the Department of Veterans Affairs (VA).
The VA provides these services for participating veterans at the VA medical centers (VAMCs) and community-based outreach clinics (CBOCs).}
- **Foster Youth to Independence Initiative**
Foster Youth to Independence (FYI) allows the PHA without a current FUP voucher allocation to request Tenant Protection Vouchers (TPV) to serve youth under the age of 25 with a history of child welfare involvement for up to 36 months with FYI-TPV.
- **Family Self-Sufficiency Program**
The Family Self-Sufficiency (FSS) Program enables HUD-assisted families to increase their earned income and reduce their dependency on welfare assistance and rental subsidies. The FSS program promotes the development of local strategies to enable families in the HCV program to achieve economic independence and self-sufficiency.
- **Emergency Housing Vouchers (EHVs)**
Emergency Housing Vouchers are to assist individuals and families who are:
 - Experiencing homelessness;
 - At risk of experiencing homelessness;
 - Fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking; orWere recently homeless and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing instability.

- **Mainstream Vouchers**

Mainstream Voucher (also formerly known as Mainstream 5-Year Vouchers or Section 811 Vouchers) are tenant-based vouchers that assist non-elderly persons with disabilities (defined as any family that includes a person with disabilities who is at least 18 years old and not yet 62 years old at the effective date of the initial Housing Assistance Payment (HAP) contract. Mainstream vouchers are administered and regulated under the same program requirements as the HCV program.

- **Tenant Protection Vouchers**

Provided to protect HUD-assisted families from hardship resulting from a variety of actions that occur in HUD's Public Housing and Multifamily Housing portfolios. In addition to assisting individual families, in many cases Tenant Protection Vouchers mitigate the loss of HUD-assisted housing units in the community because these Tenant Protection Vouchers become part of the PHA's HCV program and may be reissued to families on the PHA's waiting list upon turnover.

- **Continuum of Care (CoC) Program**

Is designed to promote communitywide commitment to the goal of ending homelessness; provide funding for efforts by nonprofit providers, and State and local governments to quickly rehouse homeless individuals and families while minimizing the trauma and dislocation caused to homeless individuals, families, and communities by homelessness; promote access to and effect utilization of mainstream programs by homeless individuals and families; and optimize self-sufficiency among individuals and families experiencing homelessness.

- **Special Housing Types**

The PHA permits families to use HCV assistance in the following special housing types:

- Single Room Occupancy (SRO)
- Congregate Housing
- Group Home
- Shared Housing
- Manufactured Home
- Cooperative Agreement
- HCV Homeownership Option

F. Customer Relations

The PHA considers all families, owners/landlord, and HUD 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. The PHA requires

complaints to be submitted in writing, except for emergency Housing Quality Standards (HQS) deficiencies.

G. Conflict of Interest

In accordance with the Annual Contributions Contract, Section 16, Conflict of Interest, neither the PHA nor any of its contractors or subcontractors may enter into any contract or arrangement in connection with the HCV program in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:

- Any present or former member or officer of the PHA (except a participant commissioner);
- Any employee of the PHA, or any contractor, subcontractor or agent of the PHA, who formulates policy or who influences decisions with respect to the programs;
- Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs; or
- Any member of the Congress of the United States.

Any member of the classes described above must disclose their interest or prospective interest to the PHA and HUD.

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 Conflict-of-Interest policy 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 may be waived by the HUD field office for good cause.

CHAPTER 1: HCV PROGRAM BACKGROUND AND KEY EVENTS

The HCV program is the federal government's major program for assisting very low-income families, the elderly, and persons with disabilities to afford decent, safe, and sanitary housing in the private market.

A. 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.

B. Section 23 Leased Housing Program

Implemented in 1965, the Section 23 program was the first PHA administered housing program to use privately owned housing. Under the Section 23 program, PHAs leased units from private owners and sublet them to low-income families. PHAs retained tenant selection, rent collection, and, in some cases, management/maintenance responsibilities.

The Section 8 existing housing program replaced the Section 23 program in 1974. PHAs were required to convert Section 23 assisted units to the Section 8 existing housing program. Only a few developments still need to be converted.

C. Housing Act of 1968

The Section 235 homeownership program and the Section 236 rental program created by the 1968 Housing Act continued the strong movement toward using subsidies in privately developed, privately owned housing.

D. Experimental Housing Allowance Program (EHAP)

The EHAP was the most extensive social program demonstration ever conducted by the federal government. It tested the feasibility of providing housing allowances to eligible families and was conducted in 12 locations between 1971 and 1980. This demonstration was the earliest form of federal tenant-based subsidy. Over a nine-year period, nearly 50,000 households received cash assistance. Participants leased units directly from private owners, and homeowners as well as renters were able to participate at two of the demonstration sites.

E. The Housing and Community Development Act of 1974

The Housing and Community Development Act of 1974, enacted several years after the start of the EHAP, authorized the Section 8 program. This legislation signaled a significant shift in

the federal housing strategy from locally owned public housing to privately owned rental housing. The Section 8 program included two components:

- Section 8 project-based assistance for existing, newly constructed, or rehabilitated housing. These programs replaced the Section 236 programs as the federal government's production programs for privately-owned assisted housing providing housing assistance to families living in specific buildings built or rehabilitated under program contracts; and
- The Section 8 existing housing program, a newly created housing assistance program to be administered by PHAs provided tenant-based subsidies. Under this program, sometimes called the "finders' keepers" or "certificate" program, families selected their own housing, and the subsidy followed the family when the family moved.

F. The Section 8 Existing Housing Program

Authorized by the 1974 Housing Act, the Section 8 existing housing program, also known as the rental certificate program, was modeled on the EHAP, but had the following key differences:

- Under the rental certificate program, the PHA made subsidy payments directly to the owners on behalf of the family rather than making payments to the family; and
- The rental certificate program imposed a HUD-established ceiling (fair market rent) on the gross rent for a unit leased under the program.

Under the rental certificate program families generally paid 25% of adjusted income toward the rent; in 1983 this family share increased to 30% of adjusted income.

The program grew rapidly and was popular with Congress, local governments, owners, and low-income families because it:

- Provided assistance quickly;
- Allowed family a choice of housing and anonymity;
- Dispersed families throughout the community and did not create projects or site selection problems; and
- Was a relatively inexpensive program, per family assisted.

G. Rental Voucher Program

Authorized by Congress as a demonstration program in 1984, the rental voucher program was formally authorized as a program in the Housing and Community Development Act of 1987. The program was similar to the rental certificate program, but it allowed families more options in housing selection. The key differences between the rental certificate and rental voucher programs were:

- The rental voucher program did not have a fair market rent limitation; and

- The rental voucher program provided assistance to families based on a pre-determined calculation of assistance amount. Depending on the cost of the housing they actually rented, families could pay more or less than 30% of adjusted income toward rent.

H. The Conforming Rules to Combine the Certificate and Voucher Programs

HUD issued three “conforming” rules in 1994, 1995, and 1998 to more closely combine and conform the rental certificate and rental voucher programs to the extent permitted by law.

In July 1994 and July 1995, HUD published the first two parts of a “conforming” rule designed to combine all aspects of the two programs that did not have different statutory requirements. The July 1994 rule established unified admissions rules. The 1995 rule standardized a wide range of other administrative and leasing activities.

A third conforming rule was published in June 1998. It addressed rent reasonableness, the calculation of rent and housing assistance payments, and the use of special housing types.

While these conforming rules made vouchers and certificates as similar as possible under existing legislation, there were still fundamental differences in establishing unit rents and the rent share paid by program participants.

I. The Quality Housing and Work Responsibility Act of 1998 (QHWRA) and Merger of the Certificate and Voucher Programs

In October 1998, Congress passed housing reform legislation, including a full merger of the certificate and voucher programs. This legislation eliminated all differences and required that the subsidy types merge into one HCV program.

In May 1999, HUD published an interim rule providing for the complete merger of the certificate and voucher programs into the new HCV program. The certificate program is to be phased out by October 2001. This interim rule was effective October 1, 1999, which is known as the merger date.

J. Conversion from The Rental Certificate and Rental Voucher Programs to The Housing Choice Voucher Program

The change of assistance from the certificate and voucher program to the HCV program started October 1, 1999. Effective immediately, all rental vouchers and over-FMR certificate tenancies became subject to the requirements of the HCV program. This was possible because the HCV program was modeled on these programs, and the housing assistance payments contracts for those tenancies allowed for changes in computing unit subsidy and family share of rent based upon HUD program rules. Unlike the pre-merger voucher program, the HCV program requires families to pay at least 30% of income toward rent.

Families receiving assistance under the rental certificate program transitioned to housing choice vouchers at the earliest of the following dates: date they move to a new unit with assistance, date they sign a new lease for the same unit, date they agree to convert to housing choice voucher assistance, or the date of their second annual reexamination on or after October 1, 1999.

K. Housing Opportunities Through Modernization Act of 2016 (HOTMA)

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). HUD published a rule in the Federal Register on October 24, 2016 (81 FR 73030), announcing which statutory changes made by HOTMA could be implemented immediately and which statutory changes required further action by HUD.

On November 29, 2016 (81 FR 85996), HUD published a Federal Register notice seeking public input on how HUD should determine the income limit for public housing residents pursuant to Section 103 of HOTMA, and this was followed by a July 26, 2018 (83 FR 35490) notice that made some provisions of Section 103 of HOTMA effective.

On January 18, 2017, HUD published a proposed rule (82 FR 5458) that made multiple HOTMA provisions for the Housing Choice Voucher (HCV) program, unrelated to sections 102, 103, and 104, effective and solicited public comment on HUD's implementation methods. The conforming regulatory changes for the HCV program provisions implemented by the January 18, 2017, rulemaking is not part of this final rule and are being addressed through a separate rulemaking.

Many of the statutory provisions in HOTMA are intended to streamline administrative processes and reduce burdens on PHAs and owners of housing assisted by Section 8 programs. Sections 102, 103, and 104 of HOTMA require that HUD make changes to its regulations and take other actions - some of which will also reduce burdens on PHAs, and private owners once implemented.

On September 17, 2019 (84 FR 48820), HUD published a proposed rule to update its regulations according to HOTMA's statutory mandate and to implement the provisions of Sections 102, 103, and 104 of HOTMA that require rulemaking. Additional details about the proposed rule may be found at 84 FR 48820 (September 17, 2019). That proposed rule has additional information on the proposed regulatory changes and how they relate to HOTMA. In addition, on December 4, 2020 (85 FR 78295), HUD re-opened public comment on specific provisions dealing with families whose income rises above the new cap for residing in public housing.

On February 14, 2023 (88 FR 9600), HUD published the HOTMA final rule. This final rule follows the publication of the September 17, 2019, proposed rule and considers the public comments received, including public comments received in response to HUD's December 4, 2020, notice reopening public comments.

L. Applicable Regulations

The applicable regulations to the HCV program include:

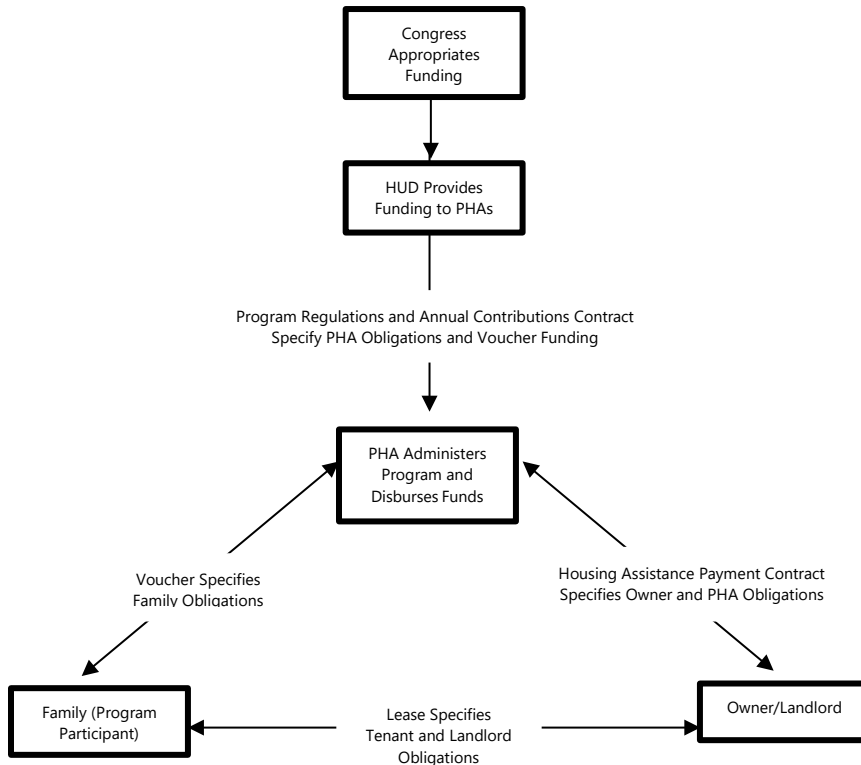
- 24 CFR Part 5: General HUD Program Requirements; Waivers
- 24 CFR Part 8: Nondiscrimination Based on Handicap in Federally Assisted Programs and Activities of the Department of Housing and Urban Development

- 24 CFR Part 100 -199: Fair Housing Act
- 24 CFR Part 903: Public Housing Agency Plans
- 24 CFR Part 982: Section 8 Tenant-Based Assistance: Housing Choice Voucher Program
- 24 CFR Part 983: Project-Based Voucher (PBV) Program
- 24 CFR Part 984: Section 8 and Public Housing Family Self-Sufficiency Program
- 24 CFR Part 985: Section 8 Management Assessment Program (SEMAP)
- All issues not addressed in this document related to the Section 8 HCV program are governed by the Code of Federal Regulations, the Federal Register, HUD notices/guidance, handbooks and guidebooks, memorandums, and guidelines, and other applicable federal, state, or local laws.

CHAPTER 2: RELATIONSHIP BETWEEN HUD, THE PHA, THE OWNER, AND THE FAMILY

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

A. Relationship and Controlling Documents in the HCV Program



B. Annual Contribution 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.

C. 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, the HAP contract (form HUD-52641), and in applicable regulations. The PHA administers the HCV 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. Calculating of family share of the rent and the amount of the housing assistance payment;
- e. Establishing of utility allowances;
- f. Conducting outreach to owners, with special attention to those with units outside of areas of poverty or minority concentration;
- g. Assisting persons with disabilities in finding satisfactory housing;
- h. Approving units, including assuring compliance with housing quality standards and determining the reasonableness of rent;
- i. Making housing assistance payments to owners;
- j. Conducting informal reviews and hearings at the request of applicants and participants challenging PHA administrative decisions;
- k. Administering the FSS program; and
- l. 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 administrative plan, and federal, state, and local laws.

3. Owner Responsibilities

The owner is responsible for performing all the owner's obligations under the HAP contract (form HUD-52641), Tenancy Addendum (form HUD-52641-A), and lease. The owner and/or owner designee (landlord, management agent) has the following responsibilities:

- a. Performing all management and rental functions for the assisted unit, including selecting a voucher-holder to lease the unit, and deciding if the family is suitable for tenancy of the unit.

The fact that an applicant is or has been a survivor of domestic violence, dating violence, sexual assault, or stalking is not an appropriate basis for denial of tenancy if the applicant otherwise qualifies for tenancy.

- b. Entering into a lease with the family.
 - c. Maintaining the unit in accordance with HQS, including performance of ordinary and extraordinary maintenance.
 - d. Complying with fair housing and equal opportunity requirements.
 - e. Preparing and furnishing to the PHA information required under the HAP contract.
 - f. Collecting from the family:
 - 1) Any security deposits.
 - 2) The tenant contribution (the part of rent to owner not covered by the housing assistance payment).
 - 3) Any charges for unit damage by the family.
 - g. Enforcing tenant obligations under the lease.
 - h. Paying for utilities and services (unless paid by the family under the lease).
 - i. Providing reasonable accommodation and/or modifications to the unit occupied or to be occupied by a person with disabilities.
4. Obligations of the Family

The term family is used interchangeably with the terms "applicant," "participant," "tenant," and "resident." The Obligations of the Family are stated on the Housing Voucher (form HUD-52646), in the lease, and in the program regulations for housing choice voucher holders. The Obligations of the Family 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 of social security numbers (SSNs); and
 - 4) Signing consent forms for obtaining and verifying information.
- b. NSPIRE Enforcement:

The family is responsible for tenant-caused damages.
- c. Allowing PHA Inspections:

The family must allow the PHA to inspect the unit at reasonable times and after reasonable notice.

d. 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 survivor, or threatened survivor, of the domestic violence, dating violence, sexual assault, or stalking, or as good cause to terminate the tenancy, occupancy rights, or assistance of the survivor.

e. Family Notice to Move or Lease Termination:

The family must notify the PHA and the owner before the family moves out of the unit or terminates the lease on notice to the owner.

f. Owner Eviction Notice:

Promptly giving the PHA a copy of an eviction notice from the owner.

g. 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 approved members of the assisted family) may reside in the unit.
- 3) If the PHA has given approval, 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 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 let the unit
- 7) The family must not assign the lease or transfer the unit.

h. 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.

i. Interest in the Unit:

The family must not own or have any interest in the unit.

j. 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.

k. Other Housing Assistance:

An assisted family, or members of the family, may not receive HCV tenant-based 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.

l. 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 survivor, if the tenant or an affiliated individual of the family, is the survivor.

m. 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.

D. Release of Information and Consent by Applicants and Participants

Each member of the family of an assistance applicant or participant who is at least 18 years of age, and each family head of household and spouse, regardless of age, must sign one or more consent forms.

1. Consent Forms Authorization

Assistance applicants and participants are responsible for the signing and submitting of consent forms, including form HUD-9886-A, by each applicable family member.

a. Applicants

The assistance applicant must submit the signed consent forms to the PHA when eligibility is being determined.

b. Participants

On or after January 1, 2024, the participant must sign and submit consent forms at their next annual/regularly scheduled or interim income reexamination.

c. Subsequent Authorization to Release Information and Consent Forms

After all applicants or participants over the age of 18 in a family have signed and submitted a consent form once on or after January 1, 2024, family members do not need to sign and submit subsequent consent forms at the next interim or regularly scheduled income reexamination except under the following circumstances:

- 1) When any person 18 years or older becomes a member of the family, that family member must sign and submit a consent form;
- 2) **When a member of the family turns 18 years of age, that family member must sign and submit a consent form at the family's next income reexamination.**
- 3) As required by HUD or the PHA in administrative instructions.

2. Required Contents of the Consent Forms

Consent forms will be used to request information directly from third parties (e.g., date hired, rate of pay, commissions, bonus, etc.). The consent forms will contain at a minimum:

- a. A provision authorizing HUD and the PHA to obtain from State Wage Information Collection Agencies (SWICAs) any information or materials necessary to complete or verify the application for participation and to maintain continued assistance under the HCV program; and
- b. A provision authorizing HUD or the PHA, who is responsible for determining eligibility for or the level of assistance, to verify with previous or current employers' income information pertinent to the assistance applicant's or participant's eligibility for or level of assistance;
- c. A provision authorizing HUD to request income return information from the Internal Revenue Service (IRS) and the Social Security Administration (SSA) for the sole purpose of verifying income information pertinent to the assistance applicant's or participant's eligibility or level of benefits;
- d. A provision authorizing the PHA to obtain any financial record from any financial institution, as the terms financial record and financial institution are defined in the Right to Financial Privacy Act (12 U.S.C. 3401), whenever the PHA determines the record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits; and

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

The head of household, spouse, or co-head, regardless of age and adults, 18 years of age and older, will be required to sign the form HUD-9886-A, Authorization for Release of Information/Privacy Act Notice.

a. Purposes of Form HUD-9886-A

- 1) In signing the form HUD-9886-A, the family is authorizing HUD and the PHA to request income information from the sources listed on the form.
- 2) HUD and the PHA will use this information to verify the family's income, in order to ensure that the family is eligible for assisted housing benefits and that these benefits are set at the correct level.
- 3) HUD and the PHA may participate in computer matching programs with these sources in order to verify the family's eligibility and level of benefits.

b. Form HUD-9986-A Authorizes the Following:

- 1) HUD and the PHA to request verification of salary and wages from current or previous employers.
- 2) HUD and the PHA to request wage and unemployment compensation claim information from the State agency responsible for keeping that information.
- 3) HUD to request certain tax return information from the SSA and U.S. Internal Revenue Service (IRS).
- 4) The PHA to request verification of any financial record from any financial institutions as defined in the Right to Financial Privacy Act (12 U.S.C. 3401)), whenever the PHA determines, the record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits.

c. Sources of Information Obtained

The form HUD-9886-A only authorizes the release directly from employers and financial institutions of information regarding any period(s) within the last five (5) years when assisted housing benefits were received.

1) State Wage Information Collection Agencies (SWICAs)

The form HUD-9886-A is limited to wages and unemployment compensation the family has received when the family received assisted housing benefits.

2) U.S. Social Security Administration (HUD only)

The form HUD-9886-A is limited to the wage and self-employment information and payments of retirement income as referenced at Section 6103(l)(7)(A) of the Internal Revenue Code (IRC).

3) U.S. Internal Revenue Service (HUD only)

The form HUD-9886-A is limited to unearned income (i.e., interest and dividends).

- 4) Information may also be obtained directly from:
 - a) Current and former employers concerning salary and wages; and
 - b) Financial institutions as defined in the Right to Financial Privacy Act (12 U.S.C. 3401), whenever the PHA determines, the record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits.
 - c) Information obtained from these sources will be used to verify information that the family provides in determining eligibility for assisted housing programs and the level of benefits.
 - d) The form HUD-9886-A only authorizes the release directly from employers and financial institutions of information.
4. Effective Dates of Consent Forms and Form HUD-9886-A

Consent forms and form HUD-9886-A will remain effective until the earliest of:

 - a. The rendering of a final adverse (denied) decision for an assistance applicant;
 - b. The cessation of a participant's eligibility (termination) for assistance from HUD and the PHA; or
 - c. The express revocation by the assistance applicant or recipient (or applicable family member) of the authorization, in a written notification to HUD or the PHA.
 - d. If the family voluntarily leaves the public housing program, the family's assistance is considered terminated and the signed form HUD-9886-A will no longer be in effect.
5. Criminal Background Check

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

 - a. 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 HCV program.
 - b. State Sex Offender Registration
 - 1) The PHA must carry out background checks necessary to determine whether a member of a household applying for admission to the HCV program is subject to a lifetime sex offender registration requirement under a State Sex Offender Registration program.
 - 2) 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.
 - c. Crimes and Other Sex Offenses

- 1) If the PHA obtains criminal records from a state or local agency showing that a household member has been convicted of a crime/sex offense, relevant to applicant screening, lease enforcement, or eviction, the PHA will notify the household of the proposed action to be based on the information and must provide the subject of the record and the applicant or tenant a copy of such information, and an opportunity to dispute the accuracy and relevance of the information.
 - 2) This opportunity must be provided before a denial of admission, eviction, or lease enforcement action on the basis of such information.
- d. 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.
- e. The family will not incur any costs for the drug and criminal background check.
6. Penalties from Failing to Sign Consent Forms

Refusing to sign consent forms prohibits the PHA from requesting and accessing income information and financial records, including generating any EIV reports and using EIV data to verify income.

 - a. Deny or Terminate Housing Assistance

In accordance with the provisions governing the HCV program, if the applicant or participant, or any member of the applicant's or participant's family, does not sign and submit the consent form as required then the:

 - 1) Assistance to and admission of an applicant will be denied; or
 - 2) Assistance to, and the tenancy of, a participant will be terminated.
 - b. Cross References

Individuals should consult the regulations and administrative instructions for the HCV program for further information on the use of income information in determinations regarding eligibility.
7. Penalties for Revocation of Consent Forms

The executed consent forms will remain effective until the family is denied assistance, the assistance is terminated, or if the family provides written notification to the PHA to revoke consent. The PHA will explain to the families the families' right to revoke consent forms and the consequences for the revocation of the consent forms.

 - a. Revocation of consent forms prohibits the PHA from requesting and accessing income information, including generating any EIV reports and using EIV data to verify income

(although the data matches between HUD and other agencies will continue to automatically occur in the EIV system if the family is not terminated from the program).

- b. Without the family's executed consent form, the PHA may not process annual or interim reexaminations of income, including when the family's income decreases and the family requests an interim reexamination to decrease the tenant rent.
- c. If the applicant, participant, or any member of the applicant's or participant's family revokes his/her consent forms, that revocation of the consent forms will result in:
 - 1) Denial of admission for applicants.
 - 2) Termination of assistance for participant families.
 - 3) Denial of admission or termination of assistance is subject to the PHA's informal hearing and grievance procedures, respectfully.
- d. PHAs will notify their HUD office when an applicant or participant family member revokes their consent.

8. Penalties for Revocation of Financial Consent Form

The PHA will explain to the families the families' right to revoke financial consent forms and the consequences for the revocation of the financial consent forms.

- a. Revocation of financial consent forms prohibits the PHA from requesting and accessing financial records.
- b. Without the family's executed financial consent form, the PHA may not process annual or interim reexaminations of income, including when the family's income decreases and the family requests an interim reexamination to decrease the tenant rent.
- c. If the applicant, participant, or any member of the applicant's or participant's family revokes his/her financial consent forms, with respect to the ability of the PHA to access financial records from financial institutions, that revocation of the financial consent forms will result in:
 - 1) Denial of admission for applicants.
 - 2) Termination of assistance for participant families.
 - 3) Denial of admission or termination of assistance is subject to the PHA's informal review and hearing procedures, respectfully.
 - 4) The PHA will notify the PHA's local HUD office when an applicant or participant family member revokes their consent.
- d. The PHA will notify the PHA's local HUD office when an applicant or participant family member revokes their consent.

9. 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 is required to notify families of the use of computer matching agreements/activities. The PHA must provide the families with the opportunity to refute adverse information before being denied or terminated on the basis of a match.
- e. 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 the adult responsible for the minor.).

CHAPTER 3: THE ADMINISTRATIVE PLAN

The purpose of the Administrative Plan 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 Lakeland and/or Florida Consolidated Plan and the PHA's Agency Plan. The Administrative Plan is a supporting document to the PHA's Agency Plan and shall be available for public review.

The Administrative Plan 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 Administrative Plan

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

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

B. Contents of the Administrative Plan

The PHA Administrative Plan must cover all the PHA's local policies for administration of the HCV program, including the PHA's policies on the following 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. Issuing or denying vouchers, including PHA policy governing the voucher term and any extensions of the voucher term. If the PHA decides to allow extensions of the voucher term, the PHA Administrative Plan must describe how the PHA determines whether to grant extensions, and how the PHA determines the length of any extension;
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 includes but are not limited to:
 - a. Definition of what group of persons may qualify as a "family."
 - b. Definition of when a family is considered to be "continuously assisted."

- c. Standards for denying admission or terminating assistance based on criminal activity, alcohol abuse, or other factors; and
 - d. Policies concerning residency by a foster child, foster adult, or live-in aide, including defining when PHA consent for occupancy by a foster child, foster adult, or live-in aide must be given or may be denied.
- 5. Encouraging participation by owners of suitable units located outside areas of low income or minority concentration.
- 6. Assisting a family that claims that illegal discrimination has prevented the family from leasing a suitable unit.
- 7. Providing information about a family to prospective owners.
- 8. Disapproval of owners.
- 9. Subsidy standards.
- 10. Family absence from the dwelling unit.
- 11. How to determine who remains in the program if a family breaks up.
- 12. Informal review procedures for applicants.
- 13. Informal hearing procedures for participants.
- 14. Payment standard policies, including:
 - a. The process for establishing and revising payment standards, including whether the PHA has voluntarily adopted the use of Small Area Fair Market Rents (SAFMRs);
 - b. A description of how the PHA will administer decreases in the payment standard amount for a family continuing to reside in a unit for which the family is receiving assistance; and
 - c. If the PHA establishes different payment standard amounts for designated areas within its jurisdiction, including exception areas, the criteria used to determine the designated areas and the payment standard amounts for those designated areas. All such areas must be described in the PHA's Administrative Plan or payment standard schedule.
- 15. The method of determining that rent to owner is a reasonable rent (initially and during the term of a HAP contract).
- 16. Special policies concerning special housing types in the program (e.g., use of shared housing).
- 17. Policies concerning payment by a family to the PHA of amounts the family owes the PHA.
- 18. Policies concerning interim reexaminations of family income and composition, the frequency of determinations of family income, and income determinations practices, including whether the PHA will accept a family declaration of assets.
- 19. Restrictions, if any, on the number of moves by a participant family.

20. Approval by the Board of Commissioners or other authorized officials to charge the administrative fee reserve.
21. Procedural guidelines and performance standards for conducting required HQS inspections, including:
 - a. Any deficiency that the PHA has adopted as a life-threatening deficiency that is not a HUD-required life-threatening deficiency.
 - b. For PHAs that adopt the initial inspection non-life-threatening deficiency option:
 - 1) The PHA's policy on whether the provision will apply to all initial inspections or a portion of initial inspections.
 - 2) The PHA's policy on whether the provision will be applied to only some inspections and how the units will be selected.
 - 3) The PHA's policy on using withheld HAP funds to repay an owner once the unit is in compliance with HQS.
 - c. For PHAs that adopt the alternative inspection provision:
 - 1) The PHA's policy on how it will apply the provision to initial and periodic inspections.
 - 2) The specific alternative inspection method used by the PHA.
 - 3) The specific properties or types of properties where the alternative inspection method will be employed.
 - 4) For initial inspections, the maximum amount of time the PHA will withhold HAP if the owner does not correct the HQS deficiencies within the cure period, and the period of time after which the PHA will terminate the HAP contract for the owner's failure to correct the deficiencies, which may not exceed 180 days from the effective date of the HAP contract.
 - d. The PHA's policy on charging a reinspection fee to owners.
22. The PHA's policy on withholding HAP for units that do not meet HQS.
23. The PHA's policy on assisting families with relocating and finding a new unit.
24. PHA screening of applicants for family behavior or suitability for tenancy.
25. Whether the PHA will permit a family to submit more than one request for tenancy approval at a time.
26. In the event of insufficient funding, taking into account any cost-savings measures taken by the PHA, a description of the factors the PHA will consider when determining which HAP contracts to terminate first (*e.g.*, prioritization of PBV HAP contracts over tenant-based HAP contracts or prioritization of contracts that serve vulnerable families or individuals).

C. Organization of this Administrative Plan

This Administrative Plan chronologically introduces the sequence of events experienced by a family participating in the HCV program.

The Administrative Plan begins with outreach and program plans, and proceeds to program participation, including applications and eligibility, leasing, inspections, rent reasonableness, reexaminations, and termination of assistance by the PHA.

This Administrative Plan also includes chapters about financial management, program administration staffing, and program integrity.

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

D. Changes in Laws and Regulations

This Administrative Plan will be interpreted and applied in accordance with applicable federal statutes and HUD regulations and policy guidance. Any conflict between the language of this Administrative Plan and such federal statutes and/or regulations will be resolved in accordance with federal law and policy. Additionally, since the PHA must follow state and local laws in its jurisdiction, this Administrative Plan will be deemed automatically revised should any of those laws or regulations change.

In the event an applicable HUD, state, or local law or regulation is modified or eliminated, the revised law or regulation shall, to the extent inconsistent with this Administrative Plan, automatically supersede this Administrative Plan. To the extent that the change is mandatory (allowing no PHA discretion), the text of this Administrative Plan 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.

All issues not addressed in this Administrative Plan related to the Section 8 HCV program are governed by the Code of Federal Regulations, HUD handbooks and guidebooks, Federal Registers, memos, notices, guidelines, and other applicable law.

Chapter 4: Nondiscrimination and Equal Housing Opportunities

In making decisions concerning admissions and occupancy, the PHA must comply with the Fair Housing, Equal Housing Opportunities, and civil rights requirements. The PHA is required to make the HCV 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, the lease-up process, moves with continued assistance (including portability), delivery of services, treatment of participants, and denial or termination of assistance.

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. Equal Access Rule

The HCV program is open to all eligible individuals regardless of sexual orientation, gender identity, or marital status.

- a. A private owner that participates in the HCV program becomes subject to the rule when the owner executes a housing assistance payment (HAP) contract with the PHA.
- b. Prohibited Inquiries
 - 1) The PHA and owners are prohibited from inquiring about an applicant's or participant's sexual orientation or gender identity for the purposes of determining eligibility or otherwise making housing available.
 - 2) The individual may voluntarily self-identify their sexual orientation or gender identity.
- c. Permissible Inquiries
 - 1) The PHA is permitted to ask an applicant's or participant's sex in order to determine the number of bedrooms for which a household may be eligible based on the PHA's written subsidy standards.
 - 2) The PHA must collect and report an HCV program participant's sex through form HUD-50058 and submit the data electronically to the Information Management System/PIH Information Center (IMS/PIC).
 - 3) The PHA may maintain voluntary and anonymous reporting of sexual orientation or gender identity for compliance with data collection requirements by state and local governments or other federal assistance programs so long as information obtained pursuant to such reporting has no bearing on eligibility for housing or program participation.

- d. Program Compliance
 - 1) A PHA's or owner's actions or practices that are inconsistent with the rule could result in HUD's determination that the PHA or owner has failed to comply with program requirements.
 - 2) HUD may pursue any available remedy, including:
 - a) Sanctions or corrective action plans that it deems appropriate to remedy the violation.
 - b) A review of the PHA's or owner's policies and performance to determine if it is complying with the Equal Access Rule.
 - c) Monitoring by PIH or HUD's Office of Fair Housing and Equal Opportunity (FHEO).
 - d) A request for information concerning allegations of noncompliance.
 - 3) The PHA or owner must cooperate with HUD and provide access to staff, records, and beneficiaries as needed.
- 3. The PHA will not, on the grounds of race, color, 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

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 HCV program.

- 1. The PHA will not assign employees in a way that would result in discrimination against applicants or participant families.
- 2. The PHA will ensure that all employees of the PHA are familiar with discrimination and nondiscrimination requirements.
- 3. Fair Housing posters and housing information with the Equal Opportunity Housing logo

shall be displayed in locations throughout the PHA office in such a manner as to be easily readable by persons with disabilities. The PHA will prominently display the posters:

- a. Each office where applications are accepted; and
 - b. Each management office, except single-family dwellings.
4. Individuals who believe that they have been discriminated against with respect to housing may request and receive assistance from PHA staff in filing such complaints.
 5. 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.
 6. The PHA will not deny an individual with physical disabilities an opportunity to apply for housing assistance due to inaccessible application offices.
 7. 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.
 8. 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.
 9. 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.
 10. 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 or severity of a disability of such a person.
 11. 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.
12. 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.
13. The PHA will ensure that all PHA-property, including buildings, common areas, offices, and office spaces are accessible to persons with disabilities.
14. The PHA will post the TDD/TDY telephone number to facilitate accessibility for the hearing impaired.
15. To further the commitment to full compliance with applicable civil rights laws, the PHA will provide information to HCV program applicants and participants on how to complete and file a housing discrimination complaint if the applicant or participant claims illegal discrimination because of race, color, religion, sex, national origin, age, familial status, disability, or violation of the Equal Access Rule.
16. The PHA will review its policies and procedures, at least annually, to ensure compliance with all Fair Housing 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; genitourinary; 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 reasonable accommodation.
 - 2) The PHA is not obligated to provide 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 HCV 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 definitions 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 requesting an informal review/hearing 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 may 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. HCV briefing materials.
 - g. HCV program and any other applicable program rules.
 - h. Information regarding opening, closing, and updating the waiting list.
 - i. All information related to the family's responsibilities and rights (informal reviews/hearings, etc.).

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 (VAWA)

Protects tenants and applicants, and affiliated individuals who are survivors of domestic violence, dating violence, sexual assault, and/or stalking (collectively VAWA violence/abuse) from being denied, evicted, or terminated from housing assistance based on acts of such violence against them. While VAWA, HUD's regulations, HUD forms, and other HUD guidance generally use the term "victim," this policy will use the VAWA 2022 preferred term "survivor," which will have the same meaning as "victim."

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. Nondiscrimination and Equal Opportunity Requirements:
 - a. VAWA protections are not limited to women.
 - b. Survivors of VAWA violence/abuse are eligible for protections without regard to sex, gender identity, or sexual orientation.
 - c. Survivors cannot be discriminated against based on any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age.
 - d. 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.
 - e. Youth under the age of 18 years old living in an assisted household may invoke VAWA protections if the youth is a survivor of VAWA violence/abuse.
3. Citizenship and Immigration Status
 - a. VAWA protections are provided to tenants regardless of citizenship or eligible immigration status.
 - b. Self-Petitioners

Section 214 of the Housing and Community Development Act of 1980 states that HUD may not allow financial assistance to ineligible non-citizens, but assistance must not be denied while verifying immigration status.

- 1) VAWA also provides protections for "self-petitioners" who are noncitizens and 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).
- 2) VAWA covers the following types of battery or extreme cruelty: domestic violence, dating violence, sexual assault, and stalking.

- 3) Self-petitioners can indicate that they are in “satisfactory immigration status” when applying for assistance or continued assistance from a Section 214 covered housing provider.
 - a) Satisfactory immigration status means an immigration status which does not make the individual ineligible for financial assistance.
 - b) After the PHA verifies the immigration status in the Department of Homeland Security (DHS) Systematic Alien Verification for Entitlements (SAVE) System, the PHA will make a final determination as to the self-petitioner’s eligibility.
 - 4) Housing assistance and all other VAWA protections will be granted to the self-petitioner throughout the verification process until a final determination of the LPR status is made.
 - 5) If the final determination is to deny the VAWA self-petitioner or the LPR petition, the PHA will alert the petitioner and take actions to terminate the voucher assistance in accordance with existing PHA public housing requirements.
4. Affiliated Individual (replaced family member)
 - a. A spouse, parent, brother, sister, a child of that person, 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
 - b. Any individual, tenant, or lawful occupant living in the household of that individual.
 5. Live-In Aides
 - a. Live-in aides are entitled to VAWA protections if the live-in aid is an applicant for PHA housing assistance.
 - b. Live-in aides could be an affiliated individual of a tenant and if the live-in aid as an affiliated individual is a victim of domestic violence, dating violence, sexual assault, or stalking.
 - c. The tenant with whom the affiliated individual is associated cannot be evicted or have assistance terminated on the basis that the affiliated individual was a victim of VAWA violence/abuse.

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 survivor of VAWA violence/abuse. In addition, other reasonable accommodations may be needed on a case-by-case basis.
2. Where a guest or unassisted member is a survivor of VAWA violence/abuse, a tenant cannot be evicted or have assistance terminated on the basis of the VAWA violence/abuse 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 will provide the Notice of Occupancy Rights, form HUD-5380, and the Certification Form, form HUD-5382, to each adult applicant and to each adult participant 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 participant 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 VAWA Notice of Occupancy Rights explains the VAWA protections for applicants and for participants, including the rights to confidentiality and any VAWA protection limitations.

1. The PHA will provide the VAWA Notice of Occupancy Rights without changes to the core VAWA protections and confidentiality rights.
2. VAWA Protections for Applicants

If the applicant otherwise qualifies for HCV assistance the applicant cannot be denied admission or denied assistance because the applicant is or has been a survivor of VAWA violence/abuse.

3. Protections for Tenants
 - a. If a tenant is receiving HCV assistance, the tenant may not be terminated from participation or be evicted from the assisted unit because the tenant is or has been a survivor of VAWA violence/abuse.
 - b. If a tenant or an affiliated individual of the tenant is or has been the survivor of VAWA violence/abuse by a member of the tenant's household or any guest, the tenant may not be denied rental assistance or occupancy rights under HCV program assistance solely on the basis of criminal activity directly relating to that incident of VAWA violence/abuse.

E. VAWA Certification Form, HUD-5382

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

1. VAWA Certification Form
 - a. Provides that the survivor or someone on the survivor'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 survivor or someone filling out the form on the survivor'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 survivor or it cannot be provided safely.
 - g. Clarifies that the date and time of incident should be completed only if known by the survivor.
 - h. Requires the survivor or someone filling out the form on the survivor's behalf to certify 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 tenants and applicants that when the HUD-5382 is submitted on the survivor's behalf, the submission will take the place of the tenants or applicants submitting their own statement.

F. Certification or 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 VAWA violence/abuse if the PHA was aware of the abuse and encouraged the survivor to request VAWA protections.

2. Requesting Documentation

The PHA may choose to request an individual to document their claim of VAWA violence/abuse.

- a. The PHA must request the documentation in writing.
- b. Providing the survivor, 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 survivor 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 survivor service provider, an attorney, or medical professional or a mental health professional (collectively, "professional") from whom the survivor 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 VAWA violence/abuse 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 policy 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 survivor to provide third-party documentation of survivor status, unless:

- a. More than one tenant or applicant provides documentation to show they are survivors of VAWA violence/abuse 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. Limitations of VAWA Protections

The tenant may invoke VAWA protections on more than one occasion and the PHA will not subject additional conditions that would adversely affect the tenant's tenancy because they have invoked VAWA protections. There are no limitations on the number of occasions a survivor can invoke VAWA protections.

1. Nothing in this Chapter limits the authority of the PHA, when notified of a court order, to comply with a court order with respect to:
 - a. The rights of access or control of property, including civil protection orders issued to protect a survivor of VAWA violence/abuse; or
 - b. The distribution or possession of property among members of a household.
2. The PHA may evict or terminate assistance to a tenant for any violation not premised on an act of VAWA violence/abuse that is in question against the tenant or an affiliated individual of the tenant.

The PHA will not subject the tenant who is or has been a survivor of VAWA violence/abuse or is affiliated with an individual who is or has been VAWA violence/abuse, to a more demanding standard than other tenants when determining whether to evict or terminate assistance.

3. The PHA may terminate assistance or evict a tenant if the PHA can demonstrate an actual and imminent threat to other tenants, PHA employees, or those employed at or providing services to the PHA would of be present if that tenant or lawful occupant is not terminated from assistance or evicted.
 - a. An 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.
 - b. Words, gestures, actions, or other indicators can be considered an actual and imminent threat.
 - c. In determining whether an individual would pose an actual and imminent threat, the PHA will consider the following factors:
 - 1) The duration of the risk,
 - 2) The nature and severity of the potential harm,
 - 3) The likelihood that the potential harm will occur, and
 - 4) The length of time before potential harm will occur.
4. The PHA will utilize termination of assistance or eviction only when there are no other actions the PHA can employ to reduce or eliminate the threat, including but not limited to transferring the survivor to a different unit, barring the perpetrator from the property, and

contacting law enforcement in order to keep the property safe to prevent the perpetrator from acting on a threat.

5. The PHA will terminate tenancy or assistance to any household member who is the perpetrator of VAWA violence/abuse or who engages in criminal acts of physical violence against family members or others.

H. VAWA Confidentiality

Given the significant safety issues faced by survivors of VAWA violence/abuse, it is critical that the PHA establish or update existing policies to maintain the confidentiality and privacy of survivors who seek protections under VAWA.

1. The PHA shall retain in strictest confidence all information pursuant to VAWA including the fact that an individual is a survivor of VAWA violence/abuse.
2. The PHA shall not allow any individual administering assistance on behalf of the PHA, in the employ of the PHA, or any persons within 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.
4. Communicating with the Survivor

When communicating with an applicant, participant, or tenant who has requested VAWA protections, the PHA will take precautions to avoid inadvertent disclosure of confidential information to another individual or entity.

- a. The PHA will not leave messages that contain confidential information or refer to VAWA, the VAWA protections, or VAWA violence/abuse on the survivor's voicemail or with other individuals, including members of the survivor's household.
- b. The PHA will not send mail regarding VAWA violence/abuse (e.g., a written request to complete form HUD-5282, or written extension of the 14-business day timeframe to respond to the PHA's request for documentation) to the survivor's address as the perpetrator may have access to the survivor's mail.

5. The PHA may employ the following to address the challenges of collecting information from and communicating with survivors of VAWA violence/abuse to avoid unintentional disclosure:
 - a. Conduct the intake session in a private room, where the individual and staff person can talk without the risk of other staff or clients overhearing.
 - b. Explain the PHA's information sharing policies.
 - c. Clarify information sharing policies with referring/referral agencies and other service and business partners.
 - d. Communicate to the individual who in the PHA is responsible for handling questions or complaints about confidentiality.
 - e. Work with the tenants to make delivery arrangements of VAWA documents that do not place the survivor at risk.
 - f. Serve individuals off-site as needed or when appropriate.
 - g. Provide adequate time for the individual to review and sign forms.
 - h. Provide reasonable accommodations to permit individuals to follow or access any rules, policies, practices, or services, such as modifying a policy requiring that the survivor come into the office to pick up VAWA documents to instead deliver the form to the survivor.
 - i. ensuring effective communication with persons with disabilities, e.g., providing sign language interpreters for persons who are deaf, accessible documents and assistance filling out forms for persons with visual impairments or have low vision.
 - j. Provide interpretation and/or documents translated into the appropriate language when necessary for person with limited English proficiency.
 - k. Provide accessible documents or assistance filling out forms for individuals with disabilities Post confidentiality notices in the intake room and around other areas of the PHA.
 - l. Ensure relevant staff understand confidentiality policies and procedures through regular staff training.
 - m. Post notices about the importance of maintaining confidentiality throughout the office.
 - n. Direct staff to respond to third-party inquiries only after verifying that written client consent has been obtained.
 - o. Maintain distinct phone lines for certain purposes.
 - p. Use a PHA post office box to receive written correspondence.
 - q. Avoid using language referencing domestic violence or sexual assault in PHA names, program names, organization names, and staff titles.

I. VAWA Prohibition on Retaliation

Provides protections against retaliation for survivors and other persons who oppose acts made unlawful by VAWA, who seek to enforce VAWA's protections, or who participate in enforcement proceedings.

1. It is illegal for the PHA to discriminate against any person because that person has opposed any act or practice made unlawful by VAWA's housing provisions, or because that person testified, assisted, or participated in any related matter.
2. It is illegal for a PHA to coerce, intimidate, threaten, interfere with, or retaliate against any person who exercises or assists or encourages a person to exercise any rights or protections under VAWA's housing provisions.

J. Right to Report Crimes and Emergencies

Provides protections against actual or threatened penalties for persons requesting law enforcement or emergency assistance.

1. Landlords, homeowners, tenants, residents, occupants, and guests of, and applicants for, housing shall have the right to seek law enforcement or emergency assistance on their own behalf or on behalf of another person in need of assistance.
2. It is prohibited to penalize or threaten to penalize persons because they request assistance or report criminal activity of which they are a survivors or otherwise not at fault under the laws or policies adopted or enforced by "covered governmental entities," which is any municipal, county, or state government that receives funding under Section 106 of the Housing and community Development Act of 1974.

K. Compliance Process Review

The PHA is required to establish a VAWA compliance review process.

1. The PHA will:
 - a. Incorporate the VAWA compliance review process into its existing compliance review processes where possible,
 - b. Perform the VAWA compliance review on a regular basis,
 - c. Publicly disclose the VAWA compliance review assessment of the information collected;
2. Six Items for Compliance Review
 - a. Compliance with requirements prohibiting the denial of assistance, tenancy, or occupancy rights on the basis of domestic violence, dating violence, sexual assault, or stalking;
 - b. Compliance with VAWA confidentiality provisions
 - c. Compliance with the notification requirements

- d. Compliance with the provisions for accepting documentation
 - e. Compliance with emergency transfer requirements; and
 - f. Compliance with the prohibition on retaliation
3. The PHA will develop regulations to implement the VAWA compliance review in consultation with the appropriate stakeholders, which includes the following, but not limited to:
- a. Individuals and organizations with expertise in the housing needs and experiences of survivors of VAWA violence/abuse; and
 - b. Individuals and organizations with expertise in the administration or management of HUD programs subject to VAWA statutory requirements and protections.

L. VAWA FHEO Enforcement Authority

HUD and the U.S. Department of Justice shall implement and enforce VAWA consistent with, and in a manner that provides, the same rights and remedies as those provided for the Fair Housing Act.

Effective October 1, 2022, individuals who believe their VAWA rights have been violated may file complaints with HUD's Offices of Fair Housing and Equal Opportunity (FHEO) and General Counsel (OGC). The FHEO and OGC will begin investigating such complaints using HUD's existing Fair Housing Act complaint process.

CHAPTER 6: OUTREACH

The goal of the PHA's outreach is to make information about the HCV program available to every eligible family and to attract a sufficient number of owners with units outside areas of high poverty or minority concentration.

A. 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. Analyzing the housing market area to identify and determine the needs of the eligible population groups.
2. Avoiding outreach efforts that prefer or exclude individuals who are members of a protected class.
3. Ensuring outreach efforts include usage of media outlets, including minority media outlets, that reach eligible populations.

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. Survivors of domestic violence, dating violence, sexual assault, or stalking
 - i. Veterans of the U.S. armed forces
 - j. Involuntarily displaced families
2. The PHA will develop easily understood and usable outreach information/materials that is expressed in simple and direct terms.

3. PHA Outreach Message:

The PHA's outreach message may include, but is not limited to, information about the HCV program, such as:

- a. The opening and closing of the HCV waiting list.
- b. The family may choose any unit inside the PHA's jurisdiction as long as the unit meets program requirements.
- c. How portability works and how it may affect the family's assistance.
- d. The tenant rent is based on the family's income and tenant-paid utilities (except telephone and cable).
- e. A listing of rental property known to be available. These listings show addresses, shopping centers, bus lines, amenities, deposit information, etc., as provided by owners/landlords.
- f. A map which identifies areas of low-poverty and minority concentration.
- g. Information on known available accessible units for families that includes a member with disabilities.

4. The PHA methods of outreach to families may include but are not limited to:

- a. Postings on the PHA website and other social media.
- b. U.S. Postal mail outs
- c. Distribute outreach materials to identify local resources such as, advocacy groups, community service groups and agencies, elements of city and county governments, and colleges and universities.
- d. Ensure the outreach materials include specific information on where, when, and how to apply for HCV assistance and an explanation of the application procedures.
- e. Post outreach material in places of employment, unemployment offices, welfare offices, Post Offices, grocery stores, 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 survivors of VAWA violence/abuse.
- 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 HCV 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, the PHA may design an appropriate form and, as part of the PHA's application process, ask each applicant how they heard about the HCV program, especially families among the groups identified as the least likely to apply.

Such procedures will assist the PHA in determining 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 is determined that certain categories of families are not making applications in sufficient numbers.

As needed, the PHA will take affirmative action in marketing the HCV 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.

D. Owner/Landlord Outreach

Without the participation of good landlords, families will not succeed in leasing up and staying leased. The PHA will strive to maintain good relations with existing owners/landlords and will encourage new owners/landlords to participate and to make units available for leasing by eligible HCV program families.

The PHA methods for outreach, recruiting, and cultivating relationships with owners and landlords may include but are not limited to:

1. Recruitment on the PHA's website or other social media.
2. U.S. Postal mail outs.
3. Advertise and market the benefits of the HCV program to potential owners/landlords.
4. Hold owner/landlord briefings.
5. Join landlord association groups or attend landlord organizational meetings.
6. HCV program and/or owner newsletter.

E. Expanding Greater Housing Opportunities for Families

The PHA will encourage program participation by owners of units located outside areas of poverty and minority concentration. The families will be informed of areas of where they may lease a unit inside and outside (portability) of the PHA's jurisdiction.

1. Areas of poverty and minority concentration.
 - a. The PHA will use the poverty guidelines established by the Department of Health and Human Services applicable to the family size involved (except in the case of families living in Puerto Rico or any other territory or possession of the United States).
 - b. The PHA will use the U.S. Census to determine whether the census tract is an area of minority concentration.
2. The PHA has prepared maps that show various areas, both within and neighboring jurisdictions, with housing opportunities outside areas of poverty and minority concentration.
3. The PHA has assembled information about job opportunities, schools, and services in areas outside of poverty and minority concentration.
4. The PHA's briefing packet contains either a list of owners who are willing to lease a unit, units available for lease, or other organizations that will assist families find units outside of area of poverty or minority concentration.
5. The PHA has analyzed whether voucher holders have experienced difficulties in finding housing outside areas of poverty or minority concentration and, where such difficulties were found, the PHA has considered whether it is appropriate to seek approval of exception payment standard amounts in any part of its jurisdiction and has sought HUD approval when necessary.

CHAPTER 7: WAITING LIST AND TENANT SELECTION

When the PHA receives or acquires an allocation of new voucher funding, the PHA shall establish an application and selection process that will treat applicants fairly, consistently, and will provide an effective method for determining eligibility and selecting the applicants for participation in the HCV program.

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 admission vouchers are issued to qualified applicants. Setting up and maintaining the waiting list properly is essential to carrying out the HCV program's admissions in accordance with HUD's civil rights and program regulations and the PHA's policies.

1. The PHA must use a single waiting list for admission to the HCV program.
2. Opening the Waiting List

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

- a. The notice will comply with HUD fair housing requirements, containing the equal housing opportunity logo and non-discrimination statement in its message.
- b. The notice will be placed in a local 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 HCV program.
- e. The notice will provide details on where and when interested families can apply.
- f. The notice will state any limitations on who may apply (i.e., working families, extremely low-income, etc.).

3. 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.
- 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.

4. 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 admission policies.

- a. At a minimum, the waiting list must contain the following information for each applicant:
 - 1) Date and time of application;
 - 2) Name of applicant;
 - 3) Family unit size (number of bedrooms for which the family qualifies under the PHA's occupancy standards);
 - 4) Race or ethnic designation of the head of household; and
 - 5) Qualifications for local preferences.
- b. The PHA may include the following additional information:
 - 1) Names of adult members and ages of all members
 - 2) Gender and relationship of all members
 - 3) Street address and phone numbers
 - 4) Mailing address (if different from street address)
 - 5) Amount(s) and source(s) of income received by household members
 - 6) Citizenship/eligible immigration status

5. 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
 - 1) The PHA will not merge the waiting list for tenant-based assistance with the PHA waiting list for admission to another assisted housing program, including a federal or local program.
 - 2) In admission from the merged waiting list, admission for each federal program is subject to federal regulations and requirements for the particular program.

b. Non-merged Waiting List

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

- 1) If the PHA's waiting list for tenant-based assistance is open when an applicant is placed on the waiting list for the PHA's public housing program, PBV program or Moderate Rehabilitation program, the PHA must offer to place the applicant on its waiting list for tenant-based assistance.
- 2) If the PHA's waiting list for its public housing program, PBV program or Moderate Rehabilitation program is open when an applicant is placed on the waiting list for its tenant-based 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 tenant-based assistance;
 - 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 subsidy other than assistance under the HCV program, such as subsidy assistance under a federal housing program (including public housing), a state housing program, or a local housing program.

6. 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 HCV 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 require interested applicants to report changes in the following circumstances within 10 business days of occurrence.**

- a) Change in contact information (address or phone number)
 - b) Changes in income
 - c) Changes in household composition
 - d) Change in preference claimed
- 3) The PHA will send a waiting list update letter with an update form, by first class mail, to last known address that the PHA has on record to each applicant on the PHA's waiting list requesting information regarding their continued interest in maintaining a place on the waiting list and to report any changes in their circumstances.
- a) The waiting list update letter will include a deadline date, 10 days from the date of the update letter, by which the applicant must complete and return the waiting list update form to the PHA.
 - b) The applicant will be able to return the waiting list update form to the PHA by mail, email, fax, or in person.
 - c) If the applicant did not notify the PHA of a move as required, the PHA shall not be responsible for the applicant's failure to receive the waiting list update letter.
 - d) Notification of a change in address to the U.S. Post Office or sources other than the PHA is not considered compliance with the requirements to notify the PHA.
 - e) The PHA does not accept responsibility for mail delays.
 - f) The PHA shall notify the applicant in writing if the changes reported on the waiting list update form affect the applicant's position on the waiting list or eligibility for HCV housing assistance.
- 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 update letter within the allotted time period.

Exceptions: Reasonable accommodations for families which includes a member with disabilities and because of a claim of VAWA violence/abuse.
 - 2) If the waiting list update letter is returned marked "Addressee Unknown."
 - 3) If the waiting list update letter is returned with no forwarding address.
 - 4) If the waiting list update letter is returned with a forwarding address, the waiting list update letter will be mailed to the address indicated.
 - a) The applicant will have 10 business days, from the date of the second waiting list update letter, to respond to the PHA.
 - b) If the applicant fails to respond to the second waiting list update 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 VAWA violence/abuse. Family members who are survivors of such acts may be considered for admission only if the perpetrator is no longer in the household.
 - 8) The applicant fails to respond to the PHA's request for information or updates.
- c. The applicant may request an informal hearing for changes of their position on the waiting list and their removal from the waiting list.
7. The PHA does not maintain an interest list when applications are not being taken.
8. Recorded Wait List Message

During periods of time when application taking is closed, the PHA **will not** maintain a list of individuals who wish to be notified when the waiting list is reopened. The PHA **will not** maintain a recorded message providing current information on when the waiting list will or might be reopened.

B. Special Admission (Non-Waiting List)

HUD may provide funding to serve a targeted population living in specified units.

1. The PHA must use the assistance for families living in these units.
2. When HUD targets funding assistance for a special populace, the PHA may admit a family that is not on the PHA's waiting list or without considering the family's waiting list position.
3. The PHA must maintain records showing the family was admitted with HUD-targeted assistance.
4. Since HUD specifies the special population, there is no limit to the number of admissions except for the limit as defined by HUD in establishing the special population and funding.
5. The following are examples of the type of special admission program funding that may be targeted for a family living in a specified unit:
 - a. A family displaced because of demolition or disposition of a public housing project;
 - b. A family residing in a multifamily rental housing project when HUD sells, forecloses or demolishes the project;
 - c. For housing covered by the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (41 U.S.C. 4101 *et seq.*);
 - d. A non-purchasing family residing in a project subject to a homeownership program (under 24 CFR 248.173); or

- e. A family displaced because of mortgage prepayment or voluntary termination of a mortgage insurance contract (as provided in 24 CFR 248.165);
 - f. A family residing in a project covered by a project-based Section 8 HAP contract at or near the end of the HAP contract term; and
6. A non-purchasing family residing in a HOPE 1 or HOPE 2 project

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 HCV housing assistance 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 and online.

a. In Person Submission

- 1) The PHA will accept applications at the location(s) and during the dates and time period indicated in the announcement of the opening of the waiting list.
- 2) Reasonable Accommodation
 - a) 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.
 - b) To provide specific accommodation for persons with disabilities, the applicant may call the PHA to make special arrangements to complete the application.
- 3) 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.

b. Online Submission

- 1) The PHA will accept online (website to be provided by the PHA) applications completed and submitted during the dates and time period indicated in the announcement of the opening of the waiting list.
- 2) The application submission date and time will be assigned by the online application program.
- 3) When the waiting list is closed, the online submission for the applications will be disabled.

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.

3. Placement on the Waiting List

- a. When the waiting list has closed, the PHA will select from all the pre-applications the predetermined number of all the pre-applications, as noted in the announcement of the opening of the waiting list, for placement on the waiting list.
- b. Pre-applicants Selected for the Waiting List
 - 1) Pre-applicants with preferences will be placed on the waiting list by preference by date of time of pre-application.
 - 2) Pre-applicants with no preference will be placed on the waiting list by date and time of pre-application.

4. 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.

- a. If the pre-application determines the family to be potentially eligible, the applicant will be notified:
 - 1) In writing of the date and time of placement on the HCV waiting list
 - 2) That the family will be required to complete a full application.
 - 3) The information on the pre-application is not verified until the applicant has been selected for final eligibility determination.
 - 4) The approximate amount of time before the final eligibility appointment will be scheduled.
 - 5) Final eligibility will be determined when the full application process is completed, and all information is verified.
 - 6) 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., turnover, funding, etc.).
- b. If the pre-application determines the family to be ineligible:
 - 1) The PHA will mail a letter of ineligibility to the applicant stating the reason(s) that determined them ineligible, and

- 2) Include a statement that the applicant has an opportunity for an informal review of the PHA determination.

5. 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 may be scheduled by mail, telephone (appointments made by telephone will be followed-up in writing), or email and will provide the applicant with at least 10 calendar days' notice.
 - 1) The PHA requires only the head of household 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 provided 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.

6. 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 one (1) appointment, 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.

7. Final Determination and Notification of Eligibility

- a. After following the verification process per Chapter 11, Verification Requirements, a final determination of eligibility will be made before inviting the family to an HCV Family Briefing session for issuance of voucher.

- b. The housing choice voucher will not be issued before all eligibility criteria have been met.

8. 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 HCV 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 to adopt local preferences subject to HUD requirements

Preferences are only used to establish the order of applicants on the PHA's waiting list.

- a. Preferences
 - 1) Do not impact eligibility for applicants who are otherwise ineligible.
 - 2) Do not change the right of the PHA to adopt and enforce applicant screening criteria.
- b. The PHA shall publicize preferences by posting copies in each office where applications are received, and by furnishing copies to applicants or the public upon request.
- c. The PHA will inform and explain to all applicants about the available preferences and will give the applicants an opportunity to claim a preference prior to application submission.
- d. The PHA may limit the number of applicants that qualify for any local preference.
- e. The PHA will not deny a local preference, nor otherwise exclude or penalize a family in admission to the HCV program, solely because the family resides in a public housing unit.
- f. The PHA will not deny an eligible applicant family based on a failure to meet the requirement of a local preference.
- g. The PHA cannot establish a local preference for families who agree to participate in the Family Self-Sufficiency (FSS) program.

2. The PHA has elected to adopt the following as the local preferences:

PREFERENCES	RANK OR POINT VALUE
Working Families	5
Elderly	25
Emergency Voucher Program- Current Families at risk of termination due to lack of funding.	100
Foster Youth	45
Veteran	30

3. Changes in Preference

Applicants on the PHA's waiting list who did not claim a preference when they applied may experience a change in circumstances that later qualifies them for a local preference – or the reverse may occur.

- The PHA will provide written notification to the applicants on the waiting list of any changes to the PHA's adopted local preferences.
- The applicant will be given an opportunity to document that they qualify for such local preferences.
- The PHA will require applicants on the PHA's waiting list to report changes in the local preference within 10 business days of occurrence.
- If the applicant's local preference status changes, the applicants retain their original date and time of application.
- The applicant may move up or down on the waiting list in accordance with the changes in the local preference and date and time of the application.

4. Verification of Local Preferences

The PHA is not required to verify the applicant's local preference at the time of application. The applicant will be placed on the waiting based on the local preference claimed.

- Local preferences will be verified the same way as income, assets, and deductions.
- Prior to the applicant receiving HCV assistance, the PHA will verify the applicant's eligibility for the local preference based on the applicant's current circumstances.
- If the PHA determines that the applicant does not qualify for the local preference claimed, the PHA will provide written notice to the applicant denying the local preference.

5. Denial of Local Preference

If an applicant claims, but does not qualify for a local preference, the PHA will give the applicant an opportunity to show that they qualify for a local preference.

- a. The applicant must provide appropriate documentation to substantiate their qualification for a local preference.
- b. Applicants who cannot provide the appropriate documentation to the PHA will be notified in writing that they do not qualify for a local preference.
 - 1) The written notice will contain: a brief statement of the reasons for the determination, and a statement that the applicant has the right to meet with the PHA to review the determination.
 - 2) This request must be received by the PHA no later than 10 business days from the postmarked date of the written notice.
- c. If the applicant requests the meeting, the PHA shall designate someone to conduct the meeting who is not the person who made the initial determination or reviewed the determination, or a subordinate of that person.
 - 1) A written summary of the meeting would be retained in the applicant's file.
 - 2) A letter informing the applicant of the final determination as to their local preferences status will be mailed within 10 business days from the meeting.
- d. An applicant may exercise other rights if he or she believes discrimination, based on race, color, national origin, sex, religion, age, disability, or familial status contributed to the PHA's decision to deny the local preference.

E. Selection from the Waiting List

As housing choice vouchers become available, the PHA will select applicants from the waiting list in order to begin the eligibility determination, voucher issuance, and leasing process.

The PHA will select applicants from the waiting in accordance to the local preference(s) claimed by the applicant.

1. Selection by Local Preference Aggregated Point/Rank Value

- a. Applicants with the highest aggregated local preference point/rank value will be selected first.
 - b. After all applicants with a local preference point/rank value are selected from the waiting list, the PHA will select applicants from the waiting list who did not claim a local preference in accordance to the earliest date and time of application.
2. Applicants whose income is greater than 30% of the area median income may be passed on the waiting list pursuant to the income targeting requirements.

3. Foster Youth, Emergency Housing Voucher Current Participants and Veterans verified applicants can apply for housing even when the waiting list is closed to the

public.

4. The PHA will not select families for admission to the HCV program in an order different from the order on the waiting list for the purpose of selecting higher income families for admission to the HCV program over low-income families.
5. Family size
 - a. The order of admission from the waiting list will not be based on family size or the family unit size for which the family qualifies under the PHA's subsidy standards.
 - b. If the PHA does not have sufficient funds to subsidize the family unit size of the family at the top of the PHA's waiting list, the PHA may not skip the top family to admit an applicant with a smaller family unit size. Instead, the family at the top of the waiting list will be admitted when sufficient funds are available.
6. Admission to the HCV program will not be based on:
 - a. Where the family lives
 - 1) Admission to the HCV program may not be based on where the family lives before admission to the program.
 - 2) However, the PHA may target assistance for families who live in public housing or other federally assisted housing or may adopt a residency preference.
 - b. Where the family will live

Admission to the HCV program may not be based on where the family will live with assistance under the program.
 - c. Family characteristics

The PHA preference system may provide a preference for admission of families with certain characteristics from the PHA waiting list. However, admission to the program may not be based on:

 - 1) Discrimination because members of the family are unwed parents, recipients of public assistance, or children born out of wedlock;
 - 2) Discrimination because a family includes children (familial status discrimination);
 - 3) Discrimination because of age, race, color, religion, sex, or national origin;
 - 4) Discrimination because of disability; or
 - 5) Whether a family decides to participate in a family self-sufficiency program.

F. Income Targeting

Pursuant to the Quality Housing and Work Responsibility Act (QHWRA), not less than 75% of the families admitted to the HCV program during the PHA's fiscal year from the PHA's waiting list must be extremely low-income families.

1. A 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 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.
2. If the jurisdiction of two (2) or more PHAs that administer the HCV program cover an identical geographic area, the PHAs may elect to be treated as a single PHA for purposes of meeting targeting goals.
 3. If a family initially leases a unit outside the PHA jurisdiction under portability at admission to the HCV program, such admission shall be counted against the targeting obligation of the initial PHA (unless the receiving PHA absorbs the portable family into the receiving PHA HCV program from the point of admission).

CHAPTER 8: BASIC ELIGIBILITY REQUIREMENTS

Pursuant to HUD regulation the PHA is permitted to admit only eligible families to the HCV Program. To be eligible, the applicant must be a family as defined in 24 CFR 5.403, must be income eligible, and must be a citizen or a noncitizen who has eligible immigration status. In addition, the family 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 housing subsidy and payments. 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.
2. An otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care or will leave foster care within 90 days, in accordance with a transition plan described in Section 475(5)(H) of the Social Security Act and is homeless or is at risk of becoming homeless at age 16 or older.
3. 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).
4. 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 (2) or more persons who are at least 62 years of age living together, or one (1) or more persons who are at least 62 years of age living with one (1) or more live-in aides.
5. 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 (2) or more persons, who are at least 50 years of age but below the age of 62, living together; or
 - c. One (1) 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.
6. 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 (2) or more persons with disabilities living together, or one (1) or more persons with disabilities living with one (1) 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.
- 7. A displaced family

A family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to federal disaster relief.
- 8. 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.
- 9. 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.
- 10. Joint Custody of Children

The PHA will recognize families who may include family members under the age 18 who have joint custody arrangements.

 - a. Children who live in the unit at least 50% of the time, for whom the family receives a dependent deduction.

- b. Children who lives in the unit at least 50% of the time for whom the family does not receive a dependent deduction.
- c. Children who lives in the unit less than 50% of the time.

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 HCV 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 is not a member of the assisted family and is not entitled to continued occupancy under the HCV program as a remaining member.
- i. The PHA will not convert the live-in aide to a family member.
- j. The PHA will not convert a family member to be the live-in aide
 - 1) Although a live-in aide may have PHA-approved family member(s) live with them in the assisted unit, the PHA must not provide additional bedrooms for the family members of the live-in aide.
 - 2) The PHA must ensure that HQS will not be violated and that there will not be more than two (2) people per bedroom or living/sleeping space.
 - 3) If the approval of additional family members of the live-in aide would result in the violation of HQS, the additional family members of the live-in aide may not be approved.
- 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

a. Foster Child

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

b. Foster Adult

- 1) A member of the household who is 18 years of age or older and meets the definition of a foster adult under state law.
- 2) In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental condition and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

c. Although foster children and foster adults are members of the household (and therefore will be considered when determining appropriate unit size and utility allowance), they are not considered members of the family for purposes of determining either annual and adjusted income or net family assets, nor are the assets of foster adults or foster children taken into consideration for purposes of the asset limitations.

d. 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.

e. HQS Violations

- 1) The PHA must ensure that HQS will not be violated and that there will not be more than two (2) people per bedroom or living/sleeping space.
- 2) The PHA may not approve the addition of a foster child(ren)/adult to live in the assisted unit if the approval would result in a violation of HQS.
- 3) As a reasonable accommodation, the PHA may issue the family a voucher to move to make the program accessible to and usable by the family member who is a person with disabilities.

C. Income Eligibility

The applicant's annual income may not exceed the HUD established income limits by family size for the area in which the PHA is located. HUD income limits are published annually and are generally effective on the date of publication.

The applicant's annual income is compared to the applicable HUD income limit to determine eligibility. Income limits apply only at the time of admission and are not applicable for continued occupancy.

1. To be eligible, the applicant family's annual income, at the time of admission to the HCV 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.

As a MTW agency, HUD will verify compliance with the statutory requirement that at least 75% of the household assisted by a MTW agency are very low-income for MTW HCVs through HUD systems. The PHA will provide data for the actual families housed upon admission during the PHA's most recently completed Fiscal Year for its Local, Non-Tradition program households.

- 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 and who meets one of the following additional criteria:
 - 1) Continuously assisted under the 1937 Housing Act;
 - a) An applicant is continuously assisted under the 1937 Act if the family is already receiving assistance under any 1937 Act program when the family is admitted to the HCV program.
 - b) The PHA has established the following instances when the family may be considered to be continuously assisted despite a brief interruption or break between occupancy in one program and admission to the HCV program:

Temporary residence (180 days or less) in a shelter due to being a survivor of

VAWA violence/abuse.

- 2) A low-income or moderate-income family that is displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing as defined in 24 CFR 248.101;
 - 3) A low-income non-purchasing family residing in a HOPE 1 (HOPE for public housing homeownership) or HOPE 2 (HOPE for homeownership of multifamily units) project; or
 - 4) A low-income family that qualifies for voucher assistance as a non-purchasing family residing in a project subject to a resident homeownership program under 24 CFR 248.173.
2. When calculating the family's income, including asset income, at the time of admission to the HCV program, the PHA will use anticipated income (current income – i.e., the family's estimated income for the upcoming 12-month period).
3. The family may only use the voucher to lease a unit in an area where the family is income eligible at admission to the program.
 - a. If the PHA has more than one set of income limits within its jurisdiction, the applicable income limit for issuance of a voucher when a family is selected for the HCV program is the highest income limit (for the family size) within the PHA's jurisdiction.
 - b. The applicable income limit for admission to the HCV program is the income limit for the area where the family is initially assisted in the HCV program.
 - c. If the PHA has more than one set of income limits within its jurisdiction, a family whose income is above the income limits in one or more areas of the PHA's jurisdiction may only lease in the area where the family is income eligible.
4. Income Limits Under Portability
 - a. A family utilizing their portability option when first admitted to the HCV program must not exceed the income limits of the receiving PHA.
 - b. Families who are moving into a receiving PHA's jurisdiction under portability and are already program participants do not have to meet the income eligibility requirement of the receiving PHA.
5. Income limit restrictions do not apply to families transferring units within the PHA's jurisdiction under the HCV 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, U.S. nationals, 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, U.S. national, or be a noncitizen with eligible

immigration status.

2. A mixed family includes family members who are U.S. citizens, U.S. nationals, or have eligible immigration status, and family members who do not contend to have eligible immigration status.
 - a. Mixed families receive prorated assistance based on the percentage of family members who qualify for assistance.
 - b. 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.
 - c. 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 HCV program.

3. Declaration of Citizenship or Eligible Immigration Status

Each family member who contends to be a U.S. citizen, U.S. 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, U.S. 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. Evidence of Citizenship or Eligible Noncitizen Status

Each family member, regardless of age, must submit evidence of citizenship or eligible noncitizen status.

- a. U.S. citizens and U.S. 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 **verification of birth, U.S. Passport, U.S. 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 April 1, 1980, 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 October 1, 1990, or from an DHS district director granting asylum (application filed before October 1, 1990;
 - (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 October 1, 1990.
- 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.

5. 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:

- a. For each adult, the form must be signed by the adult.
- b. For each child, the form must be signed by an adult residing in the assisted unit who is responsible for the child.

6. 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.

7. Timeframe for Submission of Evidence Eligible Citizenship or Noncitizen Status

The PHA will require evidence of eligible citizenship or noncitizen status at the following times, subject to any extension granted by the PHA.

- a. Applicants: The PHA will ensure that evidence of eligible status is submitted not later than the date the PHA anticipates or has knowledge that verification of other aspects of eligibility for assistance will occur.
- b. Tenants: The PHA will require evidence of eligible status to be submitted at the first regular reexamination after June 19, 1995
- c. Changing participation in a HUD program: Whenever a family applies for admission to a Section 214 covered program, evidence of eligible status is required to be submitted unless the family already has submitted the evidence to the PHA for a Section 214 covered program.
- d. One-time evidence requirement for continuous occupancy. For each family member, the family is required to submit evidence of eligible status only one time during continuously assisted occupancy under any Section 214 covered program.

8. Notification of Requirements of Section 214

The PHA will provide notification of the requirement to submit evidence of citizenship, eligible immigration status, or to elect not to contend have eligible immigration status to all applicants and participant families.

- a. The PHA will provide the notice as follows:
 - 1) Applicant's notice. Notification of the requirements of Section 214 will be given to each applicant at the time of application for assistance.
 - 2) Notice to tenants. Notification of the requirements of Section 214 will be given to each tenant at the time of, and together with, the PHA's notice of regular reexamination of income, but not later than one year following June 19, 1995.
- b. Contents of the Notice

The notice will:

- 1) State that financial assistance is contingent upon the submission and verification, as appropriate, of evidence of citizenship or eligible immigration status as required;
- 2) Describe the type of evidence that must be submitted and the time period in which that evidence must be submitted; and
- 3) State that assistance will be prorated, denied, or terminated, as appropriate, upon the PHA's final determination of ineligibility after all appeals have been exhausted or, if appeals are not pursued, at a time to be specified in accordance with HUD requirements.

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 families (including all household members – 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 assisted 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 months of voucher issuance, the PHA may admit the applicant family to the HCV 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 HAP contract 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 HCV program, the PHA shall allow the family to maintain their position on the waiting list for a period of 90 days to permit the family the opportunity to obtain and disclose the required SSN information. During this period, if a voucher becomes available and the household members have not disclosed their SSN, PHA shall offer the available voucher 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. The PHA must restrict assistance to students enrolled in an institution of higher education who do not reside with their parents. The PHA will apply this regulation regardless of if the student is considered a full-time or part-time student.

1. No assistance shall be provided to any individual student enrolled in an institution of higher education who:

- a. Is under 24 years of age;
- b. Is not an U.S. military veteran;

For purposes of the student eligibility restrictions, the PHA has adopted the term "veteran" as used by the Department of Veterans Affairs (38 U.S.C. 101(2)): (2) the term "veterans" means a person who served in the active military, naval, or air service, and who was discharged or released there from under conditions other than dishonorable.

- c. Is unmarried;
- d. Does not have a dependent child;

A dependent child for student eligibility restrictions has the same meaning as provided at 24 CFR 5.603, which states a dependent must be a member (must reside in the student family household) of the assisted family, who is under the age of 18 years of age, or person with a disability, or is a full-time student, other than the head of household, spouse, foster child/adult, or live-in aide.

- e. Is not a person with disabilities, and was not receiving Section 8 assistance as of November 30, 2005;
- f. Is not otherwise individually eligible or has parents who individually or jointly are not eligible on the basis of income to receive assistance.

For purposes of the student eligibility restrictions, and consistent with longstanding HUD policy regarding eligibility for the section 8 programs, the term "parents" means the biological or adoptive parents, or guardians (e.g., stepparents, grandparents, aunt/uncle, godparents, etc.).

2. Independent Student

HUD's definition of independent student now conforms with the updated Section 480(d) of the Higher Education Act of 1965, as amended (the HEA), 20 U.S.C. 1087vv(d) definition:

- a. The individual is 24 years of age or older by December 31 of the award year;

- b. The individual is an orphan, in foster care, or a ward of the court or was an orphan, in foster care or a ward of the court at any time when the individual was 13 years of age or older;
 - c. The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's state of legal residence;
 - d. The individual is a veteran of the Armed Forces of the U.S. or is currently servicing on active duty in the Armed Forces for other than training purposes;
 - e. The individual is a graduate or professional student;
 - f. The individual is a married individual;
 - g. The individual has legal dependents other than a spouse;
 - h. The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth or as an unaccompanied at risk of homelessness, and self-supporting by:
 - 1) A local educational agency homeless liaison,
 - 2) The director of a program funded under the Runaway and Homeless Youth Act or a designee of the director,
 - 3) The director of a program funded under subtitle B of the title IV of the McKinney-Bento Homeless Assistance Act,
 - 4) A financial aid administrator
 - i. The individual is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.
 - j. Vulnerable Youth
 - 1) Unaccompanied homeless youth, at risk of being homeless youth, and youth who have aged out of the foster system
 - 2) Those who meet the independent student definition in b), c) and h)
 - 3) Once the PHA has determined an individual meets the definition of "vulnerable youth" no other verification is needed to determine an individual is a "independent student" for the purposes of using only the student's income for determining eligibility for Section 8.
3. Institution of Higher Education
- The PHA shall use the definition of institution of higher education as defined from 20 U.S.C. 1001 and 20 U.S.C. 1002.
4. Prohibition of Assistance to Noncitizen Students.
- The PHA must prohibit assistance to noncitizen students even to those students with eligible immigration status.

- a. If the noncitizen student is accompanied by a noncitizen spouse and/or noncitizen minor child(ren), the noncitizen student, noncitizen spouse, and/or noncitizen minor children are ineligible to receive assistance.
- b. If the noncitizen student and noncitizen spouse have citizen children, the noncitizen student, noncitizen spouse, and citizen children are ineligible for assistance.
- c. If the noncitizen student has a citizen spouse, the citizen spouse, and children, if any, are eligible for assistance. The assistance would be prorated.

G. Restrictions on Assistance to Family Based on Assets

The PHA is prohibited from providing HCV assistance to a family, either initially or upon reexamination of a family's income based on the family's net assets.

1. Restriction on Eligibility Based on Net Assets
 - a. The PHA must prohibit a family from receiving HCV assistance if the family's net assets exceed \$100,000.
 - b. The amount will be adjusted annually by HUD for inflation (in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI)).
2. Restriction on Eligibility Based on Owning Real Property Suitable for Occupancy
 - a. The PHA must prohibit a family from receiving HCV assistance if the family has a present ownership interest in, a legal right to reside in, and the effective legal authority to sell (based on state or local laws of the jurisdiction where the property is located), real property that is suitable for occupancy by the family as a residence.
 - b. A present ownership interest would include any title to a home, any ownership of membership shares in a cooperative, and any lease or other right to occupy a home or cooperative as defined by the state or local laws of the jurisdiction where the property is located.
 - c. A present ownership interest does not include the right to purchase title to a residence under a lease-purchase agreement.
 - d. Exceptions to the restriction on owning real property does not apply to:
 - 1) A family that receives assistance for the property under the HCV program for:
 - a) A manufactured home
 - b) A home or under the HCV Homeownership Option.
 - 2) Any property that is jointly owned by a member of the family and at least one non-household member who does not live with the family, if the non-household member resides at the jointly owned property.
 - 3) Any person who is a survivor of domestic violence, dating violence, sexual assault, or stalking.

4) Any family that is offering the property for sale.

e. A Property Suitable for Occupancy

A property will be considered suitable for occupancy unless the family demonstrates that it:

1) Does not meet the disability-related needs for all members of the family, including unsuitability due to physical needs, but it does not exclude other non-physical reason as why a property may not be suitable for a family member who is a person with disabilities.

Example: Physical accessibility requirements, disability-related need for additional bedrooms or space, proximity to accessible transportation, etc.

2) Is not sufficient for the size of the family;

3) Is geographically located so as to be a hardship for the family

Example: The location, distance, or commuting time between the property and the family's place of work or school would be a hardship to the family, as determined by the PHA.

4) Is not safe to reside in because of the physical condition of the property; or

Examples: The property's physical condition poses a risk to the family's health and safety, and the condition of the property cannot be easily remedied. Environmental factors outside the control of the family are contributing to the unsafe condition or where the alterations necessary to make the physical condition of the property safe are cost prohibitive.

5) Is a property that a family may not reside in under the state or local laws of the jurisdiction where the property is located is not a property that is suitable for occupancy by the family as a residence.

Example: An assisted family owns a commercial property that cannot legally be occupied as a residence by the family, such as a convenience store or a retail establishment.

3. Real Property Restrictions VAWA Confidentiality

When a family asks for or about an exception to the real property restrictions because a family member is a survivor of VAWA violence/abuse, the PHA will:

- a. Comply with the confidentiality requirements under VAWA;
- b. Accept a VAWA self-certification from the family member; and
- c. Apply the restrictions on requesting documentation under VAWA.

4. Assets Restrictions Enforcement

The PHA will enforce the asset limitation on eligibility for assistance at reexamination of income with the exceptions to the asset limitation based on family type and considerations factors, such as:

- a. The family meets the definition of an elderly and/or disabled family;
 - b. The family is unable to find suitable alternative housing to meet the needs of a family member with disabilities;
 - c. Income; an
 - d. Whether supportive services are being provided.
5. Delay of Termination of Assistance Based on the Assets Restrictions
- If the PHA enforces the asset limitation on eligibility for assistance at reexamination of income, the PHA will terminate the assistance based on the asset's restrictions.
- a. Termination of assistance is subject to the PHA's informal hearing procedures.
 - b. Not applicable to applicants.

H. MTW Work Requirement

1. No work requirement.

I. Family Screening

The PHA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy.

1. Owner Screening Responsibilities

The PHA must inform the owner that screening and selection of the family to occupy the owner's unit is the responsibility of the owner.

- a. The owner is responsible for screening families on the basis of their tenancy.
- b. The owner screening of the family's background may include but is not limited to the family's:
 - 1) Payment of rent and utility bills.
 - 2) Caring for a unit and premises.
 - 3) Respecting the rights of other residents to the peaceful enjoyment of their housing.
 - 4) Drug-related criminal activity or other criminal activity that is a threat to the health, safety, or property of others.
 - 5) Compliance with other essential conditions of tenancy.
- c. The PHA must give the family a statement of the PHA's policy on the information the PHA will provide to the owner.
 - 1) The statement must be included in the family's briefing informational packet.

- 2) The policy must provide that the PHA will give the same type of information to all families and to all owners.
- 3) The PHA will not breach the confidentiality of a survivor of domestic violence, dating violence, sexual assault, or stalking.
- d. Upon receiving a written request from a prospective owner/landlord, the PHA will release:
 - 1) The family's current and prior address, as shown in PHA records;
 - 2) The name and address, if known to the PHA, of the landlord at the family's current and prior address
2. PHA Screening Responsibilities
 - a. PHA Screening for Eligibility

The PHA will screen for the following eligibility factors:

 - 1) Citizenship
 - 2) HUD-income limits.
 - 3) Disclosure of SSNs
 - 4) Students of higher education eligibility
 - 5) Criminal history
 - b. PHA Screening for Drug-Related Criminal Activity and Criminal Activity

The PHA will conduct drug-related criminal activity and criminal background checks on each member of the household 18 years of age and over from state, local law enforcement agencies prior to determining eligibility.

 - 1) Each member of the household 18 years of age and over must execute a written authorization for the PHA to obtain drug-related criminal activity and criminal activity records from the state law enforcement agencies.
 - a) Based on the identifiers submitted (name, sex, race, date of birth and SSN), the law enforcement agency will provide the PHA with any criminal history, including conviction record information, and outstanding warrants that are found on the law enforcement agency computerized criminal history database and the appropriate crime information center.
 - b) The law enforcement agency may also search the National Crime Information Center (NCIC) for criminal information.
 - c) If a record exists, the law enforcement agency will notify the PHA that such information was found and will provide the PHA with a copy of the information.
 - 3) Refusal of members of the household 18 years of age and over to authorize a drug and criminal activity background check is grounds for denial of eligibility.

- 4) If members of the household 18 years of age and over disputes or contests the criminal history report received by the PHA, the PHA may determine that a fingerprint check is necessary.
3. The PHA shall apply the same screening policies for families moving with continued assistance.

CHAPTER 9: DENIAL OF ADMISSIONS

The PHA will determine the eligibility for admission of HCV assistance for each applicant.

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

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

1. Denial of admission may also include:
 - a. Denying listing on the PHA's waiting list.
 - b. Denying or withdrawing a voucher.
 - c. Refusing to enter into a HAP contract or approve a lease.
 - d. Refusing to process or provide assistance under portability procedures.
2. The PHA must deny admissions for an applicant:
 - a. The applicant does not meet the income eligibility criteria, including exceeding the asset limitations established by HUD (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., non-citizen status, form HUD-9886-A, 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.
 - e. If any family member fails to meet the eligibility requirements concerning individuals enrolled at an institution of higher education as specified in 24 CFR 5.612.
3. The PHA has the authority to deny admission to an applicant:
 - a. If the family fails to supply any information or documentation that is determined necessary by the PHA or HUD in the administration of the program.
 - 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 the HCV program.

- c. If any member of the family has been evicted from federally assisted housing in the last five (5) years.
- d. If the PHA has ever terminated assistance under the HCV program for any member of the family.
- e. If any member of the family has committed fraud, bribery or any other corrupt or criminal act in connection with any federally assisted housing program.
- f. If the family currently owes rent or other amounts to the PHA, another PHA, or Multifamily program.
- g. If any member of the family has not reimbursed any PHA for amounts paid to an owner/landlord under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.
- h. If the family breaches an agreement to pay amounts owed to a PHA or amounts paid to an owner/landlord by a PHA.
 - 1) The PHA, at its discretion, may offer a family the opportunity to enter an agreement to pay amounts owed to a PHA or amounts paid to an owner/landlord by a PHA.
 - 2) The PHA may prescribe the terms of the agreement.
- i. If the family has engaged in or threatened abusive or violent behavior toward PHA personnel.

B. Denial of Admission for Criminal Activity and Alcohol Abuse

HUD regulations allow the PHA to prohibit admission for certain criminal activities, including alcohol abuse, or based on the preponderance of evidence that a household member has engaged in such activities.

1. The PHA will deny admission to the HCV 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) 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. Evidence of Criminal Activity
- The PHA may deny admission to the HCV program for criminal activity by a household member as authorized if the PHA determines, based on a preponderance of the evidence, that the household member has engaged in the activity, regardless of whether the household member has been convicted for such activity.
3. The PHA has the authority to prohibit admission of a household to the HCV 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).

4. 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 two (2) drug or alcohol related criminal offenses within the three (3) year period prior to application for HCV assistance.
- b. The PHA shall consider a reasonable time before admission to the HCV 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 preponderance of evidence for criminal activity.

The PHA may not deny admission to the HCV 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 3 months/90 days 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 conviction of illegal use of a drug charge or other criminal activity.
- f. The PHA may determine the use of an illegal drug through conviction 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 arrest.
- 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. 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 a 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 the 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 survivor of VAWA violence/abuse 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
 - a. If unfavorable information about an applicant is received, the applicant will be provided an opportunity to present mitigating circumstances.
 - b. The PHA shall have the right to verify the information or to request further information which is reasonably needed to verify the mitigating circumstances.
 - c. Consideration of mitigating circumstances does not guarantee that the applicant will be eligible for admission.
12. The PHA may impose, as a condition of admission to the HCV program for other family members, a requirement that family members who participated in or were culpable for the action or failure to act will not reside in the unit.
13. The PHA's denial of admission actions will be consistent with Fair Housing and Equal Opportunity provisions and protections for survivors.

CHAPTER 10: 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

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

1. Annual income includes, with respect to the family:
 - a. All amounts, not specifically excluded received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse of the head of household, plus unearned income by or on behalf of each dependent who is under 18 years of age;
 - b. All amounts received by the head of household, spouse, co-head, including the income of a day laborer, independent contractor, and seasonal worker regardless of age, unless otherwise excluded; and
 - c. When the value of net family assets exceeds \$50,000 (adjusted annually for inflation) and the actual returns from a given asset cannot be calculated, imputed returns on the asset based on the current passbook saving rate (a figure that is adjusted annually for inflation), as determined by HUD.

Note: Annual income includes all amounts received, not the amount the family may be legally entitled to receive but which the family does not receive.
- d. Annual income does not include amounts which are specifically excluded.
2. Annual income is used to determine whether an applicant family is within the HUD income limits at admission and the level of continued benefits for the family.

B. Earned Income

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

C. Unearned Income

Means any annual income that is not earned income.

D. Income Inclusions and Exclusions

Annual income includes but is not limited to:

1. Business Ownership/Self-Employment

Gross income a family member receives through self-employment or operation of a business.

- a. Gross income is all income amounts received into the business, prior to the deduction of business expenses.
- b. Net income from the operation of a business or profession.
 - 1) The net income from self-employment or the operation of a business is considered income.
 - 2) Net income is the gross income amount minus business expenses that allows the business to operate.
 - 3) Except that the following shall be considered income to a family member:
 - 4) Expenditures for business expansion or amortization of capital indebtedness are not deductible when determining the income from a business
 - 5) An allowance for the depreciation of assets used in a business or profession may be deducted, based on a straight-line depreciation, as provided in IRS's regulations.
- c. Any withdrawal of cash or assets from the operation of a business is income except to the extent that such withdrawal is to reimburse the family member for cash or assets that the family has invested in the operation of the business.

2. Include all actual income derived from all net family assets.

3. Public Assistance

a. Public assistance includes:

1) General Assistance

Payments made under a financial or medical assistance program(s) provided by a state, tribe, or local government jurisdiction.

2) Temporary Assistance to Needy Families (TANF)

- a) A benefit designed to meet a family's ongoing basic needs, which includes cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses) .
- b) Supportive services such as transportation and childcare are provided to families who are not employed.

- 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.

4. 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 an informal 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.

5. Periodic Payments and Determinable Allowances

- a. The full amount received from periodic amount such as but not limited to Social Security, SSI, Social Security Disability Insurance (SSDI), annuities, life insurance and endowment policies, retirement funds, profit sharing plans, pensions, disability payments, Individual Retirement Accounts (IRAS), Simplified Employee Pensions (SEPS), and comparable benefits under the Railroad Retirement Act. The lump sum payments 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.

6. Alimony and Child Support

The PHA will include in annual income for alimony and/or child support all amounts received, not the amount the family may be legally entitled to receive but which the family does not receive.

7. Recurring Gifts and Regular Contributions

The PHA shall count as income any gifts or regular contributions (monetary or not) that are provided to the family on a regular and routine basis from persons outside of the family (e.g., a relative or friend provides a member of the family with cash gifts on a recurring basis).

- a. This may include but is not limited to rent and utility payments paid on behalf of the family and other monetary and or non-monetary contributions provided on a regular basis.

- b. It does not include non-recurring gifts or contributions.
- c. The PHA shall follow the Verification Hierarchy and the PHA's verification procedures to verify income from recurring gifts and regular contributions.
- d. If the party providing the recurring gifts and regular contributions refused to verify the information, the PHA will document the file why third-party verification was not available.

8. Independent Contractor, Day Laborer, and Cyclical or Seasonal Work

Income received as an independent contractor, day laborer, or seasonal worker is not considered nonrecurring income and therefore is excluded in annual income even if the source, date, or amount of the income varies.

9. Lump Sum Payments Counted as Income

Lump-sum payments received due to delayed start of periodic payments (e.g., unemployment, TANF, or child support), not excluded by regulation will be included in annual income.

Any portion of the lump sum that is payment for a period prior to the family's participation in the HCV program will not be counted as annual income but may be included in net family asset.

10. Income of Dependents

A dependent is a family member who is under 18 years of age, is a person with disabilities (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. Unearned income of dependents are included in the annual income.
- b. The PHA will include in its 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.

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

- a. The amount of earned income of a full-time student will not exceed the amount of the dependent deduction, adjusted annually by HUD for inflation, rounded to the next lowest multiple of \$25.
- b. If annual earned income is less than the dependent deduction, (adjusted annually by HUD for inflation, rounded to the next lowest multiple of \$25), the PHA will include the full amount of the earned income.
- c. All earned income of a full-time student who is the head of household, spouse, co-head will be included in annual income.
- d. Unearned income, (including the determination of student financial assistance), which is not excluded by federal regulations, will be included in annual income.

E. 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. Earned Income of Children (Family Members) Under 18 Years Old

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

2. Earned Income of Dependent Full-Time Students

- a. Earned income of dependent full-time students in excess of the amount of the deduction for a dependent (adjusted annually by HUD for inflation, rounded to the next lowest multiple of \$25).
- b. All earned income of a full-time student who is the head of household, spouse, co-head will be included in annual income.
- c. The full-time student must be a dependent family member for this exclusion to apply.

3. Gross Income a Family Member Receives Through Self-Employment or Operation of a Business

Except that the following shall be considered income to a family member:

- a. Net income from the operation of a business or profession.
 - 1) Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income.
 - 2) An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in IRS regulations; and
- b. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.

4. Nonrecurring Income

Nonrecurring income, which is income that will not be repeated in the coming year (12 months following the effective date of the certification) based on information provided by the family.

- a. Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income even if the source, date, or amount of the income varies.
- b. Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from the family's annual income as nonrecurring income
- c. Nonrecurring income includes but is not limited to:

- 1) Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment.

Any permanent employment with the U.S. Census Bureau should be considered in the annual income calculation.

- 2) Direct federal or state payments intended for economic stimulus or recovery.
- 3) Amounts directly received by the family as a result of state refundable tax credits or state tax refunds at the time they are received.
- 4) Amounts directly received by the family as a result of federal refundable tax credits and federal tax refunds at the time they are received (including Earned Income Tax Credit (EITC) refund payment).
- 5) Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries).
- 6) Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization.
- 7) Lump Sum Benefits
 - a) Additions to net family assets, including but not limited to lottery or other contest winnings.
 - b) Lump sum benefits payable as a death benefit.
 - c) Lump sum amounts may count toward family assets.
- 8) Nonrecurring payments made to the family or to a third party on behalf of the family to assist with utilities, eviction prevention, and security deposits to secure housing.
- 9) Payments for participation in research studies depending on the duration.
- 10) General one-time payments received by or on behalf of the family.

5. Imputed Return on an Asset Equal to or Less Than \$50,000

Any imputed return on an asset when net family assets total \$50,000 or less (adjusted annually by HUD for inflation) and no actual income from the net family assets can be determined.

6. Certain Types of Trust Distributions

The following types of trust distributions are not included in annual income:

- a. For an irrevocable trust or a revocable trust outside the control of the family or household excluded from the definition of net family assets:
 - 1) Distributions of the principal or corpus of the trust; and

- 2) Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.
 - b. For a revocable trust under the control of the family or household, any distributions from the trust; except that any actual income earned by the trust, regardless of whether it is distributed, shall be considered income to the family at the time it is received by the trust.
7. Lump-Sum Payments of Deferred Benefits
 - a. Deferred periodic amounts from SSI, Social Security, SSDI 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.
 - c. Additions to net family assets, including lottery or other contest winnings.
8. 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.
9. Income Received from Any Account Under a Retirement Plan
 - a. Income received from any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals.
 - b. Except that any distribution of periodic payments from such accounts shall be income at the time they are received by the family.
10. Education Savings Accounts

Income and distributions from any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and income earned by government contributions to, and distributions from, "baby bond" accounts created, authorized, or funded by federal, state, or local government.
11. Lump-Sum Additions to Family Assets

Lump-sum additions to family assets, including but not limited to lottery and other contest winnings.
12. Family Self-Sufficiency (FSS) Escrow

Income earned on amounts placed in a family's FSS account.
13. Insurance Payments and Settlement for Personal or Property Losses
 - a. Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation.

- b. Periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that are received in lieu of wages for workers' compensation continue to be included in annual income.

14. 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).

- 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 participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, childcare, etc.) and which are made solely to allow participation in a specific program.

- d. Incremental earnings and benefits resulting to any family member from participation in training programs funded by HUD or in qualifying federal, state, Tribal, 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 the 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.
15. Reimbursed Health and Medical Care Expenses
- a. Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member.
 - b. This exclusion is not limited to elderly and disabled families that qualify for the unreimbursed health and medical care expense deduction.
16. Income of Live-In Aides
- All income of a live-in aide, including the live-in aide's family, is excluded.
17. Adoption Assistance Payments
- Adoption assistance payments in excess of the amount of the deduction for a dependent.
18. Payments to Enable a Family Member with a Disability to Reside in the Family's Assisted Unit
- a. Payments made by or authorized by a state Medicaid agency (including through a managed care entity) or other state or federal agency to a family to enable a family member who has a disability to reside in the family's assisted unit.
 - b. Authorized payments may include payments to a member of the assisted family through the state Medicaid agency (including through a managed care entity) or other state or federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family's assisted unit.
 - c. The payments are excluded from income as long as the amounts are provided to enable a family member with a disability to remain in the family's assisted unit.
 - d. Both the person providing the care and the person who has the disability must be family members (not household members) and must live in the same assisted household.
 - e. The exclusion does not apply to income earned by the family for other caregiving services provided to individuals outside of the assisted household.
19. Civil Action, Malpractice, or Negligence Payments or Settlements
- a. Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled.
 - b. Any amount recovered are excluded irrespective of whether the amounts are received periodically or in a lump sum payment.

20. Civil Rights Settlements or Judgements

- a. Civil rights settlements or judgments, including settlements or judgments for back pay.
- b. Even where such payments are not lump-sum payments but instead may have a payment schedule, such payments are excluded.

21. Income of Foster Children and Foster Adults

Income of foster children and foster adults is excluded from the family's calculation of annual income.

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

- a. 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) or state or Tribal kinship or guardianship care payments.
- b. This income exclusion also applies to Kinship Guardian Assistance Payments (Kin-GAP), kinship care payments, and other state-based kinship or guardianship payments that are alternatives to traditional foster care programs.

23. Armed Forces Hostile Fire Pay

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

24. Aid and Attendance to Veterans

Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance.

This income exclusion applies only to veterans in need of regular aid and attendance and not to other beneficiaries of the payments, such as a surviving spouse.

25. 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.

26. Loan Proceeds

Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car).

- a. The loan borrower or co-borrower must be a member of the family for the loan proceeds income exclusion to be applicable.
- b. Loan proceeds may include, but are not limited to, personal loans (with a loan agreement) and student loans, regardless of whether the proceeds are received in the form of a refund to the student.

27. Tribal Claims Relating to Mismanagement of Assets Held in Trust by the U.S.

- a. Payments received by Tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code (IRC) or other federal law.
- b. A payment received by a tribal member from the tribe for distribution of Indian gaming profits is not a per-capita payment within the meaning of the Per Capita Distribution Act and does not qualify for income exclusion.
- c. If a family member who is a tribal member receives the IRS Form 1099-MISC, Miscellaneous Income, from the tribe for reporting Indian gaming profits, then this payment must be counted toward the family's annual income.

28. Housing Gap Payments

- a. Replacement housing "gap" payments made in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another federally subsidized housing unit.
- b. Such replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments.
- c. Replacement housing "gap" payments should cover a minimum of 42 months of tenancy at the new unit.

29. Amounts Specifically Excluded by Any Other Federal Statute

Amounts specifically excluded by any other federal status 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. HUD will publish a notice in the Federal Register and distributed to PHAs identifying the benefits that qualify for this exclusion.
- b. Updates will be distributed when necessary.
- c. The following is a list of income sources that qualify for that exclusion:
 - 1) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977
 - 2) Payments to volunteers under the Domestic Volunteer Services Act which includes, but is not limited to:
 - a) Retired Senior Volunteer Program (RSVP)
 - b) Foster Grandparents (FGP)

- c) Senior Companion Program (SCP)
 - d) VISTA
 - e) Peace Corps
 - f) Service-Learning Program
 - g) Special Volunteer Programs
- 3) Small Business Administration programs such as National Volunteer Program to Assist Small Business and Promote Volunteer Service to Persons with Business Experience;
 - 4) Service Corps of Retired Executives (SCORE)
 - 5) Active Corps of Executives (ACE)
 - 6) Payments received under the Alaska Native Claims Settlement Act.
 - 7) Income derived from certain sub-marginal land of the U.S. that is held in trust for certain Indian tribes.
 - 8) Payments or allowances under Department of Health and Human Services Low-Income Home Energy Assistance Program (LIHEAP).
 - 9) Income derived from the disposition of funds of the Grand River Band of the Ottawa Indians.
 - 10) 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.
 - 11) Payments received from programs funded under Title V of the Older Americans Act of 1965 which includes, but is not limited to:
 - a) Senior Community Services Employment Program
 - b) National Caucus Center on the Black Aged
 - c) National Urban League
 - d) Association National Pro Personas Mayors
 - e) National Council on Senior Citizens
 - f) Green Thumb
 - 12) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any fund established pursuant to the settlement in In Re Agent Orange Liability Litigation.
 - 13) Earned Income Tax Credit refund tax payments received on or after January 1, 1991, for program administered under the United States Housing Act of 1937, Title V of

the Housing Act of 1949, Section 101 of the Housing and Urban Development Act of 1965, and Sections 221(d)(3) 235, and 236 of the National Housing Act (26 U.S.C. 32(j)).

- 14) Payments received under the Maine Indian Claims Settlement Act of 1980.
- 15) 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.
- 16) 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.
- 17) Payments made under the Emergency Rental Assistance Program pursuant to the Consolidated Appropriations Act, 2021 and the American Rescue Plan Act of 2021.
- 18) Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990.
- 19) 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).
- 20) Any amount of crime survivor 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.
- 21) Allowances, earnings, and payments to individuals participating in programs under the Workforce Investment Act of 1998 reauthorized as the Workforce Innovation and Opportunity Act of 2014.
- 22) 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).
- 23) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990.
- 24) 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 to the definition of income applicable to programs authorized under the Native American Housing Assistance and Self-Determination Act (NAHASDA) and administered by the Office of Native American Programs.
- 25) 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.

- 26) Any amounts in an “individual development account” as provided by the Assets for Independence Act, as amended in 2002.
- 27) Per capita payments made from the proceeds of Indian Tribal Trust Cases, Exclusion of Income of Payments under Recent Tribal Trust Settlements.

The list of Indian tribes who have entered into Tribal Trust Settlements with the U.S. in 2013 and for whom per-capita Tribal Trust payments are excluded from gross income, includes:

1. Assiniboiné and Sioux Tribes of the Fort Peck Reservation 2. Bad River Band of Lake Superior Chippewa Indians 3. Blackfeet Tribe of the Blackfeet Indian Reservation 4. Bois Forte Band of Chippewa 5. Cachil Dehe Band of Wintun Indians of the Colusa Rancheria 6. Chippewa Cree Tribe of the Rocky Boy's Reservation 7. Coeur d'Alene Tribe 8. Confederated Salish and Kootenai Tribes 9. Confederated Tribes of Siletz Indians - 6 - 10. Confederated Tribes of the Colville Reservation 11. Confederated Tribes of the Goshute Reservation 12. Crow Creek Sioux Tribe 13. Eastern Shawnee Tribe of Oklahoma 14. Hualapai Indian Tribe 15. Iowa Tribe of Kansas and Nebraska 16. Kaibab Band of Paiute Indians of Arizona 17. Kickapoo Tribe of Kansas 18. Lac Courte Oreilles Band of Lake Superior Chippewa Indians 19. Lac du Flambeau Band of Lake Superior Chippewa Indians 20. Leech Lake Band of Ojibwe 21. Lower Brule Sioux Tribe 22. Makah Indian Tribe of the Makah Reservation 23. Mescalero Apache Tribe 24. Minnesota Chippewa Tribe 25. Nez Perce Tribe 26. Nooksack Indian Tribe 27. Northern Cheyenne Tribe of Indians 28. Omaha Tribe of Nebraska 29. Passamaquoddy Tribe of Maine 30. Pawnee Nation 31. Prairie Band of Potawatomi Nation 32. Pueblo of Zia 33. Quechan Tribe of the Fort Yuma Reservation 34. Red Cliff Band of Lake Superior Chippewa Indians 35. Rincon Luiseño Band of Indians 36. Rosebud Sioux Tribe 37. Round Valley Indian Tribes 38. Salt River Pima-Maricopa Indian Community 39. Santee Sioux Tribe of Nebraska 40. Sault Ste. Marie Tribe 41. Shoshone-Bannock Tribes of the Fort Hall Reservation 42. Soboba Band of Luiseno Indians 43. Spirit Lake Dakota Nation 44. Spokane Tribe of Indians 45. Standing Rock Sioux Tribe 46. Stillaguamish Tribe of Indians 47. Summit Lake Paiute Tribe 48. Swinomish Indian Tribal Community 49. Te-Moak Tribe of Western Shoshone Indians 50. Tohono O'odham Nation 51. Tulalip Tribes 52. Tule River Indian Tribe 53. Ute Indian Tribe of the Uintah and Ouray Reservation 54. Ute Mountain Ute Tribe 55. Winnebago Tribe of Nebraska 56. Qawalangin Tribe of Unalaska - 7 - 57. Tlingit & Haida Tribes of Alaska 58. Northwestern Band of Shoshone Indians 59. Hoopa Valley Tribe 60. Ak-Chin Indian Community 61. Oglala Sioux Tribe

- 28) Major disaster and emergency assistance received by individuals and families under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organizations will not be considered as income or a resource when determining eligibility for or benefit levels under federally funded income assistance or resource-tested benefit programs.

F. Treatment of Financial Assistance Received by Students of Higher Education

The treatment of student financial assistance depends on the student/household characteristics and the type of financial assistance received by the student. The student financial assistance rules apply to both full-time and part-time students.

- 1. There are two (2) categories of student financial aid applicable to the public housing program:
 - a. 479B Student Financial Assistance Programs

Section 479B under Title IV of the Higher Education Act (HEA) of 1965, as amended,

(as well as Bureau of Indian Affairs Student Financial Assistance) requires that all assistance under HEA, even assistance provided to students in excess of tuition and required fees or charges, be excluded from HUD income calculations;

The types of financial assistance listed below are considered 479B student financial assistance programs. The list is not exhaustive and 479B will be updated as of July 1, 2024.

- 1) Federal Pell Grants;
- 2) Teach Grants;
- 3) Federal Work Study Programs;
- 4) Federal Perkins Loans;
- 5) Student financial assistance received under the Bureau of Indian Education;
- 6) Higher Education Tribal Grant;
- 7) Tribally Controlled Colleges or Universities Grant Program; and
- 8) Employment training program under section 134 of the Workforce Innovation and Opportunity Act (WIOA).

b. Other Student Financial Assistance

Other student financial assistance means a grant or scholarship received from:

- 1) The federal government;
- 2) A state (including U.S. territories), Tribe, or local government;
- 3) A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);
- 4) A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- 5) An institution of higher education.
- 6) A grant would include:
 - a) A qualified tuition remission, reduction, waiver, or reimbursement (i.e., amounts received as reimbursement for the student's paid costs of tuition, books, and fees, etc.) by the educational institution, such as for an employee of the institution of higher education or an eligible family member of that employee.
 - b) Assistance provided by an employer as part of an employee educational assistance program or tuition reimbursement program.

- c. Other student financial assistance must be for educational expenses and does not include:
 - 1) Any assistance that is excluded.
 - 2) Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded under Section 479B of the HEA).
 - 3) Amounts received under work study may be excluded if:
 - a) Provided pursuant to Title IV of HEA; or
 - b) To the extent that the work study is being performed by a dependent full-time student.
 - 4) Non-recurring gifts, including non-recurring gifts from family or friends.

Gifts that are recurring and otherwise do not meet the criteria for the income exclusion for gifts would be counted as income, regardless of whether the recipient of the gift is a student.
 - 5) Any amount of the scholarship or grant that either by itself or in combination with the excluded financial assistance under Section 479B of the HEA, exceeds the actual covered costs of the student.
- 2. Actual Covered Costs
 - a. The actual covered costs of the student are the actual costs of:
 - 1) Tuition,
 - 2) Books and supplies (including supplies and equipment to support students with learning disabilities or other disabilities),
 - 3) Room and board, or
 - 4) Other fees required and charged to a student by the education institution, and
 - 5) For a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit (i.e., the student is living in off-campus/non-college owned housing while away at school instead of a dorm or college owned housing).
 - b. All assistance under Section 479B of the HEA is excluded from income, regardless of whether those amounts exceed the actual covered costs described above.
 - 1) Student financial assistance must be:
 - a) Expressly for tuition, books, room and board, or other fees required and charged to a student by the education institution;
 - b) Expressly to assist a student with the costs of higher education; or
 - c) Expressly to assist a student who is not the head of household or spouse with

the reasonable and actual costs of housing while attending the education institution and not residing in an assisted unit.

- 2) Student financial assistance may be paid directly to the student or to the educational institution on the student's behalf.
- 3) Student financial assistance paid to the student must be verified by the PHA as student financial assistance.

3. Calculating the Amount of Other Student Financial Assistance

All assistance received under Section 479B of the HEA by students participating in the public housing program is excluded from income. Other student financial assistance received by the student that, either by itself or in combination with HEA assistance, exceeds the actual covered costs is not excluded from income.

- a. When determining the amount of other financial assistance in excess of actual covered costs, the financial assistance provided under Section 479B of the HEA will be the first student financial assistance deducted from the actual covered costs.
 - 1) The financial assistance under Section 479B of the HEA is intended to pay the actual covered costs.
 - 2) HUD has determined that financial assistance under Section 479B of the HEA must be the first amount subtracted from actual covered costs before any student financial assistance that HUD is excluding under HUD's discretionary exclusion authority.
- b. When the student receives any financial assistance provided under Section 479B of the HEA, the amount of student's financial assistance is determined as follows:
 - 1) If the amount of financial assistance excluded under Section 479B of the HEA exceeds the student's actual covered costs, then all of the amounts received from all financial assistance (other scholarships or grants), the student receives from other sources would be in excess of the actual covered costs and would not be considered student financial assistance that is excluded from income.
 - 2) If the amount of financial assistance excluded under Section 479B of the HEA is less than the student's actual covered costs, then some or all of the amount of financial assistance (other scholarships and grants), that would be excluded from income is the lower of:
 - a) The total amount of student financial assistance (scholarships and grants) the student received that are not excluded under Section 479B of the HEA; or
 - b) The amount by which the student's actual covered costs exceeds the financial assistance the student received that is excluded under Section 479B of the HEA.

G. Net Family Assets

The net family assets are the net cash value of all assets owned by the family after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other form of capital investments. Any type of asset not specifically excluded will be included in the calculation of net family assets.

1. All assets are categorized as either real property (e.g., land, a home) or personal property.
2. Any type of asset not specifically excluded will be included in the calculation of net family assets.
3. Real Property Equity

Real property includes land or real estate owned by a member of the family.

- a. 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).
- b. The PHA will calculate the equity in real property using the following formula:
$$\text{Market Value} - \text{Loan (mortgage)} = \text{Equity}$$
- c. The PHA will calculate the cash value of real property using the following formula:
$$\text{Equity} - \text{Expenses to convert to cash} = \text{Cash Value}$$
- d. Expenses to convert the real property to cash value may include but are not limited to costs such as sales commissions, settlement/closing costs, transfer taxes, attorney fees, appraisal fees, monetary liens on the real property, and repair costs, etc., if applicable.

4. Life Insurance Policies

Cash value of life insurance policies.

5. Tax Refunds or Refundable Tax Credits

- a. The anticipated income earned by the assets in which a family has deposited their federal tax refund or refundable tax credits must be included in the family's annual income unless the income is specifically excluded.
 - 1) At the time of an annual or interim reexamination of income, if the federal tax refund was received during the 12 months preceding the effective date of the reexamination, the PHA will subtract from the total value of the account in which the federal tax refund or refundable tax credits were deposited the amount of the refund that was received by the family.
 - 2) When the subtraction results in a negative number, then the balance of the asset is considered \$0.
- b. If the tax refund or refundable tax credit is deposited into another excluded asset, such as a retirement account or a Coverdell Education Savings Account, then the deposit

will have no effect on the balance of the asset (i.e., there is no need for the PHA to subtract the amount of the deposit from the value of the excluded asset).

6. 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.

a. Trust as Net Family Assets

For revocable trusts, the grantor can terminate and/or amend the trust at any time for any reason before his or her death.

- 1) A revocable trust that is under the control of the family or household (e.g., the grantor is a member of the assisted family or household) is included in net family assets, and, therefore, income earned on the trust is included in the family's income from assets.
- 2) If the PHA determines that the revocable trust is included in the calculation of net family assets, the actual income earned by the revocable trust is also included in the family's income.
- 3) If the PHA determines that an irrevocable trust is excluded from net family assets, the PHA will not consider actual income earned by the trust (e.g., interest earned, rental income if property is held in the trust) for so long as the income from the trust is not distributed.
- 4) The PHA will calculate imputed income on the revocable trust if net family assets are more than \$50,000, as adjusted by inflation, and actual income from the trust cannot be calculated (e.g., if the trust is comprised of farmland that is not in use).

b. Trust Distributions and Annual Income

- 1) Revocable trust considered part of net family assets:

If the value of the trust is considered part of the family's net assets, then distributions from the trust are not considered income to the family.

- 2) Revocable or irrevocable trust not considered part of net family assets:

If the value of the trust is not considered part of the family's net assets, then distributions from the trust are treated as follows:

- a) All distributions from the trust's principal are excluded from income.
- b) Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

Trust Type	Is the Trust Considered a Net Family Asset?	Is the Actual Interest Earned by the Trust Considered Family Income?	Are Distributions of Trust Principal Considered Family Income?	Are Distributions of Interest Earned on the Trust Principal Considered Family Income?
Revocable Grantor is not part of the assisted family or household (and the family or household is not otherwise in control of the trust)	No	No	No	Yes, unless the distributions are used to pay for the health and medical expenses for a minor.
Revocable Grantor is part of the assisted family or household (or the trust is otherwise under control of the family or household)	Yes	Yes	No	No
Irrevocable (Typically, Special Needs Trusts or irrevocable.)	No	No	No	Yes, unless the distributions are used to pay for the health and medical expenses for a minor.

7. Assets Jointly Owned

- a. For assets jointly owned by the family and one or more individuals outside of the assisted family, the PHA will include the total value of the asset in the calculation of net family assets, unless the asset is otherwise excluded, or unless the assisted family can demonstrate that the asset is inaccessible to them, or that they cannot dispose of any portion of the asset without the consent of another owner who refuses to comply.
- b. If the family demonstrates that they can only access a portion of an asset, then only that portion's value shall be included in the calculation of net family assets for the family.
- c. Any income from a jointly owned asset must be included in annual income, unless that income is specifically excluded, or unless the family demonstrates that they do not have access to the income from that asset, or that they only have access to a portion of the income from that asset.
- d. If a family member is a beneficiary who is entitled to access the account's funds only upon the death of the account's owner, and may not otherwise withdraw funds from an account, then the account is not an asset to the assisted family, and the family should provide proper documentation demonstrating that they are only a beneficiary on the account.

8. Assets Owned by Business Entity

- a. If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets.

- b. If the family holds the assets in their own name rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets.

9. Assets Disposed of for Less than Fair Market Value

In determining net family assets, the PHA will include the value of any business or family assets disposed of by an applicant or family member 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.

- a. 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 member receives consideration not measurable in dollar terms.
- b. An asset moved to a retirement account held by a family member is not considered to be an asset disposed of for less than fair market value.
- c. The PHA will count as an asset the difference between the cash value and the actual amount received for the asset disposed of for less than market value during the two (2) years preceding the date of application for the PHA or reexamination, if the cumulative fair market value of the asset disposed of exceed the gross amount of the asset by \$2,000.

H. Necessary Personal Property and Non-Necessary Personal Property

The PHA's determination on what is a necessary personal property and what is non-personal personal property is a fact-specific determination, and therefore the PHA will gather enough facts to qualify whether an asset is necessary or non-necessary personal property. Items of personal property that do not qualify as necessary personal property will be classified as non-necessary personal property.

1. Necessary Personal Property

- a. Includes more than merely items that are indispensable to the bare existence of the family.
- b. Necessary personal property are items essential to the family for the maintenance, use, and occupancy of the premises as a home or they are necessary for employment, education, or health and wellness.
- c. Necessary personal property includes but may not be limited to:
 - 1) Personal effects (such as items that are ordinarily worn or utilized by the individual), items that are convenient or useful to a reasonable existence, and items that support and facilitate daily life within the family's home.

- 2) Items that assist family members with a disability, including any items related to disability-related needs, or that may be required for a reasonable accommodation for a person with a disability.
 - 3) Necessary personal property does not include bank accounts, other financial investments, or luxury items.
2. Non-Necessary Personal Property
- a. Non-necessary personal property with a combined value that does not exceed \$50,000, as adjusted by inflation, is excluded from net family assets.
 - b. Non-necessary personal property with a combined value greater than \$50,000, as adjusted by inflation, is considered part of net family assets.
3. The following table lists examples of necessary and non-necessary personal property. This is not an exhaustive list.
- a. Necessary personal property is excluded from net family assets.
 - b. Items of personal property that do not qualify as necessary personal property will be classified as non-necessary personal property.

Examples of Necessary and Non-Necessary Personal Property

Necessary Personal Property	Non-Necessary Personal Property
• Car(s)/vehicle(s) that a family relies on for transportation for personal or business use (e.g., bike, motorcycle, skateboard, scooter) • Furniture, carpets, linens, kitchenware • Common appliances • Common electronics (e.g., radio, television, DVD player, gaming system) • Clothing • Personal effects that are not luxury items (e.g., toys, books) • Wedding and engagement rings • Jewelry used in religious/cultural celebrations and ceremonies • Religious and cultural items • Medical equipment and supplies • Health care–related supplies • Musical instruments used by the family • Personal computers, phones, tablets, and related equipment • Professional tools of trade of the family, for example professional books • Educational materials and equipment used by the family, including equipment to accommodate persons with disabilities • Equipment used for exercising (e.g., treadmill, stationary bike, kayak, paddleboard, ski equipment)	• Recreational car/vehicle not needed for day-to-day transportation (campers, motorhomes, travel trailers, all-terrain vehicles (ATVs)) • Bank accounts or other financial investments (e.g., checking account, savings account, stocks/bonds) • Recreational boat/watercraft • Expensive jewelry without religious or cultural value, or which does not hold family significance • Collectibles (e.g., coins/stamps) • Equipment/machinery that is not used to generate income for a business • Items such as gems/precious metals, antique cars, artwork, etc.

I. Net Family Assets Do Not Include

Given that there are many categories of funds that would be considered assets and should be included in asset calculations, HUD does not believe that the regulation should specify every form of asset. Instead, any type of asset not specifically excluded should be included in the calculation of net family assets.

Required exclusions from net family assets include the following:

1. The value of necessary items of personal property.
2. The combined value of all non-necessary items of personal property, if the combined total value does not exceed \$50,000 (adjusted annually by HUD for inflation).
3. The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including:
 - a. Individual Retirement Arrangements (IRAs)
 - b. Employer retirement plans (e.g., 401(k), 403(b))
 - c. Retirement plans for self-employed individuals (Keogh)
4. The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located.
 - 1) Co-ownership situations (including situations where one (1) owner is a victim of a VAWA violence/abuse)
 - 2) Where one (1) party cannot unilaterally sell the real property
 - 3) Property that is tied up in litigation
 - 4) Inherited property is in dispute
5. Civil Action, Malpractice, or Negligence Payments

Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family being a person with disabilities.
6. The value of certain education or disability support savings account, including the value of any:
 - a. Coverdell education savings account under Section 530 of the internal Revenue Code of 1986
 - b. Qualified tuition program under Section 529 of such Code
 - c. Achieving a Better Life Experience (ABLE) account authorized under Section 526A of such Code
 - 1) ABLE accounts are excluded from the definition of net family assets, and therefore income generated from such accounts is not considered when calculating income from assets.

- 2) Distributions from these accounts are also excluded from income.
- d. Baby bond account created, authorized, or funded by a federal, state, or local government (money held in trust by the government for children until they are adults).
7. Interest in Indian trust lands.
8. Equity in a manufactured home where the family receives HCV program assistance.
9. Equity in property under the Homeownership Option for which the family receives assistance under the HCV program.
10. Family Self-Sufficiency accounts.
11. Federal tax refunds or refundable tax credits, including EITC, for a period of 12 months after receipt by the family.

Only the amount of federal tax refunds or refundable tax credits the family receives is excluded from net family assets, not the amount the family was supposed to receive.
12. Trust Funds
 - a. The full amount of assets held in an irrevocable trust.
 - b. Revocable Trust
 - 1) When a member of the assisted family is the beneficiary of a revocable trust, but the grantor is not a member of the assisted family, the beneficiary does not “own” the revocable trust, and the value of the trust is excluded from net family assets.
 - 2) For the revocable trust to be considered excluded from net family assets, no family or household member may be the account’s trustee.
13. Term life insurance policies with no cash value
14. Assets not controlled by or accessible to the family and which provide no income for the family.

A survivor of VAWA violence/abuse who because of the VAWA violence/abuse no longer has access to the real property and cannot convert it to cash.

J. Actual and Imputed Income from Net Family Assets

When the value of net family assets exceeds \$50,000 (adjusted annually by HUD for inflation) and the actual returns from a given asset cannot be calculated, imputed returns on the asset based on the current passbook savings rate, as determined by HUD, are include in annual income.

1. Determining the Net Cash Value of an Asset
 - a. The PHA must determine the market value of an asset then calculate the cash value by subtracting the reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investments.

b. Reasonable Costs

Reasonable costs include but are not limited to costs such as:

- 1) Penalties for premature withdrawal 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. Assets with Negative Equity

- a. The cash value of real property or other assets with negative equity would be considered \$0 for the purposes of calculating net family assets.
- b. Negative equity in real property or other investments does not prohibit the family from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

3. Actual Income from Assets

Actual income from assets is always included in a family's (including minors) annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded.

- a. Income or returns from assets are generally considered to be interest, dividend payments, and other actual income earned on the asset, and not the increase in market value of the asset.
- b. The increase in market value is relevant to the cash value of the asset for the purpose of determining total net family assets and imputing income.

4. Imputed Income from Assets

Imputed income from assets is no longer determined based on the greater of actual or imputed income from the assets.

- a. The PHA will calculate imputed asset income for specific assets when three conditions are met:
 - 1) The value of net family assets exceeds \$50,000 (adjusted annually by HUD for inflation);
 - 2) The specific asset is included in net family assets; and
 - 3) Actual asset income cannot be calculated for the specific asset.
- b. If the actual income from assets can be computed for some assets but not all assets, the PHA will:
 - 1) Add the actual income from the assets, where actual income can be calculated, then

- 2) Calculate the imputed income for the assets where actual income could not be calculated.
 - c. After the PHA has calculated both the actual income and imputed income, the PHA will combine both amounts to account for income on net family assets with a combined value of over \$50,000.
 - d. If the family's net family assets do not exceed \$50,000 (adjusted annually by HUD for inflation), imputed income is not calculated.
 - e. If the actual income for an asset, which can equal \$0, can be calculated, imputed income is not calculated for that asset.
 - f. Imputed asset income is never calculated on assets that are excluded from net family assets.
5. Summary Decisions for Determining Income from Assets

The following scenarios will determine how the PHA determines the income from net family assets.

- a. If net family assets exceed \$50,000 (adjusted annual by HUD for inflation), and the actual income can be calculated on all assets:
 - 1) Annual income will include only actual income on assets (no imputed income).
 - 2) The PHA will obtain third-party verification.
- b. If net family assets exceed \$50,000 (adjusted annual by HUD for inflation), and the actual income cannot be calculated on all assets:
 - 3) Annual income will include the total of actual income that can be calculated and imputed income for all remaining net family assets where the actual income cannot be calculated.
 - 4) The PHA will obtain third-party verification.
- c. If net family assets do not exceed \$50,000 (adjusted annual by HUD for inflation):
 - 5) The annual income includes only the actual income from assets (no imputed income).
 - 6) The PHA may accept the family's self-certification of net family assets.

K. Passbook Rate Determination

Annually HUD will publish the passbook rate based on the Federal Deposit Insurance Corporation (FDIC) National Deposit Rate for savings accounts, which is an average of national savings rates published on a monthly basis.

1. The PHA will use the HUD-published passbook rate when calculating imputed asset income for net family assets that exceed \$50,000 (annually adjusted by HUD for inflation)
 - a. HUD does not authorize the PHA to set its own passbook rate.

- b. The PHA must use the HUD-published passbook rate.
2. The HUD-published passbook rate will be posted to a dataset on the HUDUser Web site, alongside annual inflationary adjustments.
3. To determine the passbook rate for the next calendar year, HUD will average the most recent three (3) months of FDIC updates to the National Deposit Rate for savings accounts, rounded to the nearest hundredth of 1 percent.
4. In order to ensure updated passbook rates may be used for reexaminations with an effective date of January 1, HUD will calculate the update in July each year, using FDIC data from April, May, and June for publication on HUDUser not later than September 1.

L. Calculation of Annual Income

The PHA must calculate family annual income as follows:

1. Initial Admission and Interim Reexaminations

The PHA will use anticipated income, including asset income, (current income – i.e., the family's estimated income for the upcoming 12-month period) to determine the family's annual income at time of admission to the HCV program or during an interim reexamination.

2. Annual Reexaminations

The PHA must determine the income of the family for the previous 12-month period and use this amount as the family income for annual reexaminations.

- a. The previous 12-month period is the is the 12 months prior to the income calculation and not the previous calendar year.
- b. If the PHA determines that the family's previous 12-month's income does not reflect the family's current income, the PHA will adjust the income determination by:
 - 1) Taking into consideration any redetermination of income during the previous 12-month period resulting from an interim reexamination of the family; and
 - 2) Making adjustments to reflect current income if there was a change in income (earned and unearned) during the previous 12-month period that was not accounted for in the redetermination of income. A change in income may be:
 - a) A loss of income
 - b) The addition of a new source of income
 - c) Cost of Living Adjustments (COLA) to Social Security and Social Security Disability Income
 - d) Changing to a different employer in the prior year does not necessarily constitute a change if the income earned from either employer is substantially the same.

- c. Steps in Calculating Annual Income at Annual Reexamination
 - 1) Step 1: Determine the annual income for the previous 12-month period
 - a) If there have been no changes to income beyond this calculation, then this is the amount that will be used to determine the family's rental assistance.
 - b) The PHA will review the following information to determine prior-year income:
 - (1) The EIV Income Report (must be generated within 120 days of the effective date of the annual reexamination to be considered current);
 - (2) The income reported on the most recent reexamination on form HUD-50058; and
 - (3) What the family certified to on the PHA's annual reexamination paperwork for prior-year income.
 - 2) Step 2: The PHA will take into consideration any interim reexamination of family income completed since the last annual reexamination.
 - a) If there was an interim reexamination performed, the PHA will use the annual income from the interim reexamination to determine the family's rental assistance, if there are no additional changes.
 - b) If the PHA did not perform an interim reexamination or there have been changes since the last reexamination, move to Step 3.
 - 3) Step 3: If there were changes in annual income not processed by the PHA since the last reexamination, use current income.
 - a) Family reports their income for the prior year and whether there have been permanent changes.
 - b) If there are no reported changes to an income source, the PHA may use documentation of the prior-year income to calculate the annual income used for the current annual reexamination on form HUD-50058. The PHA could use the following documentation and certification from the family:
 - (1) EIV + self-certification (wages, SSI, Social Security, and unemployment)
 - (2) Current Level 4 documents verifying prior-year income that are dated within the required, 120 days of receipt by the PHA, timeframe, such as:
 - (a) Year-end statement
 - (b) Paycheck with year-to-date amount
 - (c) Tax forms (Form 1040, W2, 1099, etc.)
 - c) If there are reported changes by the family or if the PHA notes discrepancies between EIV and what the family reports, the PHA will follow the Verification Hierarchy to document and verify income.

3. Use of Other Programs' Determination of Income, "Safe Harbor"

The PHA will not, use income calculation information from other programs or agencies to determine the family's income prior to applying deductions based on timely income determinations made within the previous 12-month period for the purposes of the following means-tested forms of federal public assistance.

4. Income from assets is always anticipated, irrespective of the income reexamination type.

5. Accuracy of Family Income Data: De Minimis Errors

A de minimis error is an error where the PHA determination of family income deviates from the correct income determination by no more than \$30 per month in monthly adjusted income (\$360 in annual adjusted income) per family.

- a. The PHA will not be considered out of compliance solely due to de minimis errors in calculating family income but is still obligated to correct errors once the PHA becomes aware of the errors.
- b. HUD may revise the amount of the de minimis error through a rulemaking published in the Federal Register for public comment.
- c. If the PHA becomes aware of the existence of an income calculation error, the PHA is obligated to correct the error(s) retroactive to the effective date of the action the error was made regardless of the dollar amount associated with the error.
- d. The PHA will take any corrective action necessary to credit a family if the family has been overcharged for their family share as a result of the de minimis error in the income determination.
 - 1) The family will not be responsible for retroactive rent for errors made by the PHA in instances where the PHA has miscalculated income resulting in a family being undercharged the family share.
 - a) The PHA will notify the family and the owner in writing:
 - (1) The total amount of the overcharged family share;
 - (2) The effective date of the action of the overcharged family share; and
 - (3) To whom the overcharged family share repayment will be sent.
 - b) The PHA will repay the overcharged family share to the to the owner by issuing the owner a check.
 - 2) The family will be responsible for retroactive rent if the family share was based on false or incomplete information supplied by the applicant or participant family.

M. 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.

N. Earned Income Disallowance (or Disregard) Self-Sufficiency Incentive (EID)

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

1. Elimination of EID

The EID will not apply to any family who is not eligible for and already participating in the disallowance as of December 31, 2023. No new families may be added.

- a. Families who were receiving the EID benefit as of December 31, 2023, may continue to receive the full benefit until the remaining timeframe for an individual family's EID expires without any regulatory changes.
- b. Because the EID lasts up to 24 consecutive months, no family will still be receiving the EID benefit after December 31, 2025.

2. Qualifications:

- a. The exclusion only applies to families currently receiving housing assistance.
- b. The applicant family is not eligible for the EID.
- c. An HCV family whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment; or
 - 1) Previously unemployed includes a person with disabilities who has earned, in the 12 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. An HCV family whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or
 - 1) The increase in earnings must occur while the person with disabilities 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. An HCV family whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, 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 who is a person with disabilities.
 - b. Once the family member who is a person with disabilities 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 with disabilities.
 - d. If the family member with disabilities discontinues the employment that initially qualified the family member with disabilities 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 with disabilities 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 with disabilities as a result of employment over the family member with disabilities 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.
3. Because only a person with disabilities is eligible for the EID under the HCV program, the PHA will discontinue the EID benefit for a qualifying person with disabilities who is no longer considered disabled at their next regularly scheduled reexamination.

A decision regarding “no longer disabled” will be verified through the SSA for SSI and SDI recipients or from a medical, health, or rehabilitation professional for those not receiving publicly funded benefits.

O. 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 and permissive deductions and allowances.

P. 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.
- c. The dependent allowance will be adjusted annually by HUD for inflation, rounded to the next lowest multiple of \$25, and applies at the family's next annual or interim reexamination after the annual adjustment, whichever is sooner.

2. Elderly/Disabled Allowance

- a. \$525 per family for families whose head of household, spouse, or co-head is 62 years or older (elderly families) or who is a person with disabilities (disabled families).
- b. The elderly/disabled allowance of \$525 is effective January 1, 2024, and applies at the family's next annual or interim reexamination, whichever is sooner.
- c. Each elderly or disabled family is limited to one \$525 allowance even if both the head of household and spouse are elderly or persons with disabilities.
- d. The elderly/disabled allowance will be adjusted annually by HUD for inflation, rounded to the next lowest multiple of \$25.

3. Unreimbursed Childcare Expenses

Reasonable unreimbursed childcare expenses, (hereinafter referred to as childcare 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 childcare expense is necessary to enable a family member to be employed (e.g., work, look for work) or further their education (academic or vocational).
 - 1) Childcare expenses to enable a family member to work:
 - a) The childcare expenses to enable a family to work may not exceed the amount of employment (earned income) included in annual income.
 - b) The person enabled to work is the adult member of the family who earns the least amount of income from employment, unless it is obvious that another family member is enabled to work.
 - 2) Childcare expenses to enable a family member to go to school:
 - a) To qualify for childcare expenses 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 expenses 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 expenses 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 is 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 expenses.
 - 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.

- 1) If only one custodian is an assisted family, the cost of the childcare expenses will be pro-rated based on the percentage paid by each custodial parent.
- 2) 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 will not deduct the child support payments as childcare expenses.
 - h. Attendant care expenses for family members with disabilities over the age of 12 cannot be deducted as a childcare expense but may qualify as a reasonable attendant care expense.
 - 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 childcare need during school breaks and summer vacations for school age children aged 12 and under) and average the amount over 12 months. Should there be a significant variation from the estimated amount, the family may request an interim reexamination adjustment.
4. Health and Medical Care Expense

The amount, if any, by which 10% of the family's annual income exceeds qualifying expenses.

- a. Qualifying expenses are the sum of the following expenses:
 - 1) Any unreimbursed health and medical care expenses for elderly/disabled families including but not limited to:
 - a) Costs incurred for the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body.
 - b) Medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed.
 - 2) Any unreimbursed reasonable disability assistance expenses (DAE).
- b. When the sum of the qualifying expenses are less than 10% of annual income, the family will not receive a health and medical expense deduction.
- c. Unreimbursed Health and Medical Care Expense Deduction

The unreimbursed health and medical care 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).

- 1) If the family is eligible for the health and medical care expense deduction, the health and medical care expenses of all family members may be counted.
- 2) Health and medical care 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.

- 3) The health and medical care deduction is not intended to give a family a deduction to previous year's expenses, but to anticipate regular ongoing and anticipated health and medical care expenses during the coming year.
 - a) Past one-time nonrecurring health and medical care expenses that have been paid in full are not applicable when calculating anticipated health and medical care expenses.
 - b) If the family is under a payment plan, the PHA will count the health and medical care expenses as anticipated.
 - c) The PHA may address the one-time health and medical care expenses by adding it to the family's total health and medical care expenses either:
 - (1) At the time the health and medical care expense occurs, through an interim reexamination, or
 - (2) At the upcoming annual reexamination.
 - (3) If the PHA added the one-time health and medical care expenses at an interim reexamination, it cannot be added to the health and medical care expenses at the annual reexamination.
- 4) The PHA will include the following as a standard health and medical care expense deduction when determining the family's health and medical care expenses deduction:
 - a) The amount of unreimbursed out-of-pocket health and medical care for prescription drugs.
 - b) Any premiums incurred for a Medicare prescription drug plan.
 - c) The PHA will review each expense to determine whether it is eligible in accordance with HUD's definition of health and medical care expenses.
- d. Unreimbursed Reasonable Attendant Care and Auxiliary Apparatus 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.

 - 1) DAE may not be paid to a member of the family nor reimbursed by an outside source.
 - 2) DAE Cap
 - a) The DAE may not exceed the combined earned income received by the family members who are 18 years of age or older who were able to work because of the attendant care or auxiliary apparatus.

- b) The combined earned income received by the family members who are 18 years of age or older will determine the DAE cap.
 - c) If the DAE exceeds the combined earned income received by the family members who are 18 years of age or older who were able to work because of the attendant care or auxiliary apparatus, the DAE will be capped at the combined earned income.
- 3) 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:
- a) In-home care
 - b) Adult day care
 - c) Nursing
 - d) Housekeeping
 - e) Personal care
 - f) Errand services
 - g) An interpreter for persons who are hearing impaired
 - h) Reader for persons with visual disabilities.
- 4) Auxiliary apparatus, including the cost of maintenance and upkeep, includes but is not limited to:
- a) Wheelchairs (manual and electric)
 - b) Walkers
 - c) Scooters
 - d) Ramps to provide access to and from the unit
 - e) Devices to allow persons with visual disabilities to read or type
 - f) Modifications or adaptations to or special equipment added to vehicles to permit their use by the family member with a disability
 - g) The veterinarian, grooming, and food costs for a service animal
- 5) 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.
- 6) The PHA must be able to verify that there is a direct link between the DAE claimed by the family and the members of the family (including the family member who is a person with disabilities) enabled to go to work.

- 7) 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.
 - 8) 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.
- e. Family Eligible for Disability Assistance Expenses and Childcare Expenses
- 1) 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.
 - 2) If both childcare and DAE are needed to enable a family member to work, the PHA will use the same employment income to justify the childcare expense and the DAE.
 - 3) For Disability Assistance Expenses:

The combined earned income received by the family members who are 18 years of age or older who were able to work because of the attendant care or auxiliary apparatus will be used to determine the cap on the DAE.
 - 4) For Childcare Expenses:
 - a) The childcare expenses must be reasonable.
 - b) 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.
 - c) If the childcare expenses are associated with attending school or seeking employment, there is no cap.
5. Permissive/Additional Deductions
- The PHA may adopt permissive (additional) deductions from annual income.
- a. Permissive deductions may be used to respond to a wide range of community needs including to encourage self-sufficiency and economic mobility or to provide incentives to work.
 - b. The PHA may adopt permissible deductions provided the amounts are not already deducted from annual income or reimbursed to the family from other sources.
 - c. If the PHA adopts permissive deductions, the PHA must:
 - 1) Have sufficient funding to cover the increased housing assistance payment (HAP) cost of the deductions;

- 2) Grant the permissive deduction to all families that qualify for them; and
- 3) Apply the permissive deductions consistently.
- d. When establishing permissive deductions, the PHA is subject to federal nondiscrimination requirements, including the obligation to provide reasonable accommodations that may be necessary for households with family members with disabilities.
- e. Permissive deductions may not materially increase federal expenditures.
- f. If the PHA adopts permissive deductions, the subsidy costs attributable to permissive deductions will not be taken into consideration in determining the PHA's HCV renewal funding.
- g. Permissive Deductions and Family Share
 - 1) Permissive deductions do not affect the family's annual income and consequently have no impact on the family's income eligibility for the HCV program.
 - 2) Permissive deductions impact the calculation of the family's adjusted income that is used to determine the TTP, which is then used to calculate the family share in the HCV program.
- h. The PHA has elected not to adopt permissive deductions.

Q. Hardship Exemptions for Unreimbursed Health and Medical Care and DAE

The PHA has established financial hardship exemptions for families affected by the statutory increase in the threshold, from 3% to 10%, for the unreimbursed health and medical care expenses and reasonable attendant care and auxiliary apparatus expenses.

1. There are two (2) categories of hardship exemptions to the 10% threshold for unreimbursed health and medical care expenses and reasonable attendant care and auxiliary apparatus expenses.
2. Category 1: Phased-In Relief: Families Already Receiving a Health and Medical Care Deduction
 - a. Eligibility for Relief

To receive the phase-in hardship relief, the family must have been receiving a deduction from annual income of qualified health and medical expenses exceeding 3% of annual income as of January 1, 2024.
 - b. Form and Duration of Relief
 - 1) First Year: The PHA will deduct eligible expenses exceeding 5% of the family's Annual income.
 - 2) Second Year: The PHA will deduct eligible expenses exceeding 7.5% of the family's

annual income.

- 3) Third Year: 24 months after the initial relief, the phase-in hardship exemption expires, the PHA will deduct eligible expenses exceeding 10% of the family's annual income, unless the family requests, before the end of the 24-month transition period and qualifies for a new exemption under Category 2.
 - 4) Once the family chooses to obtain relief under Category 2, the family will no longer be eligible to receive Category 1 relief, even if the family has not finished the 24-month period.
 - c. The PHA will track the 24-month phase-period for each eligible family, even if a family's expenses go below the appropriate phase-in percentage, during the first or second 12-month phase-in period.
 - d. The phase-in must continue for families who move with continued assistance in the HCV program or port to another PHA.
3. Category 2: General Financial Hardships: Families Who Can Demonstrate a Financial Hardship

Provides financial relief for an elderly or disabled family or a family that includes a person with disabilities, who were not receiving the deduction from annual income of qualified unreimbursed health and medical care expenses and/or reasonable attendant care and auxiliary apparatus expenses deduction or may not have been receiving housing assistance, that is experiencing a financial hardship due to the change in the threshold.

a. Eligibility for Relief

- 1) The family must demonstrate that the family's applicable health and medical care expenses or reasonable attendant care and auxiliary apparatus expenses increased, or the family's financial hardship is a result of a change in circumstances that would not otherwise trigger an interim reexamination.
 - a) Relief is available regardless of whether the family previously received an unreimbursed health and medical care expense deduction, unreimbursed reasonable attendant care, and auxiliary apparatus expense deduction, are currently receiving phased-in hardship relief, or were previously eligible for either the General Financial Hardship or the Phased-in Relief.
 - b) The family may have had qualifying medical care expenses that did not exceed the 3% threshold, but whose health and medical care expenses increased, but did not exceed the new 10% threshold.
- 2) PHA's definition of change in circumstances includes but is not limited to a decrease in income, a change in family composition, or circumstances as determined by the PHA on a case-by-case basis.

b. Form and Duration of Relief

- 1) The family will receive a deduction for the sum of the eligible expenses exceeding 5% of annual income.
- 2) The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever comes earlier.
- 3) The PHA extends the relief while the family's hardship condition continues.
 - a) The PHA will extend the relief for one additional 90-day period.
 - b) For any additional general financial hardship request, the PHA will review the hardship condition on a case-by-case basis.

c. Verification of the Financial Hardship

- 1) The PHA will obtain third-party verification of the financial hardship or document in the family file the reason why third-party verification was not available.
- 2) The PHA will attempt to obtain the third-party verification prior to the end of the 90-day financial hardship period.
- d. The PHA will not conduct an interim reexamination to add, remove, or to extend a hardship exemption, unless another change experienced by the family triggers an interim reexamination under the applicable regulation or in accordance with the PHA's policies on conducting interim reexaminations for adjusted income decreases that are less than 10%.

Instead, the PHA will process and submit a non-interim reexamination transaction.

R. Hardship Exemptions for Childcare Expenses

A family whose eligibility for the childcare expense deduction is ending may request a financial hardship exemption to continue the deduction.

1. Eligibility for Relief

The family must demonstrate that the family is unable to pay the family's rent because of loss of the childcare deduction, and the childcare expense is still necessary even though the family member is no longer employed, looking for work, or furthering education.

2. Form and Duration of Relief

- a. The hardship exemption and the resulting alternative adjusted income calculation must remain in place for a period of up to 90 days.
- b. The PHA will extend the relief while the family's childcare expense hardship condition continues.
 - 1) The PHA will extend the relief for one additional 90-day period.

- 2) For any additional childcare hardship request, the PHA will review the hardship condition on a case-by-case basis.
 - c. The PHA may terminate the hardship exemption if the PHA determines that the family's financial hardship no longer exists.
3. Childcare Financial Hardships

The PHA has established the following to constitute a financial hardship for the purposes of the childcare expense hardship exemption:

 - a. A loss of wages
 - a. Laid-off from employment
 - b. Reduction in hours
 - c. Strike
 - d. Accidents, injuries, or illnesses
 - e. Pregnancy/maternity or fraternity leave
 - b. No longer furthering education
 - a. Withdrawal due to no student financial assistance
 - b. School breaks
4. Verification of the Family's Inability to Pay Rent
 - a. The PHA will obtain third-party verification of the family's inability to pay rent or document in the family file the reason why third-party verification was not available.
 - b. The PHA will attempt to obtain the third-party verification prior to the end of the 90-day financial hardship period.
5. The PHA will recalculate the family's adjusted income and continue the childcare deduction if the family demonstrates to the PHA's satisfaction that the family is unable to pay the family's rent because of loss of the childcare expense deduction, and the childcare expense is still necessary even though the family member is no longer employed or furthering his or her education.

S. PHA Financial Hardship Policy

The PHA has established a policy on how the PHA defines what constitutes a hardship and how the PHA will determine the family's inability to pay the rent, for purposes of determining eligibility for a hardship exemption.

1. The PHA's definition of a financial hardship for the purpose of providing hardship exemptions for unreimbursed health and medical care expenses, reasonable attendant care and auxiliary apparatus expenses, and unreimbursed childcare expenses includes but

is not limited to the following circumstances in which the family:

- a. Would be evicted as a result of imposing the statutory increase in the threshold for the unreimbursed health and medical care expenses and reasonable attendant care and auxiliary apparatus expenses.
 - b. Requires a reasonable accommodation related to a family member's disability.
 - c. May have had other financial hardship situations as determined by the PHA on a case-by-case basis.
2. The PHA's determination of family's inability to pay the rent.
- a. The PHA will consider a family's inability to pay the family share when:
 - 1) The family request a financial hardship exemption in writing;
 - b. The PHA may request documentation of the financial hardship to determine if a financial hardship exist.
 - c. If the family requests a financial hardship exemption, the PHA will determine if the family is eligible for the relief.
 - d. If the family is eligible for the relief, the family will receive the respective form and duration of the relief.
 - e. If the PHA determines there is no qualifying financial hardship, the family will not receive the financial hardship exemption.
 - f. Denial of a financial hardship exemption is subject to the PHA's informal hearing process.
3. Family Notification

The PHA will promptly, within 10 business days, notify the family in writing of the PHA's determination of the family's request for a hardship exemption.

- a. Approval of Hardship Exemption
 - 1) The PHA will, within 10 business days of the determination, notify the family in writing of the family's approval for the hardship exemption and change in the determination of adjusted income resulting from the hardship exemption.
 - 2) The notice will inform the family:
 - a) When the hardship exemption will begin and expire (i.e., the respective time periods or within 90 days or at such time as the PHA determines the exemption is no longer necessary);
 - b) The requirement for the family to report timely if the circumstances that made the family eligible for relief are no longer applicable; and
 - c) The adjusted income and family share will be recalculated upon expiration of

the hardship exemption.

- 3) The PHA will provide families at least a 30 days' notice of any increase in the family share.
- b. Denial of the Hardship Exemption
- 1) The PHA will promptly, within 10 business days of the determination, notify the family in writing of the denial of either an initial hardship exemption or an additional 90-day extension of the hardship exemption.
 - 2) The notice will specify the reason for the denial.
 - 3) Denial of the hardship exemption is subject to the PHA's informal hearing process.
- c. Termination of the Hardship Exemption
- 1) The PHA will notify the family if the hardship exemption is no longer necessary and will be terminated because the circumstances that made the family eligible for the exemption are no longer applicable.
 - 2) The notice must:
 - a) State the termination date; and
 - b) Provide a 30-days' notice of increases in family share, if applicable.

T. HUD's Annually Published Inflation Adjustments

HUD will annually publish the eight inflation-adjusted items no later than September 1, and the updated values will be shared online at the HUDUser Web site. The revised amounts will be effective on January 1 of the following year.

The PHA must use the adjusted levels post to HUDUser for income and asset calculations effective on or after January 1 of the following year.

HUD plans to publish in the Federal Register a notice soliciting the public's comment on HUD's methodology for recalculating inflationary adjusted items.

CHAPTER 11: 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 is 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 120-day period preceding the reexamination or PHA request date.
4. Income verifications will remain valid for 120 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 reasonable accommodation, including 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. Attendance care and auxiliary apparatus 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.
- l. Preferences applicable to placement on and selection from the waiting list based on the selection preferences adopted by the PHA.

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 HUD administrative guidance, the PHA will utilize HUD's EIV System in its entirety, including using all of the required reports, such as the Existing Tenant Search and Income Reports, to verify tenant employment and income information.
2. The PHA will utilize HUD's EIV System to:
 - a. Verify tenant employment and income information at annual reexamination and interim reexaminations of family composition and income; and
 - b. Reduce administrative and subsidy payment errors.
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 HCV 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. 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 2 documented attempts 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 the family to provide additional/required documents, verification, and/or information.
 - a. The PHA will give the family an Information Needed 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 Information Needed 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 HCV program or terminate the family's HCV housing assistance.

D. Verification Hierarchy Techniques

1. Level 6/5 (Highest): Upfront Income Verification (UIV), using HUD's Enterprise Income Verification (EIV) System:
 - 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.
 - c. The PHA is encouraged to use other non-HUD UIV tools, such as The Work Number (an automated verification system) cccverify.com, valutverify.com and state government databases to verify tenant-reported income.

NOTE: NOT AVAILABLE FOR INCOME VERIFICATION OF APPLICANTS

2. Level 4 (High): Written Third Party Verification:
 - a. Tenant Provided Documents

- 1) The PHA will accept an original or authentic document in the possession of the applicant or tenant generated by a third-party source dated within the 120 days of the date received by the PHA.
 - 2) For fixed income sources, a statement dated within the appropriate benefit year is acceptable documentation.
 - 3) The PHA may obtain any tenant-provided documents and follow up directly with the third-party source to obtain necessary verification of information, when necessary.
- b. Acceptable Level 4 verification includes but are not limited to:
- 1) Pay stubs
For new income sources or when two (2) pay stubs are not available, the PHA will determine income using Level 3 (a traditional written third-party verification form) verification or the best available information.
 - 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
When verification of assets is required, the PHA will obtain a minimum of one (1) statement that reflects the current balance of banking/financial accounts.
 - 8) Child support payment stubs/printout
 - 9) Unemployment benefit notice
 - 10) Welfare benefit letters/printout
 - 11) Income tax returns with corresponding official tax forms and schedules attached, including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary, or transmittal from online source, etc.).
- c. EIV + Self-Certification
- 1) EIV may be used as Level 4 verification and may be used to calculate income as long as the family agrees with the information in EIV.
 - 2) If EIV Income Report indicates four (4) or more quarters, the PHA will use the last four (4) quarters combined to calculate the annual income.
 - 3) If EIV Income Report indicates less than four (4) quarters, the PHA will average the number of quarters indicated to calculate the annual income.

- 4) The PHA is required to obtain a minimum of two (2) current and consecutive pay stubs for determining annual income from wages when:
 - a) The PHA does not elect to use EIV + Self-Certification, or
 - b) The income type is not reported in EIV.
 - 5) The EIV Income Report must be generated within 120 days prior to the reexamination effective date.
 - d. The PHA may reject documentation/verification provided by the family for the following PHA-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 a forged document (i.e., does not appear to be authentic).
3. Level 3 (Medium): 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.
 - b. 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.).
 - c. The PHA will send a verification request form directly (by mail, fax, or email) to the third-party source to obtain information, recording the source, date, and method of the request for information.
 - d. The PHA will ensure to protect the family's personally identifiable information (PII).
 - e. The PHA may skip Level 3 verification before attempting Level 2 verification.
4. Level 2 (Medium): Oral Third-Party Verification:
 - a. The PHA shall attempt to obtain the third-party verification by contacting the individual income/expense source(s) as identified through the UIV technique, or identified by the family, via telephone.
 - b. The PHA will use Level 2 verification if the family is unable to provide Level 4 verification within 10 calendar days or the Level 3 source does not respond to the PHA's mail, fax, or email within 10 calendar days of the date of the Level 3 verification.

- 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 seven (7) 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.
 - f. The PHA may skip Level 2 verification before attempting Level 1 verification if the PHA has attempted Level 3 verification.
5. Level 1 (Low): 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 a notarized sworn statement (with penalty of perjury) of the reported income and/or expenses from the family.
 - d. The PHA will document in the family file why third-party verification was not available.
6. 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. 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

F. Verification of Date of Birth

The PHA will verify the date of birth for all household members to reduce the number of identify failures resulting from an incorrect date of birth. The PHA will use the following to verify the date of birth:

1. Birth certificate
2. Certificate of birth
 - a. A certificate of live birth filed with the registrar of the county of birth.
 - b. The certificate of live birth must contain information as per the county where filed such as but not limited to:
 - 1) The child's name
 - 2) Date of birth
 - 3) Place of birth
 - 4) Time of birth, if known
 - 5) The name, signature, and date of the physician or other person (midwife) who certifies that the child was born alive on the date, place, and time stated on the certificate of birth
3. Valid faith-based record for birth (such as a baptism, confirmation, bar mitzvah, or bat mitzvah showing age or date of birth)
4. U.S. Naturalization certification
5. Passport
6. Alien registration card
7. Divorce decree
8. Court ordered documents
9. Federal tax return
10. SSA documentation
11. Pension/retirement information
12. Military discharge paperwork, DD214

G. 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

H. 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 with 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.

I. 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 SSN

HUD recognizes the difficulty for some applicants, in particularly individuals experiencing homelessness, to comply with the SSN disclosure requirements and to protect and individual's privacy, many federal, state, and local agencies no longer print an individual's SSN on an official documents, HUD has adjusted acceptable documentation of SSN.

- a. The PHA will attempt to obtain one of the following third-party verifications of the SSN prior to admission:
 - 1) A valid SSN card issued by the SSA;
 - 2) Original document issued by a federal or state government agency which contains the name and SSN of the individual, along with other identifying information of the individual; or
 - 3) Such other evidence of the SSN as HUD may prescribe in administrative instructions.
- b. If the PHA has exhausted all other attempts to obtain the SSN, the PHA will accept a self-certification and a third-party document with the applicant's name printed on it to satisfy the SSN disclosure requirement.
- c. The PHA will document why other SSN documentation was not available.

2. HUD-SSA Computer Matching of SSN

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 HCV program, the PHA will update the family composition accordingly and complete an interim reexamination.

4. SSN Verification in EIV

- a. If the individual's SSN becomes verified in EIV, then no further verification is required.
- b. If the individual's SSN fails the SSA identity match, the PHA must obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name of the individual and the SSN of the individual, along with other identifying information of the individual.
- c. The assistance must be terminated if they fail to provide the required documentation.

5. 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 provide a written explanation of the reasons(s) why the document is not acceptable.

6. Verification of Social Security/SSI Benefits for Applicants and Participant Families

The PHA will refrain from sending or requesting applicants to go to SSA offices to obtain Social Security/SSI benefit verification or submitting requests to the SSA to verify that a family is not receiving Social Security/SSI benefits.

a. Third-Party Verification of Social Security/SSI Benefits

- 1) It is HUD's position that an SSA benefit verification letter (dated within the last 120 days of the PHA request date for information or within the PHA-tenant interview date) provided by the family or an undisputed EIV Income Report which displays the current Social Security/SSI benefit amount is third-party verification.
- 2) No additional verification is required by the PHA.

b. Third-Party Verification of Social Security/SSI Benefits for Applicants

EIV does not contain Social Security/SSI benefit information of applicants.

- 1) The PHA must request applicants to provide a copy of their Social Security/SSI benefit letter, dated within the last 120 days, for each household member that receives Social Security/SSI benefits.
- 2) Applicants can request the Social Security/SSI benefit letter:
 - a) From the SSA's website, www.ssa.gov, and clicking on the *Get benefit verification letter* link and following the prompts, or
 - b) By using the SSA's automated phone assistance by calling 1-800-772-1213 or foy TTY, 1-800-325-0778. This service is available in English and Spanish 24/7.
 - c) HUD encourages applicants to use the SSA website rather than the toll-free numbers.
 - d) The applicant should receive the benefit letter within 10 business days of the request.
- 3) The PHA will make a copy of the original Social Security/SSI benefit letter for the family file.
- 4) The PHA will use the gross Social Security/SSI benefit amount reported by the SSA's benefit letter to calculate the annual income.

c. Third-Party Verification of Social Security/SSI Benefits for Participant Families

Social Security/SSI benefit information for participant household members whose individual identity verification status in EIV is Verified, is available from the EIV system.

- 1) The PHA will use EIV to verify Social Security/SSI benefits of current participants and household members.
- 2) The PHA will view the EIV Income Report and confirm with the family that the current listed Social Security/SSI benefit amount is correct.
 - a) If the family agrees with the current EIV-reported amount, the PHA will use the EIV-reported gross Social Security/SSI benefit amount to calculate annual income from Social Security/SSI benefits.
 - b) If the family disputes the EIV-reported Social Security/SSI benefit amount, the PHA will request the family to provide current (dated within the last 120 days) SSA benefit letter.
 - c) If the family's Social Security/SSI benefit letter is not available in EIV or the family is unable to provide the Social Security/SSI benefit letter, the PHA will require the family to request the Social Security/SSI benefit letter via the SSA website or phone number.
 - (1) The PHA will make a copy of the original Social Security/SSI benefit letter for the family file.
 - (2) The PHA will use the gross Social Security/SSI benefit amount reported by the SSA's benefit letter to calculate the annual income.
 - d. The PHA will not use photocopies of Social Security/SSI checks or bank statements as acceptable forms of verification of Social Security/SSI benefits as the dollar amount listed may not be the gross Social Security/SSI benefit amount.

J. 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 because third-party verification was not available; and
3. Report the income in Section 7 of the form HUD-50058.

K. Verification Requirements for Excluded Income

There are two (2) categories of excluded income, fully excluded and partially excluded income. Each category has different verification requirements.

1. Fully Excluded Income

Income that is fully excluded means the entire amount qualifies to be excluded from annual income in accordance with the federally mandated income exclusions and any Federal Register notice on mandatory exclusions issued by HUD.

- a. For fully excluded income the PHA is not required to:
 - 1) Verify the income using third-party verification;
 - 2) Document in the tenant file because 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

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.

1. 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.
2. Examples of partially excluded income that are subject to regular verification requirements include:
 - 1) Earnings in excess of \$480 (annually adjusted by HUD for inflation) for full-time students 18 years old or older.
 - 2) Income subject to the 50% phase-in period of the Earned Income Disallowance.
3. 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.

L. Verification of Assets and Income from Assets

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

1. At the time of the income determination or income reexamination, the PHA will accept the family's self-certification of net assets and real property as acceptable documentation.
 - a. Family Self-Certification of Net Assets Equal to or less than \$50,000
 - 1) The PHA will accept the family's declaration that the family (including minor family members) has total net assets equal to or less than \$50,000, which amount will be adjusted annually by HUD for inflation.
 - a) The self-certification must state the amount of income the family anticipates receiving from all net assets.
 - b) This amount will be included in the family's income.
 - 2) All adult family members 18 years old or older must sign the family's declaration of total net assets.
 - 3) The PHA's annual or interim reexamination documentation, which is signed by all adult family members, can serve as the self-certification.
 - 4) The family's self-certification of total net assets equal to or less than \$50,000 must:
 - a) Show each asset, and
 - b) The amount of income expected from each asset.
 - c) The PHA will clarify, during the self-certification process, which assets are included, and which assets will be excluded from net family assets.
 - 5) Third-Party Verification of Net Family Assets
 - a) The PHA will not request third-party verification of assets when the PHA accepts the family's self-certification of net family assets.
 - b) Where the family has self-certified net family assets equal to or less than \$50,000, the PHA will not take additional steps to verify the accuracy of the self-certification at admission and/or reexamination.
 - c) The PHA will obtain third-party verification of all family assets every three (3) years.
 - 6) Where the family has net family assets equal to or less than \$50,000, 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.

b. Family Self-Certification of Property Ownership

At the time of admission (only for new admissions effective on or after January 1, 2024) and reexamination the PHA will accept the family's self-certification of real property as acceptable documentation.

- 1) The PHA will accept the family's self-certification that the family does not have present ownership interest in any real property.
- 2) The self-certification must also include a statement that the family does not have:
 - a) A legal right to reside in the property,
 - b) The effective legal authority to sell the property (based on state or local laws of the jurisdiction where the property is located), and/or
 - c) Real property that is suitable for occupancy by the family as a residence.

- c. If the PHA's verification of net family assets show transactions from and to the same individuals via money transferring applications such as but not limited to CashApp, Zelle, Venmo, and PayPal, the PHA will question the family about these transactions to ascertain whether the reoccurring transactions should be considered income.
- d. The PHA may combine the self-certification of net family assets and questions inquiring about the family's present ownership interest in any real property on the one form.

2. Net Assets Equal that Exceed \$50,000

The PHA will verify, by third-party verification, net family assets that exceed \$50,000 (adjusted annually by HUD for inflation).

3. Verification of Federal Tax Refund or Refundable Tax Credits

- a. The PHA is not required to verify the amount of the family's federal tax refund or refundable tax credit(s) if the family's net assets are equal to or below \$50,000 (adjusted annually for inflation), even in years when full verification of assets is required or if the PHA does not accept self-certification of assets.
- b. The PHA will verify the amount of the family's federal tax refund or refundable tax credits if the family's net assets are greater than \$50,000.

4. Verification of Assets for New Additions to the Family

- a. The PHA will obtain third-party verification of 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 \$50,000 asset threshold.
- c. If the addition of the new family member's assets does not put the family above the \$50,000 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.
6. 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.
7. 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.

8. 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.

M. 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 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 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 or
- 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 Health and Medical Care Expenses

- a. The PHA will use the most current IRS Publication 502, Medical and Dental Expenses, as 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.

6. Permissible Deductions

The PHA has elected not to adopt permissible deductions.

N. Verification of Local Preferences

Verification of the family's preferences will be conducted at the time of selection from the waiting list. At the time of application, the preference claimed by the applicant is used to place the applicant on the waiting list.

The following methods may be used based upon the PHA's preference policies:

PREFERENCES	ACCEPTABLE FORMS OF VERIFICATION
Working Families	<u>Employment:</u> • Employer verification of employment or offer of employment, Paycheck Stubs with year-to-date earnings. <u>School/Education/Job Training:</u> • Educational institution verification of full-time student/trainee status • Statement from job training site
Elderly	• Valid verification of birth
Emergency Housing Voucher	• EHV preference must apply to all families currently being assisted under the Emergency Housing Voucher Program per PIH 2021-15 who are at risk of termination due to lack of program funding.
Foster Youth	• Documentation indicating the foster status.
Veteran	Provide copy of their military service record, proof of service, or discharge documents (DD214)

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.

CHAPTER 12: SUBSIDY STANDARDS

The PHA must establish subsidy standards (also referred to as bedroom size or family unit size) for determining the number of bedrooms needed for families of different sizes and compositions. The family's unit size will be entered on the voucher issued to the family.

1. The family unit size is based on the verified family composition when the PHA determined the family's eligibility when admitted to the HCV program or the family's continue eligibility after admittance to the HCV program. The following will apply when the PHA determines the family unit size:
 - a. The subsidy standards must be consistent with space requirements under HQS.
 - b. The subsidy standard must be applied consistently for all families of like size and composition.
 - c. The subsidy standards must provide for the smallest number of bedrooms needed to house the family without overcrowding.
 - 1) No more than two persons will be required to share a bedroom.
 - 2) Persons of the opposite sex ages six (6) and over (other than spouses or intimate partners) will not be required to share a bedroom.
 - 3) Children of the same sex will share a bedroom.
 - 4) Adults of the same sex will share a bedroom. However, adults of a different generation, i.e., mother, grandmother, may be permitted separate bedrooms.
 - d. A child who is temporarily away from home because of placement in foster care is considered a member of the family in determining the family unit size.
 - e. A family that consists of a pregnant woman (with no other persons) must be treated as a two-person family.
 - f. The PHA will count the live-in aide when determining the family unit size.
 - 1) The live-in aide is permitted a separate bedroom.
 - 2) A live-in aide may have PHA-approved family member/s live with them in the assisted unit, but no additional bedrooms will be provided for the family members of the live-in aide.
 - 3) If PHA-approved live-in aide family members/s live in the assisted unit, the PHA must ensure that HQS will not be violated and there will be no more than two people per bedroom or living/sleeping space in the unit.
 - 4) If the approval of additional family members of a live-in aide would result in the violation of HQS, the additional family members of the live-in aide may not be approved.
 - g. Unless a live-in aide resides with the family, the family unit size for any family consisting of a single person must be either a zero or one-bedroom unit.

- h. The PHA may approve an additional bedroom for medical equipment if the need is documented by a health care provider.
 - 1) The PHA will verify during the biennial/annual inspection of the unit that the medical equipment is in the additional bedroom.
 - 2) If the additional bedroom is not being used for the intended purpose, the PHA will reduce the subsidy standard and corresponding payment standard at the family's next annual reexamination.
 - 3) The PHA may also take further action, including termination of assistance.

2. PHA Subsidy Standards

The PHA has established the following subsidy standards as a guideline to determine the family unit size for voucher issuance:

Subsidy Standard (Family Unit Size)	Minimum # Persons	Maximum # Persons
0 BR	1	2
1 BR	1	2
2 BR	2	4
3 BR	3	6
4 BR	4	8
5 BR	6	10

3. Exceptions to the Subsidy Standards

Exceptions to the subsidy standards will be reviewed by the HCV Director and may be allowed depending upon the family's circumstances.

- a. As a reasonable accommodation for families that includes a person with disabilities.
 - 1) Approval of a live-in aide
 - 2) Approval of a separate bedroom for medical equipment.
- b. The PHA may grant an exception to its established subsidy standards if the PHA determines that the exception is justified by the age, sex, health, handicap, or relationship of family members or other personal circumstances. (For a single person other than a disabled or elderly person or remaining family member such PHA exception may not override the limitation in paragraph (1)(g) of this chapter.)
- c. A family may request an exception to subsidy standards when a licensed professional clinician documents, for specific reasons, the need for separate bedroom accommodations.

4. Size of the Unit Occupied by the Family
 - a. The family may lease a smaller bedroom size unit than what is reflected on the voucher provided that the unit meets HQS space guidelines.
 - b. The family may lease a larger bedroom size unit than what is reflected on the voucher, however, the appropriate payment standard and utility allowance must be applied.

CHAPTER 13: BRIEFING OF FAMILIES

When the PHA selects a family to participate in the HCV program, the PHA will give the family an oral briefing and a briefing information packet to educate the family about HCV program requirements and how to search for a safe, decent, and sanitary unit.

A. Scheduling the Briefing

Prior to the issuance of the voucher to the applicant family, the PHA must give the family an oral briefing and a briefing information packet. It is the PHA's discretion to brief families who are moving with continued assistance.

1. Briefing Notice

- a. The head of the applicant family will be notified by mail at least 5 business days in advance of the briefing date and time.
- b. The notice will inform the family of what documents the family must bring to the briefing appointment.
- c. The head of household only must attend the briefing appointment.
- d. If the family fails to appear, the family may be rescheduled for the next briefing session.
 - 1) If the applicant fails to appear a second time, the application will be withdrawn.
 - 2) The applicant family can reapply when the PHA is accepting applications.
- e. As a reasonable accommodation request for persons with disabilities, the PHA will:
 - 1) Provide the notice in an accessible format.
 - 2) Conduct an alternative briefing, such as a home visit. This alternative briefing may also be conducted for elderly applicants.

2. The PHA may conduct individual or group briefings.

3. The PHA may conduct the oral briefing by:

- a. In person, face-to-face appointment
- b. Telephone
- c. Webcast
- d. Video call/video conference

4. If requested by the family, a family representative or social service representative may assist with the briefing process.

B. Oral Briefing Topics

The PHA's oral briefing will include, but is not limited to the following topics:

1. A description of how the HCV program works.
2. Family and owner/landlord responsibilities.
3. Where the family may lease a unit, including leasing a unit inside or outside the PHA's jurisdiction, and any information on selecting a unit that HUD provides.
4. An explanation of how portability works and how portability may affect the family's eligibility through:
 - a. Receiving PHA screening criteria.
 - b. Changes in subsidy standards.
 - c. Changes in payment standards.
 - d. Other elements of the portability process that may affect the family's assistance.
 - e. The PHA will not discourage the family from choosing to live anywhere in the PHA jurisdiction, or outside the PHA jurisdiction under portability procedures, unless otherwise expressly authorized by statute, regulation, PIH Notice, or court order.
5. An explanation of the advantages of moving to areas outside of poverty or minority concentration.

C. Contents of the Briefing Packet

When a family is selected to participate in the program, the PHA will provide the family a briefing information packet that will include, but is not limited to the following information:

1. The initial term of the voucher, voucher suspensions, and the PHA's policy on any extensions of the term of the voucher. If the PHA grants extensions, the briefing information packet must explain how the family can request an extension.
2. Enterprise Income Verification (EIV) System
3. How the PHA determines the housing assistance payment for a family including prorated assistance for mixed families.
4. How the PHA determines the total tenant payment (TTP).
5. The PHA's policy on minimum rent hardship exemptions
 - a. The family's right to request a minimum rent hardship exemption.
 - b. How to request a minimum rent hardship exemption.
 - c. Minimum hardship exemptions are subject to the PHA's Informal Hearing process.
6. How the PHA determines the payment standard for a family.
7. How the PHA determines the PHA's Utility Allowance Schedule.

8. How the PHA determines the maximum rent for an assisted unit.
9. Where the family may lease a unit.
10. Information that they may choose any unit within the PHA's jurisdiction as long as the program requirements are met regarding the unit.
11. Information about general locations and characteristics of neighborhoods.
12. A map which identifies areas representing various income levels, including areas of low-poverty and minority concentrations, of the PHA jurisdiction and surrounding areas for the purpose of expanding housing opportunities for families.
13. A listing of rental property known to be available for lease.

These listings may show addresses, shopping centers, bus lines, amenities, deposit information, etc., as provided by owners/landlords.
14. An explanation of how portability works and how portability may affect the family's eligibility through:
 - a. Receiving PHA screening criteria.
 - b. Changes in subsidy standards.
 - c. Changes in payment standards.
 - d. Other elements of the portability process that may affect the family's assistance.
15. The HUD-required tenancy lease addendum which must be included with the lease.
16. The request for tenancy approval (RFTA) form and an explanation of how to request PHA approval to lease a unit.
17. A statement of the PHA policy on providing information about a family to prospective owners/landlords.
18. PHA subsidy standards, including when the PHA will consider granting exceptions to the standards, and when exceptions are required as a reasonable accommodation for persons with disabilities under Section 504, the Fair Housing Act, or the Americans with Disabilities Act.
19. The HUD brochure on how to select a unit.
20. The HUD lead-based paint (LBP) brochure.
21. Information on federal, state, and local equal opportunity laws, the contact information for the Section 504 coordinator, a copy of the housing discrimination complaint form, and information on how to request a reasonable accommodation or modification (including information on requesting exception payment standards as a reasonable accommodation) under Section 504, the Fair Housing Act, and the Americans with Disabilities Act.

22. A list of landlords known to the PHA who may be willing to lease a unit to the family or other resources (e.g., newspapers, organizations, online search tools) known to the PHA that may assist the family in locating a unit.

PHAs must ensure that the list of landlords or other resources covers areas outside of poverty or minority concentration.

23. Notice that if the family includes a person with disabilities, the PHA will provide a current listing of accessible units known to the PHA, and, if necessary, other assistance in locating an available accessible unit.

24. Obligations of the Family under the program.

25. The advantages of areas that do not have a high concentration of low-income families which may include, access to accessible and high-quality housing, transit, employment opportunities, educational opportunities, recreational facilities, public safety stations, retail services, and health services.

26. Information whereby if the family is in non-compliance with a PHA Repayment Agreement that the family may be subject to termination of tenancy or assistance, or both.

27. Violence Against Women Reauthorization Act protections.

28. Requirements for reporting changes between reexaminations.

29. Explanation of reasonable accommodation and how persons with disabilities may request a reasonable accommodation.

30. The grounds on which the PHA may terminate assistance for a participant family because of family's actions or failure to act.

31. A description of when the PHA is required to give a participant the opportunity for an informal hearing.

This information shall describe when the PHA is required to give a participant family the opportunity for an informal hearing, and how to request a hearing.

32. HQS Checklist.

33. What the family should consider in deciding whether to lease a unit, including:

- a. The condition of a unit.
- b. Whether the rent is reasonable.
- c. The cost of any resident-paid utilities and whether the unit is energy-efficient.
- d. The location of the unit, including proximity to public transportation, centers of employment, schools, and shopping.

35. Education on the prevention of carbon monoxide exposure.
36. Procedures for notifying the PHA and/or HUD of program abuses such as side payments, extra charges, violations of tenant rights, and owner failure to repair.
37. Information on security deposits.

D. Effective Communication

The PHA will take appropriate steps to ensure effective and meaningful access communication when briefing families that includes persons with disabilities or persons with Limited English Proficiency.

The PHA will ensure that briefing materials are in an appropriate alternative format as needed to ensure effective communication such as:

1. Braille materials
2. Audio
3. Large type
4. Sign language
5. Interpreters
6. Accessible electronic communications
7. Transcription services,
8. Assistive listening devices

CHAPTER 14: ISSUANCE OF THE HOUSING CHOICE VOUCHER

When a family is selected from the waiting list or an HCV participant family wants to move with continued assistance, the PHA will issue a voucher to the eligible family to search for a safe, decent, and sanitary unit.

A. General Voucher Information

The voucher is evidence that the PHA has determined the family's eligibility to participate in the HCV program and it is the family's authorization to search for unit under the HCV program.

1. The voucher specifies the unit size for which the family qualifies.
2. The voucher specifies the date of issuance and the date of expiration.
3. The PHA is under no obligation to the family, to any owner, or to any other person, to approve a tenancy.
4. The PHA does not have any liability to any party by the issuance of the voucher.
5. The voucher does not give the family any right to participate in the HCV program.
6. The family becomes a participant in the PHA's HCV program when the HAP contract between the PHA and owner takes effect.
7. Verification used to establish eligibility and the level of benefits may not be more than 60 days old as of the voucher issuance date.

B. Initial Term of the Voucher

The initial term of the voucher must be at least 60 calendar days.

1. The PHA's initial term of the voucher is 60 calendar days.
2. The family must submit the request for tenancy approval, a copy of the proposed lease, and the HUD-tenancy addendum, prior to the expiration date of the voucher.

C. Suspension of the Voucher Term

The PHA will suspend the initial or any extended term of the voucher from the date that the family submits the request for tenancy approval until the date the PHA notifies the family in writing whether the request has been approved or denied.

D. Extension of the Voucher Term

At its discretion, the PHA may grant the family one or more extensions of the initial term of the voucher.

1. PHA Granted Extensions:
 - a. The family must request an extension of the voucher term in writing.

- b. The request for an extension of the voucher term must be received prior to the expiration date of the voucher.
2. During the initial term of the voucher, the family will be required to show satisfactory proof of their efforts to find a suitable unit before the PHA will grant an extension.
 - a. This proof includes dates and times of housing inquiries and the names of contacts made during the search.
 - b. The PHA will review with the family the efforts it has made to find a suitable unit and the problems the family has encountered.
 - c. The PHA shall offer advice or assistance which may be helpful in assisting the family locate appropriate and an affordable unit.
 - d. If the PHA determines there is a reasonable possibility that the family cannot locate a suitable unit, the PHA will grant an extension for an additional amount of time.
3. The PHA will grant a maximum of two (2) extensions for a maximum of 60 days.
4. If the family needs and requests an extension of the initial voucher term as a reasonable accommodation to make the program accessible to a family member who is a person with disabilities, the PHA will extend the voucher term up to the term reasonably required for that purpose.
5. The PHA will provide notice to the family if the extension is granted.

E. Expiration of Voucher Term

The expiration of the voucher term is the deadline for submission of a request for tenancy approval to the PHA.

1. Applicant Families
 - a. When an applicant family's voucher term expires with or without an extension, the PHA will require the family to reapply when the PHA begins accepting applications.
 - b. The PHA will not determine the family ineligible for the HCV program on the grounds that the family was not able to lease up.
2. If a participant family's voucher term expires with or without an extension, the family will be terminated from the HCV program and required to reapply when the PHA begins accepting applications.

CHAPTER 15: TENANCY APPROVAL

Upon locating a unit that is suitable and if the owner is willing to lease the unit to the family under the HCV program, the family must request tenancy approval of the unit from the PHA. For purposes of this chapter, "owner" includes a principal, landlord, or other interested party.

A. HUD-52517, Request for Tenancy Approval

When the family selects a unit, the owner of the unit completes the Request for Tenancy Approval (RFTA) form to provide the PHA information about the unit. The RFTA is used to determine if the unit is eligible for rental assistance.

1. The following documents must be submitted to the PHA to begin the process of approving the unit selected by the family:
 - a. Request for Tenancy Approval.
 - 1) The PHA will use the form HUD-52517.
 - 2) The PHA will permit a family to submit only one (1) RFTA at a time
 - 3) The RFTA must be completed and signed by both the owner and the family.
 - b. A copy of the proposed lease (unsigned) between the owner and the family
 - c. The HUD prescribed tenancy addendum (form HUD-852641-A).
2. The RFTA, the proposed lease, and the HUD prescribed tenancy addendum must be submitted to the PHA no later than the expiration date stated on the voucher.
3. The following are acceptable methods of submitting the RFTA, proposed lease, and the HUD prescribed tenancy addendum:
 - a. Family delivers the RFTA in person without an appointment
 - b. Family calls for appointment then delivers the RFTA
 - c. Family mails the RFTA into the PHA
 - d. Family faxes the RFTA into the PHA
 - e. Family emails the RFTA into the PHA
 - f. Landlord delivers the RFTA in person without an appointment
 - g. Landlord calls for appointment then delivers the RFTA
 - h. Landlord mails the RFTA into the PHA
 - i. Landlord faxes the RFTA into the PHA
 - j. Landlord emails the RFTA into the PHA

4. Owner's Certification

- a. Owners of projects with more than four (4) units must provide rent amounts for recently lease comparable unassisted units within the premises for the purposes of the PHA's determination of rent reasonableness.
- b. If there is any difference between the rent amounts for the recently leased comparable unassisted units and the proposed rent, the owner must provide an explanation for the difference.
- c. The PHA may require supporting documentation for the difference in rent when applicable.
- d. Owner Relationship Certification
 - 1) The owner, including a principal or other interested party, must certify that they are not related to any member of the family (parent, child, grandparents, grandchild, sister, or brother).
 - 2) The certification will not be required if the PHA has granted a request for reasonable accommodation to approve the lease, notwithstanding such relationship, for a family member who is a person with disabilities.

5. Owner Lead-Based Paint Certification

For units built prior to 1978, the owner must either:

- a. Certify that the unit, common areas, and exterior have been found to be free of lead-based paint by a certified inspector; or
- b. Attach a lead-based paint disclosure statement.

B. Ineligible Housing

The PHA will not approve a request for tenancy for a family if the unit that is selected is one of the following:

1. Public or Indian housing unit;
2. Unit receiving Section 8 project-based assistance;
3. Nursing homes, board and care homes, or facilities providing continual psychiatric, medical, or nursing services;
4. College or other school dormitories;
5. Units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions;
6. Unit occupied by the owner or by a person with interest in the dwelling unit. Except for families residing in a cooperative, who are owners of a manufactured home lease the manufactured home space, or as a reasonable accommodation for a person with disabilities; or

7. A unit owned by an owner or managed by a landlord who is disbarred, suspended or subject to a limited denial of participation in the HCV program.

C. PHA-Owned Units

A unit in a project that is owned by the PHA (including having a controlling interest in the entity that owns the project), owned by an entity wholly controlled by the PHA, or owned by a limited liability company or limited partnership in which the PHA (or an entity wholly controlled by the PHA) holds a controlling interest in the managing member or general partner.

1. A controlling interest is:
 - a. Holding more than 50% of the stock of any corporation;
 - b. Having the power to appoint more than 50% of the members of the Board of Directors of a non-stock corporation (such as a nonprofit corporation);
 - c. Where more than 50% of the members of the Board of Directors of any corporation also serve as directors, officers, or employees of the PHA;
 - d. Holding more than 50% of all managing member interests in an LLC;
 - e. Holding more than 50% of all general partner interests in a partnership; or
 - f. Equivalent levels of control in other ownership structures.
2. PHA-owned units may be assisted under the tenant-based program only if all of the following are satisfied:
 - a. The PHA will, through the briefing process and at moves, inform the family, both orally and in writing, that the family has the right to select any eligible unit available for lease.
 - b. A PHA-owned unit is freely selected by the family, without PHA pressure or steering.
 - c. The unit is not ineligible housing.
 - d. During the assisted occupancy, the family may not benefit from any form of housing subsidy that is prohibited in section D of this Chapter.
3. Use of a HUD-approved Independent Entity for PHA-owned Housing

The independent agency may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government) or may be another HUD-approved independent agency.

 - a. The PHA will obtain the services of a HUD-approved independent entity to perform the following PHA functions as required under the program rule:
 - 1) To determine rent reasonableness. The independent agency shall communicate the rent reasonableness determination to the family and the PHA.
 - 2) To assist the family to negotiate the rent to owner.

- 3) To inspect the unit for compliance with the HQS. The independent agency shall communicate the results of each such inspection to the family and the PHA.
- b. The PHA may compensate the independent agency from PHA ongoing administrative fee income for the services performed by the independent agency.
 - 1) The PHA may not use other program receipts to compensate the independent agency for such services.
 - 2) The PHA and the independent agency may not charge the family any fee or charge for the services provided by the independent agency.

D. Prohibition Against Other Housing Subsidies

A family may not receive the benefit of tenant-based assistance while receiving the benefit of any of the following forms of other housing subsidy, for the same unit or for a different unit:

1. Public or Indian housing assistance;
2. Other Section 8 assistance (including other tenant-based assistance);
3. Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974);
4. Section 101 rent supplements;
5. Section 236 rental assistance payments;
6. Tenant-based assistance under the HOME Program;
7. Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration);
8. Any local or state rent subsidy;
9. Section 202 supportive housing for the elderly;
10. Section 811 supportive housing for persons with disabilities;
11. Section 202 projects for non-elderly persons with disabilities (Section 162 assistance); or
12. Any other duplicative federal, state, or local housing subsidy, as determined by HUD. For this purpose, "housing subsidy" does not include the housing component of a welfare payment, a social security payment received by the family, or a rent reduction because of a tax credit.

E. PHA's Disapproval of Owner

The PHA will not approve an assisted tenancy if the PHA has been informed by HUD or another party that the owner (includes a principal or other interested party) is debarred, suspended, or subject to a limited denial or participation.

1. When directed by HUD, the PHA will not approve an assisted tenancy if:
 - a. The federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other federal equal opportunity requirements and such action is pending; or
 - b. A court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements.

2. PHA's Discretion to Disapprove an Owner

The PHA, at its discretion, will deny approval of an assisted tenancy for any of the following reasons, if the owner has:

- a. Violated obligations under one or more HAP contracts under the HCV or PBV programs or any other housing program under Section 8 of the U.S. Housing Act of 1937.
- b. Committed fraud, bribery or other corrupt or criminal act in connection with any federal housing program.
- c. Participated or is currently engaging in any recent drug-related criminal activity or any violent criminal activity.

If the PHA decides to disapprove an owner for participation in drug-related criminal activity or violent criminal activity, the PHA will consider the nature, severity, and recency of the offense, as well as any mitigating circumstances.

- d. A practice or has had a practice of non-compliance with HQS in HCV or PBV programs or with applicable housing standards for units leased under any other federal housing program.
- e. A history or practice of refusing to terminate tenancy of tenants assisted under the HCV program or any other assisted housing program for activity engaged in by the tenant, any member of the household, a guest, or another person(s) under the control of any member of the household that:
 - 1) Threatens the right to peaceful enjoyment of the premises by other residents;
 - 2) Threatens the health or safety of residents, PHA employees, owner employees, contractors, or other persons engaged in management of the housing;
 - 3) Threatens the health or safety, or right to peaceful enjoyment of the residence of neighbors or persons residing in the immediate vicinity of the premises; or
 - 4) Is currently engaged in drug-related criminal activity or violent criminal activity.
 - 5) The PHA will take into account whether an owner implements sound practices when determining whether to evict individuals based on criminal activity.
 - a) Sound practices include but are not limited to relying on accurate and reliable objective evidence, conducting individualized assessments that consider mitigating factors, and considering the potential applicability of VAWA's

housing protections for survivors of domestic violence, dating violence, sexual assault, and stalking.

- b) The PHA will also take into account whether an owner institutes policies or practices that promote eviction in a manner that gives rise to fair housing concerns.
 - f. A history or practice of renting units that fail to meet state and local housing codes.
 - g. Not paid state or local real estate taxes, fines, or assessments.
 - h. The PHA will not approve a lease if the owner of the unit is the parent (stepparent), child (stepchild), grandparent, grandchild, sister (stepsister) or brother (stepbrother) of the Section 8 household. An exception may be made to this provision as reasonable accommodation for a person with a disability.
- 3. The PHA will not allow the owner/landlord to present evidence to appeal the decision to deny their participation in the program.
 - 4. Nothing in this paragraph is intended to give any owner any right to participate in the HCV program.

F. Notification to Family and Owner

The PHA will notify the family and the owner, in writing, if the request for tenancy approval has been approved or denied.

- 1. Request for Tenancy Approval - Denied
 - a. If the PHA denies the request for tenancy approval, the PHA will notify owner in writing with the specific reasons for denial, including HQS deficiencies.
 - b. The PHA will notify the family in writing that the request for tenancy approval has been denied.
 - 1) The suspended term of the voucher will be added to the end of the voucher term.
 - 2) The family will be issued another RFTA to look for another unit.
- 2. Request for Tenancy Approval – Approved
 - a. If the PHA approves the request for tenancy approval, the PHA will notify the owner in writing.
 - b. The PHA will notify the family in writing that the request for tenancy approval has been approved and the PHA will proceed with the lease-up process.

CHAPTER 16: UTILITY ALLOWANCE

A utility allowance is calculated for families who are required to pay utilities or supply the unit's range/microwave or refrigerator.

A. Utility Allowance Schedule Review and Revision

The PHA is responsible for establishing and maintaining a utility allowance schedule that provides a reasonable utility allowance for tenant-paid utilities, services, and tenant provided appliances.

1. The PHA will review the utility allowance schedule annually.
2. The PHA will revise the utility allowance schedule if there has been a change of 10% or more in the utility rate since the last time the utility allowance schedule was revised.
3. The PHA will record its utility allowance schedule, with effective date, on form HUD-52667 using a separate form for each housing type.
4. Revised utility allowances will be applied in the family's rent calculation at the family's next annual reexamination.
5. The PHA must provide HUD with a copy of the utility allowance schedule.
6. The PHA will maintain supporting documentation to substantiate the review and revision of the utility allowance schedule.

B. Utility Allowance Schedule

If the family is responsible for paying for some or all utilities, the PHA will provide the family with a utility allowance. The request for tenancy approval submitted by the owner and the family will indicate which utilities are tenant-paid, are included in the rent to the owner, and if the family is responsible for supplying any appliance.

The PHA's utility allowance schedule, and the utility allowance for an individual family, will include the utilities and services that are necessary in the locality to provide housing that complies with HQS. The PHA's utility allowance schedule and utility allowance for families will also include any utilities and services required by HUD after publication in the Federal Register.

1. The PHA must maintain an area-wide utility allowance schedule
 - a. The area-wide utility allowance schedule is calculated for tenant-paid utilities based on the typical cost of utilities and services paid by energy-conservative households that occupy assisted housing of similar size and type in the same locality.
 - b. In developing the utility allowance schedule, the PHA will use normal patterns of consumption for the community as a whole and current utility rates.
 - c. The utility allowance is not based on the family's actual energy consumption.

2. In the utility allowance schedule, the PHA will classify utilities and other housing services in accordance to the following general categories:
 - a. Space heating,
 - b. Cooking,
 - c. Other electric (e.g., lights, appliances, general usage),
 - d. Air conditioning (if the majority of housing units in the PHA's market provide centrally air-conditioned units or there is appropriate wiring for tenant-installed air conditioners),
 - e. Water heating,
 - f. Water,
 - g. Sewer,
 - h. Trash collection (disposal of waste and refuse),
 - i. Cost of tenant-supplied range,
 - j. Cost of tenant-supplied refrigerator,
 - k. Applicable surcharges, and
 - l. Other specified housing services.
3. The PHA will consider the fuel type for the utilities such as:
 - a. Natural Gas
 - b. Bottled Gas
 - c. Electric
 - d. Electric-Heat Pump
 - e. Fuel Oil
 - f. Other
4. The PHA will not consider allowances for personal expenses, such as telephone and non-essential utility costs such as the cost of cable or satellite television.
5. If all the utilities are included in the rent to the owner, the family will not receive a utility allowance.
6. The family responsibilities of utilities and appliances on form HUD-52667, the request for tenancy approval form, and the HQS Inspection Checklist or HQS Inspection Form must match and are incorporated into the lease and the HAP contract.
7. The owner and the family must report to the PHA any changes made in the responsibility for payment of any utility and responsibility to provide any appliance.

C. Administration

The PHA will provide the approved utility allowance schedule to the family during the oral briefing session when the family is selected to participate in the HCV program, during regularly scheduled reexaminations for continued assistance, when the family moves within the PHA's jurisdiction, and upon request by the family.

1. The utility allowance for a family shall be the lesser of:
 - a. The family unit size as determined under the PHA subsidy standards, or
 - b. The size of unit actually leased by the family.
2. The size of the unit actually leased by the family.

In cases where the unit size leased exceeds the family unit size as determined under the PHA subsidy standards as a result of a reasonable accommodation, the PHA will use the appropriate utility allowance for the size of the unit actually leased by the family.

3. Higher utility allowance as reasonable accommodation for a person with disabilities.

On request from a family that includes a person with disabilities, the PHA will approve a utility allowance which 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 usable by the family member with a disability.

CHAPTER 17: PAYMENT STANDARDS

The payment standard is an amount generally needed to rent a moderately-priced unit in the PHA's local housing market and it is used to calculate the amount of housing assistance a family will receive. The payment standard is the maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

A. The Payment Standard for the Family

The payment standard for the family will be the lower of:

1. The payment standard amount for the family unit size; or
2. The payment standard amount for the size of the unit rented by the family.

B. Establishing Payment Standard Schedule

For each payment standard area, the PHA will establish a payment standard amount for each unit size, measured by the number of bedrooms (zero-bedroom, one-bedroom, and so on). These payment standard amounts comprise of the PHA's payment standard schedule.

1. Fair Market Rents (FMRs)
 - a. Are estimates of rent plus the cost of utilities, except telephone.
 - b. FMRs are housing market-wide estimates of rents that provide opportunities to rent standard quality housing throughout the geographic area in which rental housing units are in competition.
2. Payment Standard Areas

Annually, HUD publishes the FMRs for U.S. Postal Service zip code areas, metropolitan areas, and nonmetropolitan counties. Within each of these FMR areas, the applicable FMR is:

- a. The HUD-published Small Area FMR for:
 - 1) The HUD-published metropolitan FMR for any other metropolitan area.
 - 2) The HUD-published FMR for any other non-metropolitan county.
- b. The PHA must adopt a payment standard schedule that establishes voucher payment standard amounts for each FMR area in the PHA's jurisdiction.

These payment standard amounts are used to calculate the monthly housing assistance payment for a family.

- c. Designated Payment Standard Areas

The PHA may designate payment standard areas within each FMR area.

- 1) The PHA may establish different payment standard amounts for such designated areas.

- 2) If the PHA designated payment standard areas, the criteria used to determine the designated areas and the payment standard amounts for those areas is as follows:
 - 3) The PHA may designate payment standard areas within which payment standards will be established according to the basic range or exception payment standard.
 - 4) A PHA-designated payment standard area may be no smaller than a census tract block group.
3. Small Area Fair Market Rents (SAFMRs)
- Are FMRs established for U.S. Postal Service ZIP code areas and are calculated in accordance with 24 CFR 888.113(a) and (b).
4. Basic Range
- a. A basic range payment standard amount is any dollar amount that is in the range between 90% up to 110% of the published FMR.
 - b. The PHA may establish a payment standard amount within the basic range without HUD approval or prior notification to HUD.
 - c. The PHA's basic range payment standard amount for each unit size may be based on the same percentage of the published FMR or the PHA may establish different payment standard amounts for different unit sizes.
 - d. As a MTW agency, the PHA will establish a payment standard amount at 120% of the published FMR.
5. Exception Payment Standard Amounts
- An exception payment standard amount is a dollar amount that exceeds 110% of the published FMR.
- a. The PHA may establish exception payment standard amounts for all units or for units of a particular size.
 - 1) The exception payment standard may be established for a designated part of the FMR area (called an 'exception area') or for the entire FMR area.
 - 2) The exception area must meet the minimum area requirements.
 - b. If the PHA is not in a designated SAFMR area or has not opted voluntarily to implement SAFMRs, the PHA may establish exception payment standards for a zip code area that exceed the basic range for the metropolitan area or county FMR as long as the amounts established by the PHA do not exceed 110% of the HUD published SAFMR for the applicable zip code.
 - 1) The exception payment standard must apply to the entire zip code area.
 - 2) If an exception area crosses one or more FMR boundaries, then the maximum exception payment standard amount that the PHA may adopt for the exception area without HUD approval is 110% of the zip code area with the lowest SAFMR

amount.

- 3) If the PHA qualifies for an exception payment standard above 110% of the applicable FMR, the PHA may establish exception payment standards up to the same percentage of the SAFMR for the applicable zip code.
- c. The PHA may establish exception payment standard amounts between 110% and 120% of the applicable FMR for such duration as HUD specifies by notice upon notification to HUD that the PHA meets at least one of the following criteria:
 - a. Fewer than 75% of the families to whom the PHA issued tenant-based rental vouchers during the most recent 12-month period for which there is success rate data available have become participants in the voucher program;
 - b. More than 40% of families with tenant-based rental assistance administered by the PHA pay more than 30% of adjusted income as the family share; or
 - c. Such other criteria as the Secretary establishes by notice.

d. Establishment of Payment Standards Above 110% of the Applicable FMR

Except as provided in paragraphs 5.b., 5.c., and 5.e. of this Section, the PHA must request approval from HUD to establish an exception payment standard amount that exceeds 110% of the applicable FMR.

- 1) In its request to HUD, the PHA must provide rental market data demonstrating that the requested exception payment standard amount is needed for families to access rental units.
 - 2) The rental market data must include a rent estimate for the entire FMR area compared with a rent estimate for the proposed exception area.
 - 3) To apply the exception payment standard to the entire FMR area, the rental market data provided by the PHA must also provide data that demonstrates that the annual percentage of rent inflation in the FMR area is greater than the rental inflation adjustment factor in the calculation of the published FMR.
 - 4) Once HUD has approved the exception payment standard for the PHA, any other PHA with jurisdiction in the HUD approved exception payment standard area may also use the exception payment standard amount.
- e. Exception Payment Standard as a Reasonable Accommodation
- 1) If required as a reasonable accommodation in accordance for a person with a disability, the PHA may establish, without HUD approval or prior notification to HUD, an exception payment standard amount for an individual family that does not exceed 120% of the applicable FMR.
 - 2) The PHA may establish a payment standard greater than 120% of the applicable FMR as a reasonable accommodation for a person with a disability, after requesting and receiving HUD approval.

- 3) The unit must meet the reasonable rent requirements.
6. Establishment of Payment Standards Below 90% of Applicable FMR

HUD may consider the PHA's request for approval to establish a payment standard amount that is lower than the basic range.

 - a. At HUD's sole discretion, HUD may approve PHA establishment of a payment standard lower than the basic range.
 - b. In determining whether to approve the PHA request, HUD will consider appropriate factors, including rent burden of families assisted under the PHA's HCV program.
 - c. Unless it is necessary to prevent termination of program participants, HUD will not approve a lower payment standard if the proposed payment standard would, if it were used to calculate the housing assistance payments for current participants in the PHA's voucher program using currently available data, cause the family share for more than 40% of participants with tenant-based rental assistance to exceed 30% of adjusted monthly income.

C. Separate Payment Standards

If the PHA has established a separate payment standard amount for a designated part of an FMR area (including an exception payment standard amount), and the dwelling unit is located in such designated part, the PHA must use the appropriate payment standard amount for such designated part to calculate the payment standard for the family.

D. PHA Review and Revising the Payment Standards

The PHA will review its payment standards at least annually. The PHA will review the payment standards no later than three (3) months following the effective date of the published FMR. If necessary, the PHA will revise its payment standards to ensure the payment standards remain within the basic range.

1. Effective date of the revised payment standards for annual reexaminations
 - a. For annual reexaminations of income with an effective date prior to the effective date of the new payment standards, the PHA will use the old payment standards amount.
 - b. For reexaminations of income that are effective on or after the effective date of the new payment standards, the PHA will use the new payment standards amount.
2. Effective date of revised payment standards for newly issued vouchers
 - a. If the effective date of the HAP contract is before the effective date of the new payment standards, the PHA will use the old payment standards amount.
 - b. If the effective date of the HAP contract is after the effective date of the new payment standards, the PHA will use the new payment standards amount.

E. HUD Review of the PHA's Payment Standard Schedules

HUD will monitor rent burdens of families assisted with tenant-based rental assistance in the PHA's HCV program.

1. HUD will review the PHA's payment standard for a particular unit size if HUD finds that 40% or more of such families occupying units of that unit size currently pay more than 30% of adjusted monthly income as the family share.
2. Such determination may be based on the most recent reexaminations of family income.
3. After such review, HUD may, at its discretion, require the PHA to modify payment standard amounts for any unit size on the PHA payment standard schedule.
4. HUD may require the PHA to establish an increased payment standard amount within the basic range.

F. Increases in the Payment Standard

1. Increase in the Payment Standard Amount During the HAP Contract Term

If the payment standard amount is increased during the term of the HAP contract, the PHA will use the increased payment standard amount to calculate the monthly HAP for the family beginning no later than the earliest of:

- a. The effective date of an increase in the gross rent that would result in an increase in the family share;
- b. The family's first regular or interim reexamination; or
- c. One year following the effective date of the increase in the payment standard amount.
- d. The PHA has not adopted a policy to apply a payment standard increase at any time earlier than listed above.

2. Increase in the Payment Standard Amount for New Admission or Moves with Continued Assistance

If the PHA increases its payment standard amount, the increased payment standard amount applies immediately to all new admissions, moves, and families remaining in their units when the PHA has approved a new tenancy and has executed a new HAP contract with the owner.

G. Decreases in the Payment Standard

HOTMA amended the Fair Housing Act to provide that no PHA is required to reduce a family's payment standard based on a reduction in the FMR.

1. Decrease in the Payment Standard Amount During the HAP Contract Term

- a. If the payment standard amount is decreased during the term of the HAP contract, the PHA will not apply the initial reduction to the family's payment standard amount

any earlier than two (2) years following the effective date of the decrease in the payment standard, and only if the family has received the required notice.

- b. Decrease in the Payment Standard Amount for New Admission or Moves with Continued Assistance

If the PHA decreases its payment standard amount, the decreased payment standard amount applies immediately to all new admissions, moves with continued assistance, and families remaining in their units when the PHA has approved a new tenancy and has executed a new HAP contract with the owner.

- 2. The PHA will administer decreases in the payment standard amount for the family in accordance with the PHA policy as described in this PHA Administrative Plan.
 - a. The PHA may establish different policies for designated areas within its jurisdiction (e.g., for different zip code areas).
 - b. The PHA's administrative policy on decreases to payment standard during the term of the HAP contract applies to all families under HAP contract at the time of the effective date of decrease in the payment standard within that designated area.
 - c. The PHA will not limit or otherwise establish different protections or policies for certain families under HAP contract.
- 3. Required Notice for Decreases in the Payment
 - a. The PHA will provide the family with at least 12 months' written notice of any decrease in the payment standard amount that will affect the family if the family remains in the unit.
 - b. The written notice must state:
 - 1) The new payment standard amount,
 - 2) Explain that the family's new payment standard amount will be the greater of the amount listed in the current written notice or the new amount (if any) on the PHA's payment standard schedule at the end of the 12-month period, and
 - 3) Make clear where the family will find the PHA's payment standard schedule.

H. Changes in Family Unit Size During the Term of the HAP Contract

If the family unit size either increases or decreases during the HAP contract term, the new family unit size may be used to determine the payment standard amount for the family immediately but no later than the family's first regular reexamination following the change in family unit size.

CHAPTER 18: NATIONAL STANDARDS FOR THE PHYSICAL INSPECTION OF REAL ESTATE (NSPIRE)

The Economic Growth Regulatory Relief and Consumer Protection Act: Implementation of National Standards for the Physical Inspection of Real Estate (NSPIRE) establishes a new approach to defining and assessing housing quality. NSPIRE strengthens HUD's physical condition standards and improves HUD oversight by aligning and consolidating the inspection regulations used to evaluate "HUD housing," across multiple programs. Implementation of NSPIRE ensures that families of HUD housing live in safe, habitable dwellings. It also ensures that the items and components located both inside and outside, and within the units of HUD housing are functionally adequate, operable, and free of health and safety hazards.

A. Housing Quality Standards (HQS)

The minimum quality standards for the HCV program developed by HUD in accordance with NSPIRE, including any variations approved by HUD for the PHA.

1. NSPIRE implementation compliance deadline has been extended to October 1, 2025, for the HCV program.
2. NSPIRE replaces all HQS guidance previously issued by HUD, including the Housing Inspection Manual for the Section 8 Existing Housing Program, Chapter 10: Housing Quality Standards of the 2001 Housing Choice Voucher Program Guidebook, and HUD forms 52580 and 52580-A.
3. NSPIRE for the HCV program, referred to as NSPIRE-V during HUD's demonstration, will replace HQS as the inspection standards for these programs.
 - a. Units subject to HQS inspections conducted prior to the PHA's implementation date of NSPIRE will be subject to HUD's and the PHA's HQS administrative and enforcement policies in effect at the time of those inspections.
 - b. The PHA may continue to utilize current HQS guidance, including HUD forms 52580 and 52580-A.

B. Use of NSPIRE Notification

When the PHA implements inspections using the NSPIRE Standards, the PHA must notify HUD and communicate with its owners/landlords and families the upcoming changes to the inspection standards.

1. PHA's Implementation of NSPIRE before October 1, 2024.

If the PHA plans to implement NSPIRE after October 1, 2023, but before October 1, 2024, the PHA must notify HUD that NSPIRE will now be used and the date the PHA will implement NSPIRE (which may be no later than October 1, 2024).

2. PHA Continued use of HQS

The PHA must notify HUD of its continued use of HQS and the date by which the PHA tentatively plans to implement NSPIRE (which may be no later than October 1, 2024).

3. The PHA will notify the owners/landlords of NSPIRE, what the NSPIRE Standards are, and when these changes will take effect for their inspections.

C. Types of Inspections

The PHA will conduct the following types of inspections:

1. Initial Inspections: The PHA conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV program. The unit must pass the initial inspection prior to the initial term of the lease, execution of HAP contract, and the initial HAP.
2. Biennial Inspections: HUD requires the PHA to inspect each unit under lease at least biennially to confirm that the unit still meets HQS. The inspection may be conducted in conjunction with the family's annual reexamination, but also may be conducted separately.
3. Complaint or Special Inspections: Inspections investigated by the PHA or registered with the PHA on matters which may indicate non-compliance with HQS that are identified by the family, owner, or general public.
4. HQS Quality Control Inspections: HUD requires that a PHA supervisor or other qualified person reinspect a sample of units under HAP contract during the last PHA fiscal year to ensure that HQS is being enforced correctly and consistently by all inspectors.

D. Inspection Verification Methods

The PHA must verify correction of a deficiency.

1. The PHA may use verification methods other than another onsite inspection.
2. The PHA may establish different verification methods for initial and non-initial inspections or for different HQS deficiencies.

The PHA has elected not to use the discretionary NLT (non-life-threatening) or the alternative inspections methods.

3. The PHA may accept photographic evidence or other reliable evidence from the owner to verify that a deficiency has been corrected for initial inspections or reinspections.

E. Initial HQS Inspection

The PHA is required to conduct an initial inspection for each unit and the unit must pass the initial inspection prior to the initial term of the lease, execution of the HAP contract, and the initial HAP.

1. The initial inspection will be conducted to:
 - a. Determine if the unit and property is in compliance with HQS.
 - b. Document the current condition of the unit to assist in future evaluations as to whether or not the condition of the unit exceeds normal wear and tear.
 - c. Document the information to be used for determination of rent-reasonableness.
2. Initial HQS inspection requirements

Unless the PHA has implemented, and determined that the unit is covered by the non-life-threatening deficiencies option or the alternative inspection option, the unit must be inspected by the PHA and pass HQS before:

 - a. The PHA may approve the assisted tenancy and execute the HAP contract, and
 - b. The beginning of the initial lease term.
3. Recording the Initial Inspection
 - a. The initial inspection will be recorded using the form HUD-52580-A, Inspection Form Housing Choice Voucher Program, or the form HUD-52580, Inspection Checklist Housing Choice Voucher Program.
 - b. If the PHA has received HUD-approval to include additional requirements, these requirements will be reflected on the respective inspection form.
5. Scheduling Initial Inspections
 - a. PHAs with more than 1,250 budgeted units must conduct the inspection within a reasonable time after the family or owner submits a request for tenancy approval. If possible, the inspection and determination will be completed within 15 days after the family or owner submits the request for tenancy approval.
 - b. The 15-day period is suspended when the unit is not available for inspection.
 - c. The PHA shall notify the family and owner, by both by telephone and email, at least one (1) day prior to the initial inspection.
 - 1) The PHA requires a family member (or family representative) 18 years of age or older to be present at the initial inspection.
 - 2) The family must allow the PHA to inspect the unit at reasonable times with reasonable notice.
 - a) Reasonable hours to conduct an initial inspection are between 8:00 a.m. and 4:00 p.m. Monday, Tuesday, Wednesday, Thursday, and Friday.
 - b) If the family does not contact the PHA to reschedule the initial inspection or if the PHA is unable to gain access to the unit to conduct the initial inspection:
 - (1) The PHA will consider the inspection as a missed appointment.
 - (2) The PHA will reschedule the inspection.

- (3) If the family has missed two (2) scheduled initial inspection appointments, the PHA will deny the request for tenancy approval.
6. The PHA will notify the family and owner of its determination as to whether the unit meets HQS.
7. Passed Initial Inspection
 - a. If the unit passes the initial inspection, the PHA will verbally notify the family and owner.
 - b. If the unit passes the initial inspection, the PHA will also notify the family in writing that the request for tenancy approval has been approved and the suspended term of the voucher will end and the PHA will proceed with the remaining lease-up process.
8. Failed Initial Inspection
 - a. If the unit fails the initial inspection, the PHA will provide the family and owner detailed information of all failed and inconclusive items.
 - b. The owner will be allowed 15 days to correct items noted as failed.
 - c. The owner will be given up to 15 days to correct the items noted as fail, at the inspector's discretion, depending on the amount and complexity of work necessary to pass the initial inspection.
 - d. If the allotted time to correct the failed items has elapsed or the maximum number of failed reinspections have occurred, the PHA will deny the request for tenancy approval.
 - e. The PHA will notify the family in writing that the request for tenancy approval has been denied, the family will be given another RFTA, and the days during which the voucher term was suspended will be added to the end of the voucher term to allow the family additional time to search for another unit.

F. Biennial/Annual HQS Inspections

Each assisted unit must be in compliance with HQS throughout the assisted tenancy and inspected at least biennially during assisted occupancy.

1. Biennial Inspections: The PHA will perform biennial inspections for units who meet the following criteria:
 - a. The unit passed its prior year's biennial inspection, on the first visit, without any failed deficiencies or re-inspections, including the unit's initial inspection.
 - b. No deficiencies as a result of HQS complaints received by the PHA from the family, owner and/or the general public in the previous 12 months prior to the anniversary month of the HAP contract or the anniversary month of the most recent initial inspection.

2. Annual Inspections: The PHA will perform annual inspections for units if:
 - a. The unit had any deficiencies during its previous biennial inspection.
 - b. The unit had deficiencies as a result of PHA investigated complaints about HQS received from the family, owner, public officials and/or general public in the previous 12 months prior to the anniversary month of the HAP contract or the anniversary month of the most recent inspection.
 - c. The HAP was abated in the previous 12 months prior to the anniversary month of the HAP contract.
3. Recording the Biennial/Annual Inspections
 - a. Biennial/annual inspection will be recorded using the form HUD-52580-A, Inspection Form Housing Choice Voucher Program, or the form HUD-52580, Inspection Checklist Housing Choice Voucher Program.
 - b. If the PHA has received HUD-approval to include additional requirements, these requirements will be reflected on the respective inspection form.
4. Scheduling Biennial/Annual Inspections
 - a. Biennial inspections must be conducted within 730 days from the date of the previous completed inspection.
 - b. Annual inspections must be conducted within 365 days of the previous inspection to meet SEMAP requirements.
 - c. The PHA requires a family member (or family representative) 18 years of age or older and the owner (or owner representative) to be present at the biennial/annual inspection.
 - d. The family must allow the PHA to inspect the unit at reasonable times with reasonable notice.
 - 1) The PHA shall notify the family in writing at least 5 days prior to the inspection.
 - 2) Reasonable hours to conduct the biennial/annual inspection are between 8:00 a.m.- 4:00 p.m., Monday, Tuesday, Wednesday, Thursday, and Friday.
 - 3) If the family does not contact the PHA to reschedule the biennial/annual inspection or if the PHA is unable to gain access to the unit to conduct the biennial inspection:
 - a) The PHA will consider the inspection as a missed appointment.
 - b) The PHA will reschedule one (1) biennial/annual inspection.
 - c) If the family misses the rescheduled biennial/annual inspection appointment, the family will have violated the obligations of the family and their assistance may be terminated in accordance with the termination procedures in this Administrative Plan.

5. The PHA will notify the family and owner in writing of the results of the inspection, including if the unit passed the inspection and is determined to be in compliance with HQS.
6. If the unit is not in compliance with HQS, the inspector will provide the Fail Inspection Letter to family and/or owner, with a copy to the PHA. The Fail Inspection Letter will:
 - a. Provide detailed information of all failed items or inconclusive items,
 - b. Identify if the family or owner is responsible for the corrections or repairs of the HQS deficiencies, and
 - c. Provide the time frame for corrections.

G. Complaint or Special HQS Inspections

The PHA will investigate complaints about the assisted unit that are brought to the attention of the PHA by the family, owner, public officials, and/or general public which may indicate the unit is in non-compliance with HQS.

1. The inspector will inspect the items that were reported in the complaint. If another deficiency is discovered during the complaint inspection, the PHA will follow normal procedures to address the newly identified deficiencies, including determining the responsible party for correction or repair of the deficiencies.
2. Recording the Complaint/Special Inspections
 - a. Complaint/special inspection will be recorded using the form HUD-52580-A, Inspection Form Housing Choice Voucher Program, or the form HUD-52580, Inspection Checklist Housing Choice Voucher Program.
 - b. If the PHA has received HUD-approval to include additional requirements, these requirements will be reflected on the respective inspection form.
3. Scheduling Complaint/Special Inspections
 - a. The PHA shall notify the family and owner, by both telephone and email, at least 5 days prior to the complaint/special inspection.
 - 1) The PHA must schedule the complaint inspection within 24 hours of receipt of the complaint for a life-threatening HQS deficiency.
 - 2) The PHA must schedule the complaint inspection within 30 days of receipt of the complaint for a non-life threatening HQS deficiency.
 - 3) In the event of extraordinary circumstances, such as if a unit is within a Presidentially declared disaster area, HUD may waive the 24-hour or the 30-day inspection requirement until such time as an inspection is feasible.

- b. The family must allow the PHA to inspect the unit at reasonable times with reasonable notice.
 - 1) Reasonable hours to conduct an inspection are between 8:00 a.m. - 4:00 p.m., Monday, Tuesday, Wednesday, Thursday, and Friday.
 - 2) PHA requires a family member (or family representative) 18 years of age or older and the owner (or owner representative) to be present at the complaint/special inspections.
 - 3) If the family does not allow the PHA to conduct complaint/special inspection or if the PHA is unable to gain access to the unit to conduct the complaint/special inspection:
 - a) The PHA will consider the inspection as a missed appointment.
 - b) The family will have violated the obligations of the family and their assistance may be terminated in accordance with the termination procedures in this Administrative Plan.
4. The PHA will notify the family and owner in writing of the results of the complaint/special inspection, including if the unit passed the inspection and is determined to be in compliance with HQS.
5. If the unit is not in compliance with HQS, the inspector will provide the Fail Inspection Letter to family and/or owner, with a copy to the PHA. The Fail Inspection Letter will:
 - a. Provide detailed information of all failed items or inconclusive items,
 - b. Identify if the family or owner is responsible for the corrections or repairs of HQS deficiencies, and
 - c. Provide the time frame for corrections.

H. HQS Quality Control Inspections

The purpose of the HQS quality control inspection is to ascertain that each inspector is conducting accurate and complete inspections, and to ensure that there is consistency among inspectors in the application of HQS.

1. HQS quality control inspections will be performed by a supervisor or other qualified person who will reinspect a sample of units under contract during the PHA fiscal year.
 - a. The PHA will use the minimum sample size as required for HQS quality control inspections pursuant to the SEMAP regulations.
 - b. The reinspected samples will be drawn from recently completed HQS inspections performed during the three (3) months preceding the reinspection.
 - c. The reinspected samples will represent a cross section of inspectors and neighborhoods.

2. Recording HQS Quality Control Inspections
 - a. HQS quality control inspections will be recorded using the form HUD-52580-A, Inspection Form Housing Choice Voucher Program, or the form HUD-52580, Inspection Checklist Housing Choice Voucher Program.
 - b. If the PHA has received HUD-approval to include additional requirements, these requirements will be reflected on the respective inspection form.
3. Scheduling HQS Quality Control Inspections
 - a. The PHA shall notify the family and owner in writing at least 5 days prior to the HQS quality control inspection.
 - b. The family must allow the PHA to inspect the unit at reasonable times with reasonable notice.
 - 1) The PHA requires a family member (or family representative) 18 years of age or older and the owner (or owner representative) to be present at the HQS quality control inspections.
 - 2) Reasonable hours to conduct HQS quality control inspections are between 8:00 a.m. - 4:00 p.m., on Monday, Tuesday, Wednesday, Thursday, and Friday.
 - c. If the family does not contact the PHA to reschedule the HQS quality control inspection or if the PHA is unable to gain access to the unit to conduct the HQS quality control inspection:
 - 1) The PHA will consider the inspection as a missed appointment.
 - 2) The PHA will reschedule the inspection.
 - 3) If the family misses two (2) scheduled HQS quality control inspection appointments, the family will have violated the obligations of the family, and their assistance may be terminated in accordance with the termination procedures in this Administrative Plan.
4. The HQS quality control inspection will be compared to the biennial/annual inspection recently completed.
 - a. Discrepancies between the two inspection reports will be evaluated.
 - b. Discrepancies categorized as inspector error are catalogued and reviewed with the inspector. The review is to be instructional and informational, not punitive.
5. The PHA will notify the family and owner in writing of the results of the inspection, including if the unit passed the inspection and is determined to be in compliance with HQS.
6. If the unit is not in compliance with HQS, the inspector will provide the Fail Inspection Letter to family and/or owner, with a copy to the PHA. The Fail Inspection Letter will:
 - a. Provide detailed information of all failed items or inconclusive items,

- b. Identify if the family or owner is responsible for the corrections or repairs of HQS deficiencies, and
- c. Provide the time frame for corrections.

I. Inspectable Areas

To ensure that all families live in safe, habitable units, NSPIRE defines the inspectable areas as items and components located inside the building, outside the building, and within the units. The units must be functionally adequate, operable, and free of health and safety hazards.

1. Inspectable Areas for HCV Program

The inspection requirement for the HCV program only applies to units occupied or to be occupied by HCV participants, and common areas and exterior areas which either service or are associated with such units.

2. The HCV program will be subject to these standards only for:

- a. The subsidized unit itself; and
- b. Items and components within the primary and secondary means of egress from the unit's entry door(s) to the public way, those common features related to the residential use of the building (e.g., the laundry room, community room, mail room), and the systems equipment that directly services the subsidized unit.

3. Units

A unit (or "dwelling unit") of HUD housing refers to the interior components of an individual unit.

a. Components of a Unit

The interior of a unit may include the balcony, bathroom, call-for-aid (if applicable), carbon monoxide devices, ceiling, doors, electrical systems, enclosed patio, floors, HVAC (where individual units are provided), kitchen, lighting, outlets, smoke detectors, stairs, switches, walls, water heater, and windows.

b. The unit must also meet the following affirmative habitability requirements. The unit must:

- 1) Have hot and cold running water in both the bathroom and kitchen, including an adequate source of safe drinking water in the bathroom and kitchen.
- 2) Include its own bathroom or sanitary facility that is in proper operating condition and usable in privacy. It must contain a sink, a bathtub or shower, and an interior flushable toilet.
- 3) Smoke Detectors
 - a) The unit must include at least one battery-operated or hard-wired smoke detector, in proper working condition, in the following locations:

- (1) On each level of the unit;
 - (2) Inside each bedroom;
 - (3) Within 21 feet of any door to a bedroom measured along a path of travel; and
 - (4) Where a smoke detector installed outside a bedroom is separated from an adjacent living area by a door, a smoke detector must also be installed on the living area side of the door.
- b) If the unit is occupied by any hearing-impaired person, the smoke detectors must have an alarm system designed for hearing-impaired persons.
 - c) The Secretary may establish additional standards through Federal Register notification.
 - d) Following the specifications of National Fire Protection Association Standard (NFPA) 72 satisfies these requirements.
- 4) The unit must have a living room and a kitchen area with a sink, cooking appliance, refrigerator, food preparation area, and food storage area.
 - 5) The unit must have at least one bedroom or living/sleeping room for each two (2) persons.
 - 6) The unit must meet or exceed the carbon monoxide detection standards set by HUD through Federal Register notification.
 - 7) The unit must have two (2) working outlets or one (1) working outlet and a permanent light within all habitable rooms.
 - 8) Outlets within six (6) feet of a water source must be GFCI protected.
 - 9) For climate zones designated by the Secretary through notice, the unit must have a permanently installed heating source. No unit may contain unvented space heaters that burn gas, oil, or kerosene.
 - 10) The unit must have a guardrail when there is an elevated walking surface with a drop off of 30 inches or greater measured vertically.
 - 11) The unit must have a permanently mounted light fixture in the kitchen and each bathroom.

4. Inside

Inside of HUD housing (or "inside areas") refers to the common areas and building systems that can be generally found within the building interior and are not inside a unit.

a. Inside Common Areas

Common areas may include, basements, interior or attached garages, enclosed carports, restrooms, closets, utility rooms, mechanical rooms, community rooms, day

care rooms, halls, corridors, stairs, shared kitchens, laundry rooms, offices, enclosed porches, enclosed patios, enclosed balconies, and trash collection areas.

b. Building systems

Includes those components that provide domestic water such as pipes, electricity, elevators, emergency power, fire protection, HVAC, and sanitary services.

c. The inside area must meet the following affirmative habitability requirements. The inside area must:

- 1) Include at least one battery-operated or hard-wired smoke detector, in proper working condition, on each level of the property. The Secretary may establish additional standards through Federal Register notification.
- 2) Meet or exceed the carbon monoxide detection standards set by the Secretary through Federal Register notification.
- 3) For the inside area, any outlet installed within six (6) feet of a water source must be a ground-fault circuit interrupter (GFCI) protected.
- 4) Have a guardrail when there is an elevated walking surface with a drop off of 30 inches or greater measured vertically.
- 5) Have permanently mounted light fixtures in any kitchen and each bathroom.
- 6) Not contain unvented space heaters that burn gas, oil, or kerosene.

5. Outside

Outside of HUD housing (or "outside areas") refers to the building site, building exterior components, and any building systems located outside of the building or unit.

a. Outside Components

May include fencing, retaining walls, grounds, lighting, mailboxes, project signs, parking lots, detached garage or carport, driveways, play areas and equipment, refuse disposal, roads, storm drainage, non-dwelling buildings, and walkways.

b. Components found on the exterior of the building are considered outside areas

May include doors, attached porches, attached patios, balconies, car ports, fire escapes, foundations, lighting, roofs, walls, and windows.

c. The outside area must meet the following affirmative habitability requirements:

- 1) Outlets within six (6) feet of a water source must be GFCI protected; and
- 2) Must have a guardrail when there is an elevated walking surface with a drop off of 30 inches or greater measured vertically.

6. Health and Safety Concerns

The inside, outside and unit must be free of health and safety hazards that pose a danger to families.

a. Types of Health and Safety Concerns

Include, but are not limited to carbon monoxide, electrical hazards, extreme temperature, flammable materials or other fire hazards, garbage and debris, handrail hazards, infestation, lead-based paint, mold, and structural soundness.

b. Lead-Based Paint.

HUD housing must comply with all requirements related to the evaluation and control of lead-based paint hazards and have available proper documentation of such. The Lead-based Paint Poisoning Prevention Act, the Residential Lead-based Paint Hazard Reduction Act of 1992, and all applicable regulations apply.

7. Compliance with State and Local Codes

The standards for the condition of HUD housing in this section do not supersede state and local housing codes (such as fire, mechanical, plumbing, carbon monoxide, property maintenance, or residential code requirements).

a. All HUD housing other than units assisted under the HCV program must comply with state or local housing codes in order to comply with this paragraph.

b. State and local code compliance is not part of the determination of whether a unit passes the standards for the condition of HUD housing under this section for the HCV program, except in accordance with the HCV variant inspection standards.

8. Use of an Alternative Inspection or Additional Standard for the HCV Program

The PHA is not subject to the standards set by this section when the PHA is relying on an alternative inspection in accordance with the use of alternative inspections regulations.

9. Special Housing Types

Special housing types require standards unique to special types of housing. Unless modified by program-specific regulations, NSPIRE Standards will apply for these special housing types.

J. Inspection Requirements

The inspection requirement for HUD housing generally requires the inside, outside and unit to be inspected, in accordance with Section G of this Chapter. The inspection requirement for the HCV program only applies to units occupied or to be occupied by HCV families, and common areas and exterior areas which either service or are associated with such units.

1. Entities Conducting Inspections

a. Under the HCV program the PHA is responsible for inspecting HUD housing under that program, unless another entity is assigned the inspection by the program regulations governing the housing, regulatory agreements, or contracts.

b. A PHA-owned unit receiving assistance must be inspected by an independent entity.

c. The PHA, who is responsible for conducting an inspection of HUD housing to

determine compliance, must inspect and score such HUD housing in accordance with the standards and procedures for identifying safe, habitable housing set out by the Secretary and published in the Federal Register.

- d. The PHA, conducting the inspection will identify each deficiency as "Life Threatening", "Severe," "Moderate", or "Low."

2. HCV Variant Inspection Standards

NSPIRE does not alter the existing flexibilities under HQS that allows the PHA to propose, for HUD approval, acceptability criteria variations.

- a. Under NSPIRE, HUD may grant approval for inspection criteria variations for the following purposes:
 - 1) Variations which apply standards contained in local housing codes or other codes adopted by the PHA;
 - 2) Variations because of local climate or geographic conditions.
 - 3) The acceptability criteria variation may only be approved by HUD if the variation(s):
 - a) Meets or exceeds the performance requirements, or
 - b) Significantly expands affordable housing opportunities for families assisted under the HCV program.
 - 4) HUD will not approve the variation if HUD believes that the variation is likely to adversely affect the health or safety of participant families or severely restricts their housing choice.
 - 5) The PHA has not adopted any additional variation standards or local codes in addition to the NSPIRE.
 - a. The variation process is not intended to include any individual determinations of a reasonable accommodation.
 - 1) The PHA is responsible for reviewing all reasonable accommodation requests made by an individual with a disability.
 - 2) These requests are made on a case-by-case basis and do not involve overall changes or variations to the PHA's inspection standards.
 - 3) Therefore, these determinations are made by the PHA and would not involve HUD approval under the variation process.

3. Timing of Inspections

The PHA will inspect units in accordance with the frequency described in Sections A, B, C, and D of this Chapter.

K. Carbon Monoxide

HUD recognizes carbon monoxide poisoning as an important safety issue for families in assisted housing.

1. Effects of Carbon Monoxide
 - a. Carbon monoxide is an odorless, colorless, and toxic gas.
 - b. It is impossible to see, and is a tasteless gas produced by incomplete combustion of fuel burned in vehicles, small engines, stoves, lanterns, grills, fireplaces, gas ranges, or furnaces.
 - c. It can build-up indoors and poison people and animals who breathe the toxic fumes.
 - d. The effects of carbon monoxide exposure can vary from person to person depending on age, overall health, and the concentration and length of exposure.
 - e. Exposure can cause harmful health conditions, permanent brain damage, life-threatening cardiac complications, fetal death or miscarriage, and death in a matter of minutes.
 - f. Individuals who are asleep or intoxicated may pass away from carbon monoxide poisoning before experiencing any symptoms.
2. Owners of properties that receive federal rental assistance have an important role to prevent potential loss of life and severe injury associated with carbon monoxide in housing they own or manage.
3. Owners of HCV properties must have operational carbon monoxide detectors, where specified, as required by the state or local law, code, or other regulation.
4. HUD encourages owners to adopt standards at or above the standards of the 2018 International Fire Code (IFC) as soon as possible for the health and safety of residents
5. HUD will enforce the requirements instituted by Congress requiring that all HCVs comply with the IFC 2018 standards on the installation of carbon monoxide alarms or detectors by December 27, 2022.
6. Guidance provided by the U.S. Environmental Protection Agency (EPA), the Centers for Disease Control and Prevention (CDC), the Consumer Product Safety Commission (CPSC), the Federal Emergency Management Agency, and the U.S. Fire Administration of activities to prevent carbon monoxide intrusion includes but is not limited to:
 - a. Ensure gas appliances are properly adjusted.
 - b. Install, properly maintain, and ensure through periodic inspection that exhaust fans are functional and vented to outdoors over gas stoves.
 - c. Ensure that flues over fireplaces are operational and capable of opening and closing by residents.

- d. Use appropriately sized wood stoves certified to meet EPA emission standards with tightly fitting doors.
 - e. Perform annual inspections, clean, and tune-up central heating systems (furnaces, flues, chimneys) and ensure that these activities are conducted by a trained professional.
 - f. Ensure leaks are repaired promptly.
 - g. Provide regular resident carbon monoxide education through policies or signage.
7. Sources of carbon monoxide that can be found in a housing environment, as described in by the EPA include but is not limited to:
- a. Unvented kerosene and gas space heaters.
 - b. Leaking chimneys and furnaces.
 - c. Back-drafting from furnaces, gas water heaters, wood stoves, and fireplaces.
 - d. Gas stoves.
 - e. Generators and other gasoline powered equipment.
 - f. Automobile exhaust from attached garages.
 - g. Auto, truck, or bus exhaust from attached garages, nearby roads, or parking areas.
 - h. Incomplete oxidation during combustion in gas ranges and unvented gas or kerosene heaters.
 - i. Worn or poorly adjusted and maintained combustion devices (e.g., boilers, furnaces) if the flue is improperly sized, blocked, or disconnected; or the flue is leaking.
8. Examples to avoid unintentional carbon monoxide poisoning include but are not limited to:
- a. Avoiding portable generators indoors and only using generators outdoors in well-ventilated areas away from all doors, windows, and vents.
 - b. Using a gas-burning stove or oven for heat.
 - c. Using a fuel-burning space heater that is not vented to the outdoors.

NSPIRE will no longer allow for the use of unvented, fuel-burning space heaters because of the risk of carbon monoxide exposure.

- 1) If the PHA continued to use HQS for inspections on or after October 1, 2023, and had a HUD-approved variation allowing the PHA to approve the use of unvented, fuel-burning space heaters, this approval was rescinded effective January 1, 2024.
- 2) The PHA was required to provide all owners and currently assisted families with a written notice, no later than November 1, 2023, that such space heaters must be removed and replaced with an appropriate heating source as soon as possible, but no later than December 31, 2023.

- 3) For any initial inspection that occurs on or after October 1, 2023, the PHA may not execute a new HAP contract for a unit with an unvented, fuel-burning space heater.
 - 4) The owner must provide an appropriate heating source prior to HAP contract execution.
 - 5) During any scheduled periodic inspection that occurs between October 1, 2023, and December 31, 2023, the presence of an unvented, fuel-burning space heater must be cited, and the owner must remove and replace it with an appropriate heating source no later than December 31, 2023.
 - 6) For inspections that occur on or after January 1, 2024, the presence of an unvented, fuel-burning space heater will be considered a failed item under HQS that the owner must correct in accordance with regulatory requirements and PHA-established timeframes.
 - 7) If the owner does not correct the deficiency within the required timeframes, the PHA must abate HAP and enforce the owner obligations.
- d. Leaving a running car in an enclosed garage.

L. NSPIRE Scoring

HCV inspections are not numerically scored and NSPIRE retains pass/fail indicators. Each individual NSPIRE Standard indicates whether a deficiency would result in a pass or fail for the unit under the HCV programs.

1. Pass Inspections

Pass inspections require no further action by the PHA, family, or landlord.

2. Fail Inspections

Failed inspections will require follow-up, re-inspections, or verification to confirm the correction of the failed standards.

M. NSPIRE Categories

NSPIRE Standards defect severity levels include the following characteristics:

1. Life-Threatening (LT):

There is a high risk of death, severe illness, or injury to a resident.

2. Severe:

- a. There is a high risk of permanent disability or serious injury or illness to a resident.
- b. There are deficiencies that would seriously compromise the physical security or safety of a resident or their property.

3. Moderate:

- a. There is a moderate risk of an adverse medical event requiring a healthcare visit, causing temporary harm, or if left untreated causing or worsening a chronic condition that may have long-lasting adverse health effects.
- b. There are deficiencies that would compromise the physical security or safety of a resident or their property.

4. Low:

There are deficiencies critical to habitability but that do not present a substantive health or safety risk.

N. Life-Threatening and Non-Life-Threatening HQS Deficiencies

A life-threatening defect must be corrected within 24 hours of PHA notification.

1. The PHA has defined life-threatening defects as:

- a. Gas (natural or liquid petroleum) leak or fumes
 - 1) A fuel storage vessel, fluid line, valve or connection that supplies fuel to a HVAC unit is leaking; or
 - 2) A strong gas odor detected with potential for explosion or fire, or that results in health risk if inhaled.
- b. Electrical hazards that could result in shock or fire

A life-threatening condition is one of the following:

- 1) A light fixture is readily accessible, is not securely mounted to the ceiling or wall, and electrical connections or wires are exposed;
- 2) A light fixture is hanging by its wires;
- 3) A light fixture has a missing or broken bulb, and the open socket is readily accessible to the tenant during the day-to-day use of the unit;
- 4) A receptacle (outlet) or switch is missing or broken, and electrical connections or wires are exposed;
- 5) A receptacle (outlet) or switch has a missing or damaged cover plate and electrical connections, or wires are exposed;
- 6) An open circuit breaker position is not appropriately blanked off in a panel board, main panel board, or other electrical box that contains circuit breakers or fuses;
- 7) A cover is missing from any electrical device box, panel box, switch gear box, control panel, etc., and there are exposed electrical connections;
- 8) Any nicks, abrasions, or fraying of the insulation that expose conducting wire;
- 9) Exposed bare wires or electrical connections;

- 10) Any condition that results in openings in electrical panels or electrical control device enclosures;
 - 11) Water leaking or ponding near any electrical device; or
 - 12) Any condition that poses a serious risk of electrocution or fire and poses an immediate life-threatening condition.
- c. Inoperable or Missing Smoke Detector
- A life-threatening condition is one of the following:
- 1) The smoke detector is missing; or
 - 2) The smoke detector does not function as it should.
- d. Interior Air Quality
- A life-threatening condition is one of the following:
- 1) The carbon monoxide detector is missing; or
 - 2) The carbon monoxide detector does not function as it should.
- e. Gas/oil fired water heater or heating, ventilation, or cooling systems with missing, damaged, improper, or misaligned chimney or venting.
- A life-threatening condition is one of the following:
- 1) The chimney or venting system on a fuel fired water heater is misaligned, negatively pitched, or damaged, which may cause improper or dangerous venting of gases;
 - 2) A gas dryer vent is missing, damaged, or is visually determined to be inoperable, or the dryer exhaust is not vented to the outside;
 - 3) A fuel fired space heater is not properly vented or lacks available combustion air;
 - 4) A non-vented space heater is present;
 - 5) Safety devices on a fuel fired space heater are missing or damaged; or
 - 6) The chimney or venting system on a fuel fired heating, ventilation, or cooling system is misaligned, negatively pitched, or damaged which may cause improper or dangerous venting of gases.
- f. Lack of alternative means of exit in case of fire or blocked egress.
- A life-threatening condition is one of the following:
- 1) Any of the components that affect the function of the fire escape are missing or damaged;
 - 2) Stored items or other barriers restrict or prevent the use of the fire escape in the event of an emergency; or
 - 3) The building's emergency exit is blocked or impeded, thus limiting the ability of

occupants to exit in a fire or other emergency.

g. Other Interior Hazards

A life-threatening condition is a fire extinguisher (where required) that is missing, damaged, discharged, overcharged, or expired.

h. Deteriorated paint in a unit built before 1978 that is to be occupied by a family with a child under 6 years of age. This is a life-threatening condition only for the purpose of a condition that would prevent a family from moving into the unit.

i. The PHA has not adopted other life-threatening deficiencies.

j. Any other conditions identified by HUD notice

HUD allows flexibility for what is considered an appropriate correction for lead-based paint, mold and moisture, and pest infestations within 24 hours. All these conditions may take a significant time to permanently control. The PHA may consider language in PIH Notice 2023-16/H 2023-07, Implementation of NSPIRE Administrative Procedures for public housing and Multifamily programs, when considering corrections made by owners/landlords for mold and moisture and pest infestation.

1) Lead-Based Paint

Will apply only to units occupied or to be occupied by families or households that have one or more children of less than 6 years of age, common areas servicing such units, and exterior painted surfaces associated with such units or common areas. Common areas servicing a unit include those areas through which residents pass to gain access to the unit and other areas frequented by resident children of less than 6 years of age, including on-site play areas and childcare facilities.

a) The PHA will follow the guidance and notification requirements in 24 CFR Part 35, Subpart M: Tenant-Based Rental Assistance.

b) If the PHA is notified by a public health department or other medical health care provider or verifies information from a source other than a public health department or medical health care provider, that a child of less than 6 years of age, living in an HCV-assisted unit has been identified as having an environmental intervention blood-lead level, the PHA will complete a risk assessment of the assisted unit.

c) The risk assessment will be completed in accordance with HCV program requirements, and the result of the risk assessment will be provided to the owner of the assisted unit. In cases where the public health department has already completed an evaluation of the assisted unit, this information must be provided to the owner.

d) Within 30 days after receiving the risk assessment report from the PHA, or the evaluation from the public health department, the owner is required to complete the reduction of identified lead-based paint hazards in accordance

with the lead-based paint regulations.

- e) If the owner does not complete the "hazard reduction" as required, the assisted unit is in violation of the NSPIRE Standards and the PHA will take prompt and vigorous action to enforce the owner obligations, including but not limited to HAP abatement and/or termination of the HAP contract.

2) Mold and Moisture

For Life-threatening or Severe mold and moisture deficiencies, within 24 hours, the PHA will assess and control the moisture source and provide a plan for additional evaluation and remediation.

- a) Families should be temporarily relocated until mold and moisture conditions are controlled.
- b) Mold evaluation should be visual and include the use of a moisture meter.
- c) Evaluation should focus on the source of moisture and the conditions that contributed to the mold growth.
- d) Additionally, the evaluator should evaluate the extent of the mold growth and whether contaminated materials and building materials can be cleaned or must be removed.
- e) In most cases, air and mold sampling is unnecessary.
 - (1) REAC considers air sampling as inconclusive, as there are no federal standards for comparison.
 - (2) REAC also does not consider sampling of mold for lab analysis to determine the mold type as necessary, as the NSPIRE Standards apply to all types of mold, regardless of genus and species.

3) Pest Infestation

For Life-threatening or Severe pest infestations, the PHA will identify a pest control inspector that is trained in Integrated Pest Management (IPM) and initiate activities as described in PIH Notice 2007-12.

- a) HUD encourages the PHA to develop an Integrated Pest Management Plan to address pest infestation.
 - (1) Initiation of a Pest Management Plan meets the requirement for correction, with the understanding that, while pests may still be present at the start of the Pest Management Plan, they will be managed through the Pest Management Plan.
 - (2) Ongoing implementation of a Pest Management Plan (i.e., a Pest Management Plan documented and initiated prior to the inspection) will also satisfy this condition.
 - (3) Within the correction timeframe, documentation must be provided for the

Pest Management Plan, and this documentation must include:

- (a) A start date of the Pest Management Plan;
- (b) Servicing schedule;
- (c) Methods of pest monitoring, managing and treatment, and
- (d) Other factors as determined by HUD, the PHA, and/or other relevant authority.

b) IPM is strongly encouraged.

IPM uses prevention-based pest management methods, with a focus on:

- (1) Identifying and correcting building conditions that contribute to infestation;
- (2) Reducing use of pesticides (especially routine or untargeted pesticide application);
- (3) Modification of hygiene and sanitation practices in and on the property; and
- (4) Assessment and on-going monitoring to ensure appropriate interventions as needed.

c) For Moderate, and Low Risk pest infestations, the PHA will follow HUD guidance and consider implementing IPM before the infestation expands.

O. Non-Life-Threatening HQS Deficiencies

The PHA has defined other or non-life-threatening defects as any defects that are not life-threatening.

P. Time Standards for Correcting Deficiencies

HQS deficiencies for biennial/annual and compliant inspections must be corrected within the following time frames:

- 1. Life-threatening HQS deficiencies must be corrected or repaired by the responsible party within 24 hours of when the notification was provided.
- 2. Non-life-threatening HQS deficiencies, known as Severe and Moderate, must be corrected or repaired by the responsible party within 30 calendar days after the notification was provided.
- 3. Some deficiencies which are considered Low, even if present in the HCV program, will result in a pass and would only be noted by the inspector for information purposes.
- 4. If a failed deficiency (Life-threatening, Severe, or Moderate) is not corrected within the required timeframe, including extensions, by the responsible party, the PHA will initiate HAP contract enforcement, which may include withholding or abatement of HAP from the owner or termination of assistance or relocation for the family.

5. PHA-Approved Extensions

The PHA may grant an extension for correction of deficiencies on a case-by-case basis.

- a. The PHA-approved extension time period shall not exceed 15 days from the original date of request of an extension by the family or the owner.

At the end of the allotted extension, if the responsible party fails to comply with the extension agreement or if the failed items are not corrected or repaired, the PHA will take prompt and vigorous action to enforce the obligations of the family or owner obligations based on who was identified as responsible for the corrections or repairs of HQS deficiencies, which may include termination of assistance or termination of the HAP contract, respectfully.

- b. PHA-approved extensions may be granted in the following cases:

- 1) There is an unavoidable delay in completing repairs due to difficulties in obtaining parts or contracting for services.
- 2) The repairs are expensive (such as exterior painting or roof repair) and the owner needs time to obtain the funds.
- 3) The repairs are delayed due to weather and/or climate conditions.

Q. Family and Owner Responsibilities of HQS

The PHA or authorized inspector will determine if the unit has HQS deficiencies based upon an inspection and will make a determination of family or owner responsibility for breach of the HQS during the inspection.

1. Family breach of HQS

If the family has caused a breach of HQS, the PHA will notify the family in writing of the HQS deficiencies and take prompt and vigorous action to enforce the obligations of the family which may include termination of assistance.

- a. The family is responsible for a breach of HQS that is caused by any of the following:

- 1) The family fails to pay for any utilities that the owner is not required to pay for, but which are to be paid by the family;
- 2) The family fails to provide and maintain any appliances that the owner is not required to provide, but which are to be provided by the family; or
- 3) Any member of the household or guest damages the assisted unit or premises (damages beyond ordinary wear and tear).

- b. Life-threatening breach of HQS

If a life-threatening deficiency is the responsibility of the family, the family must take all steps permissible under the lease and state and local law to correct the defect within 24 hours of when the notification was provided.

- c. Non-life-threatening breach of HQS:

For non-life-threatening deficiency, which is the responsibility of the family, the family must take all steps permissible under the lease and state and local law to correct the defect within 30 calendar days after the notification was provided or any reasonable PHA-approved extension.

- d. In the case of an HQS deficiency that the PHA determines is caused by the family, any member of the household, or any guest or other person under the tenant's control, other than any damage resulting from ordinary use, the PHA may waive the owner's responsibility to remedy the violation.
- e. The HAP will not be abated or withheld for HQS deficiencies which are the family's responsibility.
- f. If the repair(s) or correction(s) are not made within the allotted time period, including any PHA-approved extension(s), the PHA may terminate assistance to a family because of an HQS breach beyond damage resulting from ordinary use caused by any member of the household or any guest or other person under the tenant's control.
- g. The HAP contract will automatically terminate when the assistance is terminated.
- h. If the family is responsible for the correction or repair of the defects, but the owner corrects or repairs the defects, the owner may bill the family for the cost of the correction or repairs and the PHA will notate the family's tenant file.

2. Owner breach of the NSPIRE Standards

If HQS breach is the responsibility of the owner, the PHA will notify the owner in writing and of the HQS deficiencies and will take prompt and vigorous action to enforce the owner obligations which may include abatement, withholding, and/or termination of the HAP contract.

- a. The owner must maintain the unit in accordance with HQS.
- b. The owner is responsible for all other HQS violations, which includes smoke alarms.
- c. The owner is responsible for vermin infestation even if caused by the family's living habits.
 - 1) However, if such infestation is serious and repeated, it may be considered a lease violation, and the owner may evict for serious or repeated violation of the lease.
 - 2) The PHA may terminate the family's assistance on that basis.

d. Life-threatening breach of HQS

If a life-threatening deficiency is the responsibility of the owner, the owner must correct the defect within 24 hours of when the notification was provided.

e. Non-life-threatening breach of HQS

For non-life-threatening deficiency, which is the responsibility of the owner, the owner must correct the defect within 30 calendar days after the notification was provided or any reasonable PHA-approved extension.

- f. If the repair(s) or correction(s) are not made within the allotted time period, including any PHA-approved extension(s), the PHA will abate or withhold the HAP to the owner.
- g. The owner is not responsible for a breach of HQS that is not caused by the owner, and for which the family is responsible.

R. Applicability of HOTMA Enforcement of HQS

As required under HOTMA, HCV program changes regarding enforcement of HQS apply only to HAP contracts that are either executed, extended, or renewed after the effective date of the HOTMA voucher final rule.

1. The family and owner HQS obligations under HOTMA are applicable to HAP contracts that were either executed on or after, or renewed after June 6, 2024
2. As per June 6, 2024, a HAP contract is "renewed" if the HAP contract continues beyond the initial term of the lease.
3. For all other HAP contracts, the HQS regulations in effect on June 5, 2024, remain applicable (until renewal).
4. The HCV program does not create any right of the family, or any party other than HUD or the PHA, to require enforcement of the HQS requirements by HUD or the PHA, or to assert any claim against HUD or the PHA, for damages, injunction or other relief, for alleged failure to enforce the HQS.

S. Withholding the Housing Assistance Payment (HAP)

Stopping the HAP to an owner, while withholding them for potential retroactive disbursement, for HQS deficiencies identified during inspections other than the initial inspection.

1. A PHA may withhold HAP for units that have HQS deficiencies once the PHA has notified the owner in writing of the deficiencies.
2. **The PHA will withhold HAP under the following conditions:**
3. If the unit is brought into compliance during the applicable cure period (within 24 hours of notification for life-threatening deficiencies and within 30 days of notification (or other reasonable period established by the PHA) for non-life-threatening deficiencies), the PHA:
 - a. Will resume the HAP; and
 - b. Will provide HAP to cover the time period for which the assistance payments were withheld.
4. The owner may not terminate the tenancy of any family due to the withholding of the HAP.

T. Abatement of Housing Assistance Payment (HAP)

Stopping the HAP to an owner, with no potential for retroactive payment, for HQS deficiencies identified during inspections other than the initial inspection.

1. The PHA must abate the HAP, including amounts that had been withheld, if the owner fails to make the repairs within the applicable cure period (within 24 hours of notification for life-threatening deficiencies and within 30 days of notification (or other reasonable period established by the PHA) for non-life-threatening deficiencies).
2. If the PHA abates the HAP, the PHA will notify the family and the owner that:

- a. The PHA is abating the HAP.
- b. If the unit does not meet HQS within 60 days (or a reasonable longer period established by the PHA) after the determination of noncompliance, the PHA will terminate the HAP contract for the unit, and
- c. The family will have to move if the family wishes to receive continued housing assistance.

The PHA will issue the family a voucher to move at least 30 days prior to the termination of the HAP contract.

3. During the period that the HAP is abated, the family may terminate the tenancy by notifying the owner and the PHA.
 - a. If the family chooses to terminate the tenancy, the HAP contract will automatically terminate on the effective date of the tenancy termination or the date the family vacates the unit, whichever is earlier.
 - b. The PHA will promptly issue the family a voucher to move.
4. If the family did not terminate the tenancy and the owner makes the repairs and the unit complies with HQS within 60 days (or a reasonable longer period established by the PHA) of the notice of abatement, the PHA will recommence payments to the owner.

The PHA will not make any payments to the owner for the period of time that the payments were abated.

5. If the owner fails to make the repairs within 60 days (or a reasonable longer period established by the PHA) of the notice of abatement, the PHA will terminate the HAP contract.
6. The owner may not terminate the tenancy of any family due to abatement of the HAP.

U. Relocation due to HQS deficiencies

The PHA must give any family residing in a unit for which the HAP contract is terminated due to the owner's failure to correct HQS deficiencies at least 90 days or a longer period as the PHA determines is reasonably necessary following the termination of the HAP contract to lease a new unit.

1. If the family is unable to lease a new unit within the period provided by the PHA and the PHA owns or operates public housing, the PHA must offer, and, if accepted, provide the family a selection preference for an appropriate-size public housing unit that first becomes available for occupancy after the time period expires.
2. The PHA will/will not assist families relocating find a new unit, including using up to two (2) months of the withheld and abated HAP for costs directly associated with relocating to a new unit{,} or {,} including:
 - a. Security deposits,
If the family receives security deposit assistance from the PHA for the new unit, the PHA may require the family to remit the security deposit returned by the owner of the new unit at such time that the lease is terminated, up to the amount of the security deposit assistance provided by the PHA for that unit.
 - b. Temporary housing costs, or
 - c. Other reasonable moving costs as determined by the PHA based on the PHA's locality.
3. If the PHA uses the withheld and abated HAP to assist with the family's relocation costs, the PHA must provide security deposit assistance to the family as necessary.
4. the PHA must assist families with disabilities in locating available accessible units.

U. Reinspection Fee

The PHA has established a reasonable fee to owners for a reinspection if:

1. The owner notified the PHA that a deficiency cited in the previous inspection had been repaired and a reinspection revealed that the repair has not been made, or
2. The allotted time for repairs has elapsed and a reinspection revealed that any deficiency cited in the previous inspection that the owner is responsible for repairing was not corrected.
3. An owner who is assessed for a reinspection fee may not pass the fee on to the family.
4. The PHA will not apply the reinspection fee to an owner for:
 - a. Deficiencies caused by the family;
 - b. Initial inspections;
 - c. Regularly scheduled inspections;
 - d. An instance in which an inspector was unable to gain access to a unit; or
 - e. New deficiencies identified during reinspection. If new deficiencies are uncovered during reinspection, the PHA will follow normal procedures to address these newly identified deficiencies.

4. Reinspection Fee Amount

There will be a separate reinspection fee assessed for each reinspection conducted after the first failed reinspection. The reinspection fees will be assessed as follows:

- a. \$50 for second reinspection.
- b. \$50 for the third reinspection and any other reinspection thereafter.

5. Payment of the Reinspection Fee

The reinspection fee will be assessed and made payable after the first reinspection, but prior to the second reinspection:

- a. For initial reinspection's:
 - 1) The owner will be required to make payment prior to the inspector arriving for the second reinspection.
 - 2) The owner will be required to submit the payment directly to the PHA in the form of a money order or cashier's check.
- b. For regularly scheduled reinspection's:
 - 1) The owner will be required to make payment prior to the inspector arriving for the second reinspection.
 - 2) The owner will be required to submit the payment directly to the PHA in the form of a money order or cashier's check.

V. Inspection Cost

The PHA may not charge the family any fee for an initial inspection or reinspection of a unit.

The cost of an inspection shall be the responsibility of the PHA except that a reasonable fee may be required of the owner of a property for a reinspection if an owner notifies the PHA that a repair has been made or the allotted time for repairs has elapsed and a reinspection reveals that any deficiency cited in the previous inspection that the owner is responsible for repairing was not corrected, as noted in Section U.

CHAPTER 19: RENT REASONABLENESS

The rent reasonableness determination involves comparing the rent for the assisted unit to rents for similar unassisted units in the PHA's rental marketplace and comparing the rent for the assisted unit to similar units on the premises.

A. Rent to Owner

The PHA must ensure that the rent to owner for families participating in the HCV program is reasonable.

1. Rent to the owner is the full rent the owner is charging for the unit including any utilities, housing services, and maintenance provided by the owner in accordance with the lease.
2. Rent to the owner does not include the cost of any meals or supportive services or furniture which may be provided by the owner.
 - a. The owner may not require the tenant or family members to pay charges for any meals or supportive services or furniture which may be provided by the owner.
 - b. Nonpayment of any such charges is not grounds for termination of tenancy.
3. The owner may not charge the tenant extra amounts for items customarily included in rent to the owner in the locality or provided at no additional cost to unsubsidized tenants in the premises.

B. Rent Reasonableness Determination

The PHA will determine reasonable rent:

1. Before executing a HAP contract.

The PHA will not execute a HAP contract until the PHA has determined that the initial rent to the owner is a reasonable rent.
2. Before any increase in the rent to the owner is approved.

The PHA will determine and document if the proposed increase in rent to the owner is reasonable compared to similar unassisted units in the PHA's marketplace and is not more than the rent paid by unassisted tenants on the premises.
3. If there is a 10% decrease in the published FMR in effect 60 days before the contract anniversary (for the unit size rented by the family) as compared with the FMR in effect one year before the contract anniversary.

This provision is designed to ensure that when the market goes down by a significant amount (i.e., a 10% or more reduction in the FMR) the PHA must reexamine rent reasonableness at the contract anniversary date, even if the owner does not propose a rent increase.

4. If directed by HUD.

If HUD has reason to question the PHA's system or the accuracy of the determinations, HUD may require the PHA to conduct rent reasonableness reviews on all or a portion of its units.

5. The PHA may elect to redetermine rent reasonableness at any other time.

At all times during the assisted tenancy, the rent to the owner may not exceed the most recently determined or redetermined reasonable rent amount.

C. PHA-Owned Units

Local government or independent entities (approved by HUD) must perform HQS inspections and rent reasonableness determinations for PHA-owned units leased by voucher holders:

1. The PHA will pay expenses associated with the performance;
2. The family cannot be charged for these services; and
3. The PHA may use administrative fee income to compensate the independent agencies for their services.

D. Comparability

The PHA will determine if the rent to owner for the assisted unit is a reasonable rent in comparison to the rent to owner for comparable unassisted units.

1. Assisted and unassisted units
 - a. Assisted units includes units occupied by voucher program participants, as well as units assisted under other federal, state, or local government programs.
 - b. Units may also be considered assisted due to rent control or housing conversion actions.
2. The PHA will consider the following in the rent reasonableness comparison:
 - a. Location;
 - b. Quality;
 - c. Size
 - d. Unit type;
 - e. Age of the contract unit;
 - f. Amenities;
 - g. Housing services;
 - h. Maintenance; and
 - i. Utilities to be provided by the owner in accordance with the lease.

3. The PHA must approve a higher rent to the owner that may be necessary as a reasonable accommodation for household which includes persons with disabilities.

E. Documenting Rent Reasonableness Decision

The PHA has implemented a written method to determine and document, for each unit leased, that the rent to the owner is reasonable based upon current rents for comparable unassisted units.

1. The following is the PHA's methodology used to determine if the requested rent to owner is reasonable in relation to rents being charged for unassisted units:
 - a. PHA collects the required data concerning the unit to be assisted from the request for tenancy approval and during the inspection.
 - b. Data from comparable unassisted units may be collected from, but is not limited to the following sources:
 - 1) Multiple Listing Service
 - 2) Newspapers ads
 - 3) Owner/landlord interviews
 - 4) Owner/agent questionnaires
 - 5) For rent/lease signs
 - 6) Onsite visits
 - c. Data of the assisted unit and at least three (3) comparable unassisted units may be recorded on a Rent Reasonableness Determination (RRD) form. This form may be attached to the inspection records.
 - d. The data on the RRD form is analyzed and an approvable rent is determined and recorded on the RRD with the date and name of the staff person.
 - e. The analysis may either utilize the appraisal method comparing point or dollar values or the standard deviation method using rents adjusted for all of the comparable items.
 - f. Rent rolls may be requested from owner/agents if needed to determine that rents charged for unassisted units in a complex are favorably comparable to the assisted unit.
 - g. The processes may be conducted manually or through the use of a compliant, automated system.
2. The PHA's comparability documentation will include who conducted the rent reasonableness determination and when.

F. Owner Certification

The PHA will advise the owner that by accepting each monthly housing assistance payment they will be certifying that:

1. The rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises;
2. The assisted family is currently occupying the unit;
3. The assisted family is not in violation of lease obligations;
4. The owner must give the PHA information requested by the PHA on rents charged by the owner for other units in the premises or elsewhere; .and
5. The owner is in compliance with the terms of the HAP contract.

CHAPTER 20: THE LEASE AND THE HOUSING ASSISTANCE PAYMENT (HAP) CONTRACT

After the PHA has approved the tenancy, the family and the owner will enter into a lease and the owner and the PHA will execute the housing assistance payment (HAP) contract.

A. PHA Approval of Tenancy

The PHA will not give approval for the family of the assisted tenancy, or execute a HAP contract, until the PHA has determined that all the following meet HCV program requirements:

1. The unit is eligible;
2. The unit has been inspected by the PHA and passes HQS;
3. The proposed lease includes the HUD prescribed tenancy addendum;
4. The rent to owner is reasonable; and
5. At the time the family initially receives tenant-based assistance for occupancy in a unit and where the gross rent of the unit exceeds the applicable payment standard for the family, the family share does not exceed 40% of the family's monthly adjusted income.

B. The Lease and Tenancy

The tenant must have legal capacity to enter a lease under state and local law. Legal capacity means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

1. PHA actions before the lease term

The following must be completed before the beginning of the initial term of the lease for a unit:

- a. The PHA has inspected the unit and has determined that the unit satisfies the HQS;
- b. The landlord and the tenant have executed the lease (including the HUD-prescribed tenancy addendum, and the lead-based paint disclosure information; and
- c. The PHA has approved leasing of the unit in accordance with program requirements.

2. Form of Lease

The tenant and the owner must enter a written lease for the unit. The lease must be executed by the owner and the tenant.

- a. If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease must be in such standard form, including the HUD-prescribed tenancy addendum.
- b. If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease, such as a PHA model lease, including the HUD-prescribed tenancy addendum.

- c. The PHA may review the lease to determine if the lease complies with state and local law.
 - 1) If the PHA determines that the proposed lease does not comply with state and local law, the PHA will immediately notify the tenant and owner of the necessary corrections.
 - a) The owner/landlord has 5 calendar days to amend it and resubmit it to the PHA.
 - b) If the landlord fails to submit an acceptable lease within the allotted time frame, the PHA shall deny the request for tenancy.
 - d. The HAP contract prescribed by HUD will contain the owner's certification that if the owner uses a standard lease form for rental to unassisted tenants, the lease is in such standard form.
 - e. If the family moved into the unit prior to the execution of the HAP contract and was required by the owner to sign a lease prior to move in, the owner must execute a new lease and the owner and the PHA must execute a HAP contract.
3. Required Information

The lease must include the following information:

- a. The names of the owner and the tenant;
 - b. The unit rent (address, apartment number, and any other information needed to identify the contact unit);
 - c. The term of the lease (initial term and any provisions for renewal);
 - d. The amount of the monthly rent to owner; and
 - e. A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family.
3. Term of Assisted Tenancy
- a. Initial Term of the Lease
 - 1) The initial lease term must be for at least one year.
 - 2) The PHA may approve a shorter initial lease term if the PHA determines that:
 - a) Such shorter term would improve housing opportunities for the tenant; and
 - b) Such shorter term is the prevailing local market practice.
 - 3) During the initial term of the lease the owner may not raise the rent to owner.
 - 4) The PHA may execute the HAP contract even if there is less than one year remaining from the beginning of the initial lease term to the end of the last expiring funding increment under the consolidated ACC.

b. Family Responsibility

- 1) If the family terminates the lease on notice to the owner, the family must give the PHA a copy of the notice of termination at the same time. Failure to do this is a breach of the Obligations of the Family under the HCV program.
- 2) The family must notify the PHA and the owner before the family moves out of the unit. Failure to do this is a breach of Obligations of Family under the HCV program.

4. Family's Right to Use and Occupancy

The family has the right to exclusive use and occupancy of the unit by the members of the household authorized to reside in the unit and receive guests in the assisted unit.

a. The head of household is responsible for the conduct of the family's guests which includes, but is not limited to:

- 1) Damages (beyond ordinary wear and tear) to the unit or premises by the guest.
- 2) Any drug-related criminal activity engaged in, on, or near the premises by the guest.
- 3) Any violent criminal activity, including domestic violence, dating violence, sexual assault, or stalking, on or near the premises by the guest.

b. Adult Visitors

- 1) The family must follow the established policy in the lease as to the length of time an adult guest may visit and/or stay overnight in the assisted unit.
- 2) The PHA shall allow an adult guest to visit and/or stay overnight in the assisted unit for no more than 90 cumulative days per year.
- 3) If the adult exceeds this limit, the PHA may consider the adult an unauthorized household member and will take all necessary actions to enforce the obligations of the family.

c. Child Visitors

- 1) The family must follow the established policy in the lease as to the length of time guests under the age of 18 may visit and/or stay overnight in the assisted unit.
- 2) The PHA shall allow children under the age of 18 to visit and/or stay overnight in the assisted unit for a maximum of 90 cumulative days per year provided the family has the written permission of the owner/landlord.
- 3) The PHA must approve children exceeding this limit if due to a court ordered custody arrangement.
- 4) If the children exceed this limit, the PHA may consider the children as unauthorized household members and will take all necessary actions to enforce the obligations of the family.

C. The Housing Assistance Payment Contract (HAP Contract)

The Housing Assistance Payment contract (HAP contract) is a written agreement between the PHA, and the owner of the unit occupied by the HCV family. Under the HAP contract, the PHA agrees to make housing assistance payments (HAP) to the owner on behalf of the family leasing the contract unit. The PHA will use the HAP contract form prescribed by HUD.

1. Execution of the HAP Contract

- a. The PHA will use best efforts to execute the HAP contract before the beginning of the lease term.
- b. The HAP contract must be executed no later than 60 calendar days from the beginning of the lease term.
- c. The PHA will not pay any housing assistance payment to the owner until the HAP contract has been executed.
- d. If the HAP contract is executed during the period of 60 calendar days from the beginning of the lease term, the PHA will pay housing assistance payments after execution of the HAP contract (in accordance with the terms of the HAP contract), to cover the portion of the lease term before execution of the HAP contract (a maximum of 60 days).
- e. Any HAP contract executed after the 60-day period is void, and the PHA will not pay any housing assistance payment to the owner, unless there are extenuating circumstances that prevent or prevented the PHA from meeting the 60-day deadline, then the PHA may submit to the HUD field office a request for an extension.
 - 1) The request, which must be submitted no later than two (2) weeks after the 60-day deadline, must include an explanation of the extenuating circumstances and any supporting documentation.
 - 2) HUD at its sole discretion will determine if the extension request is approved

2. Term of HAP contract.

The HAP contract term runs concurrently with the lease term.

- a. The term of the HAP contract begins on the first day of the initial lease term and terminates on the last day of the lease term, including any extensions.
- b. The date of the HAP contract and lease must be the same.

3. The HAP contract terminates automatically if:

- a. The PHA terminates the HAP contract.
- b. The lease is terminated by the owner or the tenant.
- c. The PHA terminates assistance for the family.
- d. The family moves from the contract unit.

- e. When 180 calendar days have elapsed since the PHA made the last HAP to the owner for the contract unit.
 - f. Upon the death of a single member household, including single member households with a live-in aide.
4. The PHA may terminate the HAP contract if any of the following occurs:
- a. The PHA determines, in accordance with HUD requirements, that available program funding is not sufficient to support continued assistance for families in the program.
 - b. The PHA determines that the contract unit does not provide adequate space in accordance with HQS because of an increase in family size or change in family composition.
 - c. A family break-up. The PHA may continue HAP on behalf of family members who remain in the contract unit.
 - d. The PHA determines that the unit does not meet all requirements of the HQS or determines that the owner has otherwise breached the HAP contract.
4. Conflict of Interest:
- The PHA will not approve a HAP contract in which any of the following parties have direct or indirect interest in the HAP contract or in any benefits or payments under the HAP contract (including the interest of any immediate family member of such covered individual, while such person is a covered individual or during one year thereafter).
- a. Covered Individuals
 - 1) Present or former member or officer of the PHA, except a participant commissioner;
 - 2) Any employee of the PHA, or any contractor, subcontractor or agent of the PHA, who formulates policy or influences program decisions;
 - 3) Any public official, member of a governing body, or state or local legislator, who exercises functions or responsibilities related to the program; or
 - 4) Any members of the U.S. Congress.
 - b. Immediate family members: spouse, parent (including stepparent), child (including stepchild), grandparents, grandchild, sister or brother (including stepsister or stepbrother) of any covered individual.
5. Assignment of the HAP Contract
- a. The owner may not assign the HAP contract to a new owner without the prior written consent of the PHA.
 - b. If the owner requests PHA consent to assign the HAP contract to a new owner, the owner shall supply any information as required by the PHA pertinent to the proposed assignment.

- c. The HAP contract may not be assigned to a new owner that is debarred, suspended or subject to a limited denial of participation under HUD regulations.
- d. The HAP contract may not be assigned to a new owner if HUD has prohibited such assignment because:
 - 1) The federal government has instituted an administrative or judicial action against the owner or proposed new owner for violation of the Fair Housing Act or other federal equal opportunity requirements, and such action is pending; or
 - 2) A court or administrative agency has determined that the owner or proposed new owner violated the Fair Housing Act or other federal equal opportunity requirements.
- e. The HAP contract may not be assigned to a new owner if the new owner (including a principal or other interested party) is the parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA has determined (and has notified the family of such determination) that approving the assignment, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities.
- f. The PHA may deny approval to assign the HAP contract if the owner or proposed new owner (including a principal or other interested party):
 - 1) Has violated obligations under a HAP contract under Section 8;
 - 2) Has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
 - 3) Has engaged in any drug-related criminal activity or any violent criminal activity;
 - 4) Has a history or practice of non-compliance with the HQS for units leased under the Section 8 tenant-based programs, or non-compliance with applicable housing standards for units leased with project-based Section 8 assistance or for units leased under any other federal housing program;
 - 5) Has a history or practice of failing to terminate tenancy of tenants assisted under any federally assisted housing program for activity engaged in by the tenant, any member of the household, a guest, or another person under the control of any member of the household that:
 - a) Threatens the right to peaceful enjoyment of the premises by other residents;
 - b) Threatens the health or safety of other residents, of employees of the PHA, or of owner employees or other persons engaged in management of the housing;
 - c) Threatens the health or safety of, or the right to peaceful enjoyment of their residents by, persons residing in the immediate vicinity of the premises; or
 - d) Is drug-related criminal activity or violent criminal activity;

- 6) Has a history or practice of renting units that fail to meet state or local housing codes; or
- 7) Has not paid state or local real estate taxes, fines, or assessments.
- g. The new owner must agree to be bound by and comply with the HAP contract.
 - 1) The agreement must be in writing, and in a form acceptable to the PHA.
 - 2) The new owner must give the PHA a copy of the executed agreement.
- 6. HUD Remedies for PHA Failure to Comply with Obligations under the HAP Contract

The PHA is required to follow and have all owners participating in the HCV program follow, the requirements of the U.S. Housing Act of 1937 as well as HUD regulations, the PHA's approved Administrative Plan, and HUD-approved funding applications. Where the PHA fails to comply with its obligation under the HAP contract, certain circumstances may require HUD intervention.

- a. HUD has the authority to reduce or offset the PHA's HCV administrative fee if the PHA fails to perform PHA administrative responsibilities correctly or adequately under the program.
- b. If the PHA has not administered any Section 8 program correctly, HUD may also prohibit use of funds in the administrative fee reserve and may direct the PHA to use funds in the reserve to improve administration of the program or to reimburse ineligible expenses.
- c. HUD can also reduce HAP amounts to the PHA when the PHA fails to comply with the statutory or regulatory requirements.
 - 1) If HUD determines that the PHA failed to comply with any statutory or regulatory obligations, HUD may reduce to an amount determined by HUD the amount of any funding increment and/or the contract authority or budget authority for any funding increment.
 - 2) HUD must provide written notice and include a revised funding exhibit specifying the term, contract authority, and budget authority for each funding increment under the Consolidated ACC.
 - 3) Where HUD may view the PHA as having failed to take appropriate action to enforce the PHA's rights under the HAP contract, HUD could declare that the PHA is in default. These circumstances include when:
 - (1) The PHA has failed to comply with any statutory or regulatory obligations;
 - (2) The PHA has failed to comply with obligations under a HAP contract;
 - (3) The PHA has failed to take appropriate action, to HUD's satisfaction or as directed by HUD, for enforcement of the PHA's rights under a HAP contract; or
 - (4) The PHA has made any misrepresentation to HUD of any material fact.

- d. HUD will provide its determination in writing.
 - 1) In the case of default, HUD may take possession of all or any PHA property, rights, or interests in connection with a program, including funds held by a depository, program receipts, and rights or interests under a contract for HAP with an owner.
 - 2) Finding the PHA in default is a step that HUD only takes as a last resort.
 - 3) HUD will work with the PHA using less stringent remedies before taking the step of finding the PHA in default.
- e. In addition to HUD remedies against the PHA, HUD may, where the PHA has properly enforced HQS regulations, appropriately documented and provided justification, initiate claims against the owner under the Program Fraud and Civil Remedies Act (PFCRA).

D. Tenancy Addendum

The HUD-required tenancy addendum is part of the HAP contract and the lease. The tenancy addendum sets forth the tenancy requirements for the HCV program.

- 1. The terms of the tenancy addendum are prescribed by HUD in accordance with federal law and regulation, as a condition for federal assistance to the tenant and tenant's family under the HCV program.
- 2. All provisions in the HUD-required tenancy addendum must be added word-for-word to the owner's standard form lease that is used by the owner for unassisted tenants.
- 3. The tenant shall have the right to enforce the tenancy addendum against the owner.
- 4. In case of any conflict between the provisions of the tenancy addendum as required by HUD, and any other provisions of the lease or any other agreement between the owner and the tenant, the requirements of the HUD-required tenancy addendum shall control.

E. Changes in the Lease or Rent

If the tenant and the owner agree to any changes in the lease, the changes must be in writing, and the owner must immediately give the PHA a copy of the changes. The lease, including any changes, must be in accordance with the requirements of this section.

- 1. In the following cases, tenant-based assistance shall not be continued unless the PHA has approved a new tenancy in accordance with HCV program requirements and has executed a new HAP contract with the owner:
 - a. If there are any changes in lease requirements governing tenant or owner responsibilities for utilities or appliances;
 - b. If there are any changes in lease provisions governing the term of the lease; and
 - c. If the family moves to a new unit, even if the unit is in the same building or complex.

2. PHA approval of the tenancy, and execution of a new HAP contract, are not required for changes in the lease other than as specified above.
3. The owner must notify the PHA of any changes in the amount of the rent to owner at least 60 days before any such changes go into effect, and any such changes shall be subject to rent reasonableness requirements.

CHAPTER 21: THE HAP SUBSIDY AND FAMILY SHARE

The actual housing assistance payment (HAP) and family share can only be calculated after the family has selected a unit and the gross rent for the unit is known.

A. Total Tenant Payment (TTP)

The total tenant payment (TTP) is the minimum amount a family must contribute toward rent and utilities regardless of the unit selected. The TTP is calculated using a statutory formula and the individual family income information.

1. To calculate the TTP, annual adjusted income and annual (gross) income must be converted to monthly adjusted income and monthly gross income by dividing the annual figures by 12 months.
2. The TTP is the greater of:
 - 30% of monthly adjusted income;
 - 10% of monthly gross income;
 - The welfare rent (in as-paid states only); or
 - The PHA minimum rent
3. Imputed Income Policy

As an MTW agency, the PHA will base the TTP on an assumed number of hours worked per week.

- a. The imputed income policy assumes 30 hours worked per week per adult individual.
- b. The assumed wage rate is the lesser of the federal or state minimum wage.

B. Minimum Rent

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

1. The PHA may establish a minimum rent up to \$50.
2. As a MTW agency, the PHA has established a minimum rent for the HCV program at \$130. Elderly/Disabled families are exempt from the minimum rent.

C. 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) calendar 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 lasts 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 as 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 hardship 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.

D. Gross Rent

The gross rent is the entire housing cost.

1. The gross rent is the rent to the owner and the utility allowance for the unit.
2. If all the utilities are included in the rent to owner, the rent to owner and the gross rent are the same.
3. If the family chooses a unit with a gross rent that exceeds the payment standard, the family pays the TTP plus the amount by which the gross rent exceeds the payment standard.

E. Maximum Subsidy

The family unit size, as established by the PHA subsidy standards, is used in determining the maximum rent subsidy for the family.

1. The maximum subsidy the PHA can pay is the payment standard minus the TTP.
2. The maximum subsidy calculation is done at the time the family is issued the voucher.
3. The actual PHA subsidy will be calculated after the family has selected a specific unit.

F. Maximum Initial Rent Burden

At the time a family initially receives tenant-based assistance for occupancy of a dwelling unit, and where the gross rent of the unit exceeds the applicable payment standard for the family, as a MTW agency, the family share must not exceed 50% of the family's monthly adjusted income.

1. The determination of adjusted monthly income must be based on verification received by the PHA no earlier than 60 days before the PHA issues a voucher to the family.
2. The rent burden is applied each time the family moves to a new unit or signs the first assisted lease while leasing in-place where the gross rent of the unit exceeds the applicable payment standard for the family.
3. The rent burden does not apply to changes in the family share after move-in, such as owner request for a rent increase.
4. There is no exception to the MTW maximum initial rent burden for mixed families. The PHA will not approve a unit for which mixed-family family share would exceed 50% of the adjusted income.

G. Effect of the Unit Size Selection on Subsidy

The PHA must allow the family to rent an acceptable unit even if the number of bedrooms is larger or smaller than the family's voucher size.

If the family selects a unit with a different number of bedrooms than the family unit size listed on the voucher, the PHA will apply the payment standard and utility allowance for the smaller of the family unit size listed on the family's voucher or the unit size selected by the family.

H. The Housing Assistance Payment (HAP)

The HAP is the monthly housing assistance payment made to the owner by the PHA on behalf of the family.

1. The HAP will be paid to the owner in accordance with the terms of the HAP contract.
2. HAP may only be paid to the owner during the lease term, and while the family is residing in the unit.
3. Calculation of the HAP
 - a. The actual HAP can be calculated only after the family has selected a unit and the gross rent for the unit is known.
 - b. The HAP cannot exceed the maximum subsidy calculated but may be less than the maximum subsidy if the gross rent for the unit is less than the payment standard amount.
 - c. The PHA shall pay a monthly HAP on behalf of the family that is equal to the lower of:
 - 1) The payment standard for the family minus the TTP; or
 - 2) The gross rent minus the TTP.
 - d. The PHA shall not pay a monthly HAP above the rent to the owner.

I. Zero HAP Subsidy

1. Initial Lease-Up

- a. If the calculation of the family's income results in a zero HAP subsidy before an initial lease-up, the PHA will not enter into a new HAP contract with the owner on behalf of the family.
- b. The PHA will notify the family in writing that the request for tenancy approval has been denied, the family will be given another RFTA, and the suspended term of the voucher will be added to the end of the voucher term to allow the family additional time to search for another unit.

2. Reexaminations

If the calculation of the family's income results in a zero HAP subsidy during an annual or interim reexamination:

- a. The family may continue as an HCV program participant for 180 days from the effective date of the zero HAP subsidy.
- b. The family may remain in the assisted unit and will be responsible for paying the full amount of the contract rent to the owner during the 180 days.
- c. The HAP contract between the PHA and the owner remains in effect during the 180 days.
- d. If the family's circumstances change during the 180-day period and the family again needs assistance, the family is responsible for timely reporting the change in their circumstances to the PHA and the PHA will conduct an interim reexamination to determine the family's portion of the contract rent.
- e. At the end of the 180 days, if the HAP subsidy has not been restored, the HAP contract will automatically terminate.
- f. Family moves during the 180-day period
 - 1) The family may request to move with continued assistance by providing the owner/landlord and the PHA a notice to vacate as per the lease.
 - a) The PHA will determine the family's eligibility to move with continued assistance.
 - b) If the family is eligible to move, the PHA will proceed with the lease-up process.
 - c) If the family is not eligible to move, the PHA will notify the family, in writing, of their ineligibility to move.
 - 2) If the family moves from the unit without giving proper written notice to the owner and the PHA, the family will be in violation of the lease and the obligations of the family and subject to termination of HCV assistance.
- g. The PHA will provide the family and the owner at least 30 days advance notification of the proposed termination and an opportunity for the family to request an informal hearing.

- h. The PHA will not consider a family with zero HAP subsidy as a break in continued assistance, except for a family whose HCV assistance was terminated for lease violations or violations of the obligations of the family.

J. HAP Controls and Accountability

1. All HAP are computed in accordance with HUD approved formulas and schedules. The computations are reviewed before being submitted for payment.
2. PHA internal requests for HAP must be submitted no later than five (5) calendar days before the end of each month to ensure that HAP can be reviewed for accuracy and are made in a timely manner to the owners.
3. The PHA will maintain a HAP register to monitor timeliness and accuracy.
4. HAP is considered received once it has been mailed or electronically deposited into the owner's account by the PHA.
5. The first HAP made on a new HAP contract is never considered for a late payment.
6. The PHA will generate the EIV Deceased Tenants Report prior to disbursing upcoming monthly HAP to owners.
 - a. The PHA will generate the EIV Deceased Tenants Report monthly.
 - b. The purpose of the EIV Deceased Report is to prevent, eliminate and/or recover improper HAP being made on behalf of deceased HCV tenants.

K. Deceased Tenants Report

The PHA will generate the Deceased Tenants Report from the EIV system at least once per month prior to disbursing the upcoming monthly housing assistance payment to owners.

The PHA shall review the report, follow up with the listed families immediately, and take the following administrative actions:

1. The PHA will immediately send a letter to the head of household or emergency contact person (if the head of household is deceased and there is no other adult household member) to confirm the death of the listed household member.
2. The PHA will notify the owner in writing of the deceased head of household.
3. Deceased single member household or remaining household member is a live-in aide:
 - a. The PHA will discontinue the HAP to the owner no later than the first of the following month after the month in which the death occurred.
 - b. The PHA must terminate assistance immediately for deceased single member household.
 - c. The owner is entitled to receive the full HAP amount for the month in which the death occurred.
 - d. The owner is not entitled to HAP for any month following the month in which the

death occurred.

- e. If the remaining household member is a live-in aide, the PHA must discontinue HAP to the owner no later than the first of the following month after the month in which the death occurred.
 - 1) The live-in aide is not entitled or eligible for any rental assistance or continued occupancy in the subsidized unit for any month after the month which the head of household died.
 - 2) The PHA may not designate the live-in aide as a new head of household or change the live-in aide's relationship code to make them an eligible household member.
4. Head of household deceased and remaining household members are minors.

The PHA will follow the policies in Chapter 24: Absences from Unit, Section C, Use of Caretaker due to Absence of Head of Household.
5. Household member incorrectly identified as deceased
 - a. The PHA will immediately notify the individual in writing and advise the individual to contact SSA so that SSA may correct its records as only the SSA can correct erroneous death information.
 - b. The PHA will also provide the individual with their section of the EIV Income Report which shows the death information.
 - c. The PHA may provide the minor's EIV information to the minor's adult parent or guardian.
 - d. The PHA will document the family file that the individual was reported as deceased but that the PHA confirmed the individual is still alive.

L. HAP Late Payments to Owners

The HAP contract provides for penalties against the PHA for late payments of the HAP due to the owner. To assess such penalties, all of the following circumstances must apply:

1. The penalties follow the generally accepted practice and law in the local housing market governing penalties for late payment of rent by the tenants.
2. It is the owner's practice to charge both assisted and unassisted tenants' penalties for late payments.
3. The owner also charges such penalties against the tenant for late payment of family rent to owner.
4. PHA will not be penalized for circumstances which are beyond the PHA's control.
5. The PHA may only use administrative fee income or administrative fee reserve to pay a late payment penalty.

M. Family Share

The family share is the family's portion of the rent to owner plus the applicable utility allowance, if any, paid by the family. The family share cannot be calculated until a unit is selected.

1. The family share is calculated by subtracting the amount of the HAP from the gross rent.
2. Payment of the whole family share is the responsibility of the family.
3. Unit Selection and the Family Share
 - a. If a family leases a unit with a gross rent above the payment standard for the family, the family share is the TTP plus any amount by which the gross rent exceeds the payment standard.
 - b. If the family leases a unit with a gross rent at or below the payment standard, the family share will equal the TTP.
4. The PHA may not use HAP or other program funds (including any administrative fee reserve) to pay any part of the family share, including the family rent to the owner.

N. Family Rent to Owner

The family rent to the owner is the portion of the rent to owner that is paid by the family.

1. The family rent to the owner is calculated by subtracting the amount of the HAP to the owner from the rent to owner.
 - a. If the family is not responsible for paying any utilities under the lease, family rent to owner will equal family share.
 - b. If the family is responsible for directly paying some or all of the utilities under the lease, family rent to owner will be less than the family share.
2. The part of the rent to owner which is paid by the family may not be more than the rent to owner minus the HAP the owner.
3. The owner may not demand or accept any rent payment from the family in excess of the maximum PHA determined family rent to owner and must immediately return any excess rent payment to the family.
4. The family is not responsible for any PHA portion of the rent to the owner, as determined by the PHA and outlined in the HAP contract between the owner and the PHA.
5. If the calculation of family rent to owner results in a negative amount, which results in the family rent to owner as zero, there will be a utility reimbursement.

O. Utility Reimbursement

Is the amount by which the HAP exceeds the rent to the owner.

1. When there is a utility reimbursement, the PHA pays the full amount of the rent to the owner and sends a utility reimbursement payment to the family or the utility supplier.

- a. The PHA will pay the utility reimbursement directly to the family.

P. Prorated HAP

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 eligible immigration status), the amount of housing assistance is prorated based on the percentage of household members who are citizens or have eligible immigration status in relation to the total number of members in the family.

To calculate prorated HAP, the PHA will follow the steps below:

- Step 1. Determine the amount of the pre-proration HAP. Annual income includes income of all family members, including any family member who has not established eligible immigration status.
- Step 2. Multiply the amount determined in Step 1 by a fraction for which:
The numerator is the number of family members who have established eligible immigration status; and
The denominator is the total number of family members.
- Step 3. Prorated Housing Assistance
The amount determined in Step 2 is the prorated HAP for a mixed family.
- Step 4. No Effect on Rent to Owner
 - a. Proration of HAP does not affect rent to owner.
 - b. The family must pay the portion of rent to the owner not covered by the prorated HAP.

CHAPTER 22: REEXAMINATIONS

Regular reexaminations determines the continued eligibility of the family and establishes the HAP to be made on behalf of the family. Interim reexaminations are made because of changes in the family's circumstances between annual reexaminations or the last interim reexamination.

A. Triennial Reexaminations

As a MTW agency, the PHA will conduct reexaminations of family income and composition once every three years.

1. The triennial reexamination date shall be the first day of the month of the anniversary date (36 months) of the initial HAP contract.
2. If the family moves to a new unit, the triennial reexamination date will change based on the new effective date of the new HAP contract.
3. Families will have the opportunity to recertify their annual income, assets, and family composition triennially, unless a reasonable accommodation request was approved by the PHA.
4. The triennial reexamination will be conducted no later than 120 days prior to the first day of the anniversary month.

B. Triennial Reexamination Appointment

The PHA will maintain a triennial reexamination tracking system and approximately 90 - 120 days in advance of the triennial reexamination effective date the PHA will begin the triennial reexamination process.

1. Scheduling the Triennial Reexamination Appointment
 - a. The PHA will schedule the triennial reexamination appointment within reasonable hours after reasonable notice.
 - b. Reasonable hours to conduct the triennial reexamination appointment are between 8:00 a.m. and 4:00 p.m., on Monday, Tuesday, Wednesday, Thursday, and Friday.
 - c. The PHA will provide the family with a written triennial reexamination appointment notice. The notice will:
 - 1) State the date of the triennial reexamination appointment, the location, time, and what information is required to be brought to the appointment.
 - 2) State the head of household is required to attend the triennial 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 triennial

reexamination. The PHA may also conduct the triennial reexamination by home visit as an alternate format for elderly families.

- d. The triennial 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) Text messaging
 - 6) Webcast
 - 7) Video call/Video conference
 - 8) Home visits as a reasonable accommodation for person with disabilities or for elderly families
- e. The PHA will provide triennial 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 triennial 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 triennial reexamination appointment up to three (3) days prior to the triennial reexamination appointment date. The family may contact the PHA by telephone.
- b. The PHA will reschedule one (1) second triennial reexamination appointment. The second triennial reexamination appointment notice will be mailed or emailed promptly (within 10 days of the first appointment) and will be scheduled within 10 calendar 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 an informal hearing.
 - 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 triennial 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 triennial reexamination notice may result in termination of assistance.

C. Streamlined Annual Reexamination Income Determination for Fixed Incomes

The PHA will conduct a streamlined income reexamination for verifying and adjusting fixed income sources over a three-year cycle for any family member with an unadjusted income consisting of 90% or more from fixed income sources.

1. The streamlined triennial reexamination for fixed income is available for HCV program participants only and may be implemented at the family's next triennial reexamination.
2. The streamlined triennial reexamination for fixed income is not available for HCV program applicants. Upon admission to the program, the PHA will obtain third-party verification of all income sources for all family members.
3. A family member with a fixed income source is defined as a family member whose income includes periodic payments at reasonable predictable levels from one or more of the following sources:
 - a. Social Security, SSI, Supplemental Disability Insurance;
 - b. Federal, state, local, or private pension plans;
 - c. Annuities or other retirement benefit programs, insurance policies, disability or death benefits, or other similar type of periodic receipts; or
 - d. Any other source of income subject to adjustment by a verifiable cost of living adjustment (COLA) or current rate of interest.
4. The PHA will determine whether a source of income is fixed.
 - a. The PHA will compare the amount of the income from the source to the amount generated during the prior year.
 - b. If the amount is the same or if it has changed only as a result of a COLA or due to interest generated on a principal amount that remained otherwise constant, the source is fixed.
 - c. The PHA may also make such a determination by requesting the family to identify which source/s of income are fixed.
 - d. The PHA will document in the family file how the PHA made its determination that a source of income is fixed.
5. When 90% or more of a family's unadjusted income consist of fixed income, the PHA will apply a COLA or COLAs to the family's fixed income sources, provided that the family certifies both that 90% or more of their unadjusted income is fixed income and the sources of fixed income have not changed from the previous year.

6. When less than 90% of a family's unadjusted income consists of fixed income, the PHA will apply a COLA to each of the family's sources of fixed income individually. The PHA will continue to third-party verify any non-fixed source of income for the family member annually.
7. The COLA or Current Interest Rate
 - a. In the initial year in which a streamlined income determination is made, the PHA must apply the COLA to a source of income that has been previously verified.
 - b. The PHA will adjust the family's fixed income using a COLA or current interest rate that applies to each specific source of fixed income and is available from a public source or through tenant-provided third-party verification.
 - c. If no public verification or tenant-provided verification is available, the PHA must obtain third-party verification of the income amounts in order to calculate the change in the income from the source.
8. Streamlined Triennial Reexamination Timeline

Year 1	The PHA will complete a move-in or triennial reexamination consistent with the regulations on reexaminations.
Year 2 and 3	The PHA will complete a triennial reexamination with the following streamlined income determination for each type of source: - Fixed Income: Apply inflation adjustment factor. The PHA will apply a COLA or current interest rate to the year one income amount. The PHA will not collect third-party verification for the fixed income source. - Non-fixed income sources when fixed income is more than 90% of unadjusted income: The PHA will adjust the income using third-party verification - Non-fixed income when fixed income is less than 90% of unadjusted income: The PHA will adjust the income using third-party verification. - Assets and Deductions: Completes verification and calculation of assets and deductions.
Year 4	The cycle begins again.

D. Family Interim Reporting Requirements

At any time, the family may request an interim determination of family income or composition because of any changes since the last determination. The family may request one (1) interim reexamination per year.

1. The family must report within 10 calendar days of occurrence, the following to the PHA:
 - a. Changes in family income (increases or decreases), including but not limited to changes in the source (earned and/or unearned), employer, employment status, etc.
 - b. Any changes in the household composition, including additions and removal of household members.
 - c. Increases or decreases in allowable deductions/allowances that may affect the adjusted income.
2. The family must report the change in circumstance in writing by using the PHA interim report form. The PHA interim report form is available:
 - a. By request from the PHA
 - b. At the PHA office
 - c. Online on the PHA's website
 - d. By email
3. The PHA may receive the PHA interim report form:
 - a. By dropping it off at the PHA office (the family will be provided a receipt containing the day and time the form was dropped off), or
 - b. By email
4. The PHA will determine, as per Section E of this Chapter, whether a reported change in the family's circumstances warrants an interim reexamination.

E. PHA Interim Requirements

1. The PHA will conduct the interim reexamination within a reasonable time after the family's request.

The PHA will consider reasonable time based on the amount of time it takes the PHA to verify the information, but no longer than 30 days after the change in income was reported by the family.

2. When calculating a family's income, including asset income, during the interim reexamination, the PHA will use anticipated income (current income – i.e., the family's estimated income for the upcoming 12-month period).
3. Decreases in Annual Adjusted Income

Decreases in annual adjusted income includes decreases in earned income, unearned income, and increases in the family's deductions and allowances.

- a. The PHA will conduct an interim reexamination of family income if the PHA estimates the family's annual adjusted income will decrease by an amount that is 8% or more of the family's annual adjusted income or a lower amount established by HUD through notice.
- b. The PHA will not conduct an interim reexamination of family income if the PHA estimates the family's adjusted income will decrease by an amount that is less than 8% of the family's annual adjusted income or a lower amount established by HUD through notice.
- c. The PHA will not establish a dollar figure threshold amount instead of a percentage threshold.
- d. The PHA will round calculate the percentage decrease to the nearest unit (e.g., a calculated decrease of 9.5% may be rounded up to 10%).

- e. Mandated Processing of Interim Reexamination and the HUD Established Threshold for Decreases in Family Size due to Death or Permanent Move-Out from the Assisted Unit

HUD is requiring the PHA to apply a 0% threshold and to process an interim reexamination when there is a decrease in family size attributed to the death or permanent move-out from the assisted unit of a family member during the period since the family's last reexamination that results in a decrease in adjusted income of any amount.

- 1) If there is no change/decrease in adjusted income as a result of the decrease in family size, the PHA will process a non-interim transaction instead of an interim reexamination.
 - 2) The 0% threshold for interim reexaminations applies only to decreases in family size that result in a decrease in adjusted income.
 - 3) If the net effect of the changes in annual adjusted income due to a decrease in family size results in an increase in annual adjusted income, the PHA will process the removal of the household member(s) as a non-interim reexamination transaction without making changes to the family's annual adjusted income.
- f. The PHA has not adopted a retroactive rent decrease policy.

4. Increases in Annual Adjusted Income

The PHA must conduct an interim reexamination of family income when the PHA becomes aware that the family's adjusted income has changed by an amount that the PHA estimates will result in an increase of 10% or more in annual adjusted income or such other amount established by HUD through notice, except:

- a. The PHA will include earned income increases in determining whether the 10% threshold is met for increases in adjusted income when the family previously had an interim reexamination performed for a decrease in annual adjusted income (earned,

unearned, or combined) since the last annual reexamination; and

- b. The PHA will not conduct an interim reexamination if the family reports an increase in income within the three (3) months of their next annual reexamination effective date.

Families who delay reporting income increases until the last three (3) months of their certification period may be subject to retroactive rent increases in accordance with the PHA's policies.

- c. The PHA will not establish a different threshold to conduct interim reexamination for increase in adjusted income.
- d. A series of smaller reported increases in adjusted income may cumulatively meet or exceed the 10% increase threshold, at which point the PHA will conduct an interim reexamination.
- e. When an increase of any size is reported by a family, the PHA will document the reported increase in the tenant file.

5. Non-Interim Reexaminations

Families may experience changes within the household that do not trigger an interim reexamination but still need to be reported in a non-interim reexamination submission to HUD.

- a. The PHA will submit a separate, new action code on form HUD-50058.
- b. The code will be used for the following transaction types when an interim reexamination is not triggered under the final rule:
 - 1) Adding or removing a hardship exemption for the child-care expense deduction;
 - 2) Updating or removing the phased-in hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction (the phased-in relief will begin at an eligible family's first annual or interim reexamination, whichever is sooner, after January 1, 2024);
 - 3) Adding or removing general hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction;
 - 4) Adding or removing a minimum rent hardship;
 - 5) Adding or removing a non-family member (i.e., live-in aide, foster child, foster adult);
 - 6) Ending a family's EID or excluding 50% (decreased from 100%) of a family member's increase in employment income at the start of the second 12-month EID period.
 - 7) Adding a family member and the increase in adjusted income does not trigger an interim reexamination.

- 8) Removing a family member and the increase in adjusted income does not trigger an interim reexamination.
- 9) Adding/updating a family or household member's SSN.
- 10) Updating a family member's citizenship status from eligible to ineligible or vice versa, resulting in a change to the family's rent and/or utility reimbursement, if applicable (i.e., family begins receiving prorated assistance or previously prorated assistance becomes full assistance), or updating the prorated rent calculation due to the addition or removal of family members in household with an ineligible noncitizen(s).

INTERIM REEXAMINATION PHA ACTION		
Scenario	PHA Action	Notes
Family reports income increase or decrease	PHA will estimate the amount of the income change	The PHA will include the earned income in determining whether the 8% threshold has been met.
Estimate shows income decrease is 8% or more of adjusted income	PHA will conduct an interim reexamination	
Estimate shows income decrease is less than 8% or more of adjusted income	PHA will not conduct an interim reexamination	If the PHA uses the default 10% threshold, no interim reexamination is required.
Estimate shows an increase in applicable income is more than 10%	PHA will conduct an interim reexamination	The PHA will not conduct an interim reexamination if the increase of income occurred in the last three (3) months before a regular annual reexamination.

F. Interim Household Composition Reporting Requirements

The PHA will conduct an interim reexamination when there is a change (addition or removal) in family composition. The composition of the assisted family, including household members, residing in the unit must be approved by the PHA. No other persons, except those approved by the PHA, may reside in the assisted unit.

1. Addition of Family or Household Members
 - a. Adding family members resulting from birth, court awarded custody, or adoption does not require PHA approval. The family must notify the PHA within 10 calendar days of the addition.

- b. The family must request PHA approval to add a foster child/adult or live-in aide as a household member.

- c. Addition of Persons Aged Under 18 (Minor)

When the family requests to add a minor to the family composition, the following will be required:

- 1) Verification of verification of birth
- 2) Declaration of Citizenship form for the minor.
- 3) Copy of SSN for new household members at least six (6) years of age or is under age six (6) and has an SSA-assigned SSN.
 - a) The family must disclose the SSA-assigned SSN and provide the PHA with the documents referenced in Chapter 8 at the time of the PHA request, or at the time of processing the interim of family income and/or composition.
 - b) If the family is unable to provide the required documentation of the SSN, the PHA will not add the new household member to the family composition until the family provides the documentation.
 - c) HUD does not authorize the PHA to generate an ALT ID for the affected household member.
 - d) Exception if the minor does not contend to have eligible immigration status and has not been assigned an SSN.
- 4) Copy of SSN for new household member who is under the age of six (6) and does not have an SSA-assigned SSN.
 - a) The family must disclose the SSA-assigned SSN and provide the PHA with the documents referenced in Chapter 8 within 90 calendar days of the child being added to the household.
 - b) If the family is unable to disclose and provide evidence of the SSN within 90 calendar days, the PHA will grant the family an additional 90-day period to comply with the SSN disclosure and documentation requirement, only if the PHA determines the family was unable to comply with the requirements due to circumstances that could not have reasonably been foreseen and were outside the control of the family.
 - c) The child is to be included as part of the assisted household and is entitled to all the benefits of being a household member during the allotted time for the family to comply with the SSN disclosure and documentation requirements.
 - d) The PHA will generate an ALT ID.
 - e) Upon expiration of the provided time period, if the family has not complied with the SSN disclosure and documentation requirements, the PHA will terminate the entire family's housing assistance.

- f) An exception to the above occurs when the minor does not contend to have eligible immigration status and has not been assigned an SSN.
- 5) For a parent or another person having custody or guardianship of such a minor the PHA will require one of the following documents:
 - a) Court-order assignment;
 - b) Statement from parent/guardian assigning custody or guardianship;
 - c) Custody Agreement filed in a court of law;
 - d) Adoption papers; or
 - e) Verification from a social service agency.
- 6) Declaration of any income (earned or unearned) and assets (including income from assets) for the minor.

d. Addition of Adults 18 Years of Age or Older

When the family requests to add an adult person to the family composition, the following will be required:

- 1) Verification of verification of birth
- 2) Copy of a government issued photo identification
- 3) Declaration of Citizenship form for the adult
- 4) Copy of SSN for the new household members who has an SSA-assigned SSN.
 - a) The family must disclose the SSA-assigned SSN and provide the PHA with the documents referenced in Chapter 8 at the time of the PHA request, or at the time of processing the interim of family income and/or composition.
 - b) The PHA must terminate the HCV assistance if the family does not disclose and provide the required documentation.
 - c) However, if the family is otherwise eligible for continued assistance the PHA, at its discretion, may defer the family's termination and provide the family an opportunity to comply with the requirement within a period not to exceed 90 calendar days from the date the PHA determined the family noncompliant with the SSN disclosure and documentation requirement, only if the PHA determines:
 - (1) The failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside the control of the family; and
 - (2) There is a reasonable likelihood that the family will be able to disclose the SSN and provide such documentation of the SSN by the deadline.
 - d) If the family is unable to comply with the requirements by the specified deadline, the PHA will terminate the entire family's tenancy or assistance, or

both.

- e) The PHA must terminate the family's housing assistance if the family submits falsified SSN documentation.
 - f) An exception to the above if the adult does not contend to have eligible immigration status and has not been assigned an SSN.
- 5) Declaration of any income (earned or unearned) and assets (including income from assets) for the adult.
- 6) The individual will be required to sign form HUD-9886-A (Authorization for Release of Information/Privacy Act Form) and other PHA consent forms.
- 7) The adult is subject to the same screening (criminal background check) and eligibility requirements as the assisted family.
- e. Prior to approving the request to add a family or household member, except additions due to birth, court awarded custody or adoption, the PHA will generate:
 - 1) The EIV Former Tenant and Existing Tenant Reports for all minors and adults to determine if there is a SSA match involving another PHA or Multifamily program.
 - 2) The Debts Owed to PHAs Report to determine if requested adult owes a debt to the PHA, another PHA or Multifamily program.
- f. Denial of the Request to Add Family or Household Member
 - 1) The PHA will notify the family in writing if there is a determination to deny the request to add a family or household member.
 - 2) The assisted family may request a review of the PHA decision to deny the request.
 - 3) The family may request an informal hearing for the denial.
- 2. Removal of Family or Household Members
 - a. The family must promptly, within 10 calendar days notify the PHA if any family or household member no longer resides in the unit.
 - b. Failure to report the removal of a family or household member timely may result in the family owing a retroactive rent and/or termination from assistance.
 - c. The PHA will process an interim reexamination for all decreases in adjusted income when a family member permanently moves out of the unit.

G. Interim Reexamination Appointments

The PHA will maintain an interim reexamination tracking system to document the date interim changes were received and completed.

1. The Scheduling the Interim Reexamination Appointment

- a. The PHA will schedule an interim reexamination appointment within reasonable hours after reasonable notice.
- b. Reasonable hours to conduct an interim reexamination appointment are between 8:00 a.m. to 4:00 p.m., on Wednesday and Thursday.
- c. The PHA will provide the family a written interim reexamination appointment notice. The notice will:
 - 1) State the date of the interim reexamination appointment, the location, time, and what information is required to be brought to the appointment.
 - 2) State the head of household are required to attend the interim reexamination appointment.
 - 3) The PHA will advise the family if the family includes 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 interim reexamination. The PHA may also conduct the interim reexamination by home visit as an alternate format for elderly families.
- d. The interim 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) Text messaging
 - 6) Webcast
 - 7) Video call/video conference
 - 8) Home visits as a reasonable accommodation for person with disabilities or for elderly families
- e. The PHA will provide interim reexamination documents in an accessible format for families who includes a person 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 interim 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 interim reexamination appointment. The family may contact the PHA by:
 - 1) Telephone call
 - 2) Email
 - 3) Fax
- b. The PHA will reschedule one (1) second interim reexamination appointment. The second interim reexamination appointment notice will be mailed or emailed promptly (within seven (7) days of the first appointment) and will be scheduled within 10 calendar 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 notice of termination and offer them an informal hearing.
 - 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 interim 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 for the family to respond to either interim reexamination notice may result in termination of assistance.

H. Verification of Annual/Interim Reexamination Information

The PHA will use EIV in its entirety to verify family employment and income during annual and interim reexaminations of family income and composition. The PHA will review the EIV Income and IVT Reports during annual and interim reexaminations of family income and/or composition to reduce family under reporting of income and improper subsidy payments. The PHA will follow the HUD Verification Hierarchy and the PHA's verification procedures.

1. The PHA will obtain and document in the family file third-party verification of the following factors, or will document in the family file why third-party verification was not available:
 - a. Reported family annual income;
 - b. The value of the family's assets;

For a family with net assets equal to or less than \$50,000, the PHA may accept, for purposes of recertification of income, a family's declaration that it has net assets equal to or less than \$50,000, without the PHA taking additional steps to verify the accuracy of the declaration.

- 1) The declaration must state the amount of income the family expects to receive from such assets; this amount must be included in the family's income.
 - 2) The PHA must obtain third-party verification of all family assets every three (3) years.
- c. Expenses related to deductions from annual income; and
- d. Other factors that affect the determination of the family's adjusted income.
- e. The PHA will maintain the EIV Income Report in the family file along with the form HUD-50058 and other supporting documentation to support income and rent determinations for mandatory and interim reexaminations of family income and composition.
2. Because the PHA included earned income increases in the determination of whether the 10% threshold was met for increases in adjusted income when the family previously had an interim reexamination performed for a decrease in annual adjusted income (earned, unearned, or combined) since the last annual reexamination, the PHA will review the EIV New Hires Report at least quarterly, for the remainder of the reexamination period after the interim reexamination to decrease rent occurred.
3. The family will be obligated to supply any information that the PHA or HUD determines is necessary for use in regularly scheduled or interim reexamination of family income and composition. Failure to provide documentation may result in termination of assistance.
4. The family must submit consent forms for obtaining wages and claim information from federal, state, or local agencies to furnish or release to the PHA such information determined necessary. The family's failure to comply with consent forms will result in termination of assistance.
5. Verifications for reexaminations must be an original or authentic document generated by a third-party source dated within the 120-day period preceding the reexamination or PHA request date.
6. The family will be obligated to supply any information that the PHA or HUD determines is necessary for use in regularly scheduled or interim reexamination of family income and composition. Failure to provide documentation may result in termination of assistance.
7. The family must submit consent forms for obtaining wages and claim information from federal, state, or local agencies to furnish or release to the PHA such information determined necessary. The family's failure to comply with consent forms will result in termination of assistance.

I. Increases in Rent to the Owner

The owner may request an increase in the rent to owner after the initial term of the lease.

1. Owner submission of the request of rent to owner increase.

- a. The owner must serve the family a notice of increase in the rent to owner as per the terms of the lease.
 - b. The owner must notify the PHA of any changes in the amount of the rent to the owner at least 60 days before any such changes go into effect.
2. Upon receipt of the notice of increase in rent to owner and before the PHA may approve any rent increase to the owner, the PHA must determine and document whether the proposed rent increase to owner is reasonable compared to similar units in the marketplace and not higher than rents paid by unassisted tenants in the premises.
 - a. In areas where there is rent control, the PHA must determine whether or not rent control restrictions will impact the request for rent increase.
 - b. In cases where the PHA cannot justify the rent increase through rent reasonableness, the owner must be notified in writing.
 - c. The owner may appeal the PHA's decision, by providing the PHA with similar units in the marketplace with the requested rent to owner and/or unassisted comparable units on the premises receiving the requested rent to owner.
3. If the PHA does not approve the increase to rent to owner, the family cannot assume the burden of the rent increase.
4. Subsequent rent increases during the family's occupancy of the unit that causes the family share to exceed 40% of monthly adjusted income are permissible so long as the PHA has determined the new rent to owner reasonable.
5. The PHA approved increase to rent to owner will equal the lesser of:
 - a. The reasonable rent as determined by the PHA; or
 - b. The amount requested by the owner.
6. Owners may request, and HUD may approve, a special increase in the rent to the owner pursuant to the HAP Contract.

J. Effective Dates of Interim Reexaminations

1. Family Timely Report of Interim Changes

Family timely report of an interim change of family income or composition

- a. If the tenant rent increased as a result of the interim reexamination, the increase will be effective the first day of the month following a 30-day notice to the family from the PHA.
- b. If the tenant rent decreased as a result of the interim reexamination, the decrease will be effective the first day of the first month after the actual change leading to the interim reexamination of family income.

The PHA will apply timely reports of interim decreases retroactively.

2. Family Untimely Report of Interim Changes

Family untimely report of an interim change of family income or composition

- a. If the family failed to report the interim change timely and the tenant rent increased as result of the interim reexamination, the tenant rent will increase retroactively to the first day of the month following the date of the of the change leading to the interim reexamination of family income.

- b. Decreases in Tenant Rent

- 1) If the family failed to report an interim change timely and the tenant rent decreased as a result of the interim reexamination, the effective date of the decrease in tenant rent must be no later than the first rent period following completion of the interim reexamination.

- 2) Extenuating Circumstances

- a) The PHA will make the effective date of an interim reexamination retroactive to the first of the month following the date of the actual decrease in income as opposed to the first of the month following completion of the reexamination when a family's ability to report a change in income promptly was hampered due to extenuating circumstances, such as a natural disaster, or disruptions to the PHA's management operations.

- b) The PHA will ensure the earliest date that the retroactive decrease is applied is:

- (1) The later of the first of the month following the date of the change that led to the interim reexamination, or
- (2) The first of the month following the most recent previous income examination (i.e., most recent interim or annual reexamination or the family's initial examination if that was the family's only income examination before the interim reexamination in question).

- c. Retroactive Tenant Rent

The PHA may not apply the retroactive tenant rent decrease prior to the later of the first of the month following:

- 1) The date of the change leading to the interim reexamination of family income; or
- 2) The effective date of the family's most recent previous interim or annual reexamination (or initial examination if that was the family's last examination).

K. Notification of the Annual/Interim Reexamination Results

The PHA will notify both the owner and family of the results of the annual/interim reexamination in writing.

1. Annual Reexamination Notification

- a. The notice will include the following:
 - 1) The amount and effective date of the new HAP amount;
 - 2) The amount and effective date of the new tenant rent;
 - 3) The amount and effective date of the new rent to owner (if applicable); and
 - 4) The amount and effective date of the utility reimbursement (if applicable).
 - b. For increases in family share at annual reexamination, the PHA will complete annual reexaminations in advance so that the effective date is the first day of the month of the anniversary month of the HAP contract following a 30-day notice from the PHA.
 - c. Decreases in family share at annual reexamination are effective on the first day of the month of the anniversary month of the HAP contract.
 - d. If the family caused a delay in the reexamination process or failed to report all income and deductions the PHA will complete the annual reexamination using the prior year's income.
 - 1) The PHA will complete an interim reexamination to correct the file, if applicable.
 - 2) If the family owes a retroactive rent, the family will be required to enter into a Repayment Agreement.
 - 3) The family's assistance may be terminated due to a violation of the obligations of the family.
 - e. If the TTP increased as a result of the annual reexamination, the PHA will advise the family of their rights to request an informal hearing.
2. Interim Reexamination Notification
- a. The PHA will conduct or not conduct an interim reexamination in accordance with the PHA's policies regarding decreases and increases in annual adjusted income.
 - b. If the interim reexamination results in a change to the family share, the notice will include the following:
 - 1) The amount and effective date of the new HAP amount;
 - 2) The amount and effective date of the new tenant rent;
 - 3) The amount and effective date of the new rent to owner (if applicable);
 - 4) The amount and effective date of the utility reimbursement (if applicable).
 - c. Family timely report of an interim change
 - 1) If the tenant rent increased as a result of the interim reexamination, the increase will be effective the first day of the month following a 30-day notice to the family from the PHA.

- 2) If the tenant rent decreased as a result of the interim reexamination, the decrease will be effective the first day of the month following the date the family reported the change.
- d. Family untimely report of an interim change
 - 1) If the family failed to report the interim change timely and the tenant rent increased as result of the interim reexamination, the tenant rent will increase retroactively to the first of the month following the date of the occurrence of the change.
 - 2) If the family failed to report an interim change timely and the tenant rent decreased as a result of the interim reexamination, the effective date of the tenant rent is the first of the month following the PHA's completion of the interim reexamination.
- e. Retroactive Family Share and Family Rent

The PHA may not apply the retroactive family share and family rent to owner decrease prior to the later of the first of the month following:

 - 1) The date of the change leading to the interim reexamination of family income; or
 - 2) The effective date of the family's most recent previous interim or annual reexamination (or initial examination if that was the family's last examination).

CHAPTER 23: ZERO-INCOME FAMILIES

A zero-income family is a family who reports no source of income (earned or unearned), no regular contributions and/or gifts, including from assets, 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 Verification Hierarchy and the PHA's verification procedures.
2. If the family reports no income (earned or unearned), regular monetary or non-monetary 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 4 months period.
 - b. The PHA annualizes 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.
 - c. The PHA will not assign monetary value to non-monetary in-kind donations from a food bank or similar organization received by the family.
3. If the family reports or the PHA determines that the family is receiving regular monetary or non-monetary 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.
 - c. The PHA will perform an interim reexamination only due to an increase in the family's adjusted income.

- d. Families who begin receiving income which does not trigger an interim reexamination will no longer be considered zero income even though the family's income is not reflected on the form HUD-50058.
- 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 24: ABSENCES FROM UNIT

The family may be absent from the unit for brief periods.

A. Family Absence from the Unit

Absence means that no member of the family listed on the lease is residing in the unit.

1. Time Limits on Family Absences

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 60 consecutive calendar days without written consent from the PHA.
 - c. The Executive Director or designee may approve an absence of up to 60 consecutive calendar days for extraordinary reasons, such as but not limited to military leave, hospitalization, or imprisonment.
 - d. Under no circumstances may the family be absent from the unit for a period of more than 180 consecutive days.
2. If the family is absent for longer than the maximum period permitted by the PHA or if the family is absent for more than 180 consecutive days, including if the family has left possessions in the unit, the PHA shall terminate the family's housing assistance.
- a. The HAP contract will be terminated if the family is absent for longer than the maximum period permitted.
 - b. The assisted lease will also be terminated when the HAP contract is terminated.
 - c. The family may reapply when the PHA's waiting list is open.
 - d. The PHA shall inform the family of its rights to request an informal hearing if the housing assistance is terminated.
 - e. The owner must reimburse the PHA for any HAP for the period after termination.
3. 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 survivor of VAWA violence/abuse 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 survivor 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 HCV program, the family may receive a voucher from the PHA to locate a safe unit.

B. Absence of Children Because of Placement in Foster Care

The family must promptly, within 10 business 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.

1. 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 subsidy standard but will not be counted as dependents until they return to the unit.
2. 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 subsidy standard will be reduced accordingly.
3. 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.
4. 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.

C. Use of Caretaker Due to Absence of Head of Household

The family must promptly, within 10 business 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.

1. The rental assistance will not be terminated.
2. The head of household's name shall be temporarily removed.
 - a. The family composition will be modified to include the name of the caretaker as head of household.
 - b. The PHA will document the file and explain the circumstances.
 - c. The original head of household will be reinstated as the head of household upon their return.
3. The caretaker's income will not be included in the family income.
4. 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 HQS.

- a. If the caretaker remains, their income will be included in the calculation of family annual income.
- b. The family will also need approval from the owner/landlord to add the caretaker as a member of the household.

D. Temporarily Absence Due to Military Service or School

The family must promptly, within 10 business days of occurrence, notify the PHA of the absence of family members due to military service or school.

1. Head of Household, Spouse, or Co-Head

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

2. Other Family Members

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

- a. Considering the family member temporarily absent from the household. In this case, the temporarily absent family member:
 - 1) Income will be included in annual income;
 - 2) Name will remain on the lease and HAP contract; and
 - 3) Will be counted toward the voucher size.
- b. Considering the family member permanently absent from the household. In this case, the former member of the household:
 - 1) Income will not be included in annual income;
 - 2) Name will be removed from the lease and HAP contract; and
 - 3) Will not be counted toward the voucher size.
 - 4) 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.

E. Absence Due to Hospitalization or Admittance into a Nursing Home

The family must promptly, within 60 of occurrence, notify the PHA of the family member's absence from the unit due to hospitalization or admittance into a nursing home.

1. Sole Member

- a. When the family consists of only one member and that person is absent from the unit to go into a hospital or nursing home for a period of more than 60 days the assistance will be terminated.

- b. If a medical provider documents that the person is expected to return to the unit in 60 days or less, the sole member shall continue to receive assistance.
- c. Under no circumstances may the family be absent from the unit for a period of more than 180 consecutive days.

2. 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:

- a. Considering the family member temporarily absent from the household. The temporary absent family member:
 - 1) Income will be counted in annual income;
 - 2) Name will remain on the lease and HAP contract; and
 - 3) Will be counted for the voucher size.
- b. Considering the family member permanently absent from the household. The former member of the household:
 - 1) Income will not be counted in annual income;
 - 2) Name will be removed from the lease and HAP contract; and
 - 3) Will not be counted for the voucher size.
 - 4) 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.

F. 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.

- 1. The family must provide the PHA any PHA-requested information or certification on the purposes of the family absence.
- 2. 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 to the owner/landlord or neighbors, or verify with the utility suppliers if the utilities are in service.

CHAPTER 25: FAMILY BREAK-UP

The PHA has discretion to determine which members of an assisted family continue to receive HCV assistance if the family breaks up. The decision to determine who continues to receive the assistance will be made by the Executive Director or designee.

A. Criteria for the PHA Decision

The factors to be considered in making this decision may include but are not limited to the following:

1. Whether the assistance should remain with family members remaining in the original assisted unit.
2. What is the best interest of minor children or of ill, elderly, or disabled family members.
3. Whether family members are forced to leave the unit as a result of actual or threatened domestic violence, dating violence, sexual assault, or stalking.
4. Whether any of the family members are receiving protection as survivors of VAWA violence/abuse and whether the abuser is still in the household.
5. Recommendations of social services professionals.

B. VAWA Violence/Abuse

If the family break-up results from an occurrence of domestic violence, dating violence, sexual assault, or stalking, the PHA must ensure that the survivor retains assistance.

C. Lease Bifurcation

Because the PHA is not a party of the lease, it is up to the owner to bifurcate the family's lease to evict or remove the perpetrator from the unit.

The owner may bifurcate the lease in order to evict the individual or terminate the assistance of the individual who has engaged in criminal activity (the abuser or perpetrator) directly relating to VAWA violence/abuse.

1. If the owner chooses to remove the abuser or perpetrator, the owner may not remove the rights of eligible tenants to the unit or otherwise punish the remaining tenants.
2. The owner must immediately notify the PHA of the change in lease and provide a copy of all such changes to the PHA
3. Reasonable Time to Establish Eligibility or Find Alternative Housing

If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the HCV program, the PHA and owner must allow the tenant who is or has been a survivor and other household members to remain in the unit for a period of time, in order to establish eligibility under the HCV program or under another HUD housing program covered by VAWA or find alternative housing.

- a. Section 214 of the Housing and Community Development Act of 1980 requires that assistance under the HCV program be terminated after 30 days if the remaining family members cannot indicate they have satisfactory immigration status:
 - 1) HCV assistance is limited to 30 days if the remaining family member has not submitted documentation evidencing a satisfactory immigration status or pending appeal of verification determination of the family's member's immigration status.
 - 2) The PHA will not stop paying the HAP until 30 days after the owner bifurcates the lease to evict the perpetrator.
 - 3) The PHA may pay the HAP for the full month if the 30-day period ends mid-month.
 - 4) If the survivor (remaining family members) requests to move, the PHA will not issue a new voucher until eligibility has been determined.
4. In removing the abuser or perpetrator from the household, the owner must follow federal, state, and local eviction procedures.
5. In order to bifurcate the lease, the owner may, but is not required to, ask the tenant for documentation or certification of the incidences of the VAWA violence/abuse.

D. Court Orders

If a court determines the disposition of property between members of the assisted family in a divorce or separation under a settlement or judicial decree, the PHA is bound by the court's determination of which family members continue to receive assistance in the program.

E. Remaining Family Member

Remaining family members are family members of an assisted family who remains in the unit when other members of the family have left the unit.

1. A single adult (whether elderly or non-elderly, disabled or non-disabled, with or without children) who is a remaining family member may become the head of household.
2. A live-in aide is not a member of the assisted family and is not entitled to the HCV as a remaining member of the family.
3. A minor child(ren) will not be allowed to retain status of remaining family member(s) unless:
 - a. The court has awarded emancipated minor status to the child(ren); or
 - b. An eligible court appointed legal guardian, designee of a parent with written permission, or the designee of a legal custodian with written permission moves into the unit with the minor child(ren).
 - 1) If the PHA is presented with conflicting claims regarding custody of the minor child(ren), the PHA may require evidence of court-awarded custody or legal guardianship.

- 2) The designee shall be covered only in the absence of a contradictory claim of custody from another party.
4. If both parents must leave the household and the proper legal authorities, such as the Department of Social Services and/or the Juvenile Court, has determined that another adult is to be brought into the assisted unit to care for the child(ren) for an indefinite period, the PHA will treat that adult as a visitor for 60 days.
 - a. After that period, the PHA office will determine whether:
 - 1) The court has awarded emancipated minor status to the child(ren);
 - 2) Custody or legal guardianship has been granted to the caretaker; or
 - 3) The parent or other person having such custody of the child(ren) has given written permission for a designee (caretaker) to have such custody of the child(ren).
 - a) If the PHA is presented with conflicting claims regarding custody of the child(ren), the PHA may require evidence of court-awarded custody or legal guardianship.
 - b) The designee (caretaker) shall be covered only in the absence of a contradictory claim of custody from another party.
 - b. Prior to the PHA transferring the assistance to the caretaker:
 - 1) The PHA will ensure that the caretaker meets all the PHA's screening criteria, including the criminal history check.
 - 2) The PHA will generate:
 - a) The EIV Former Tenant and Existing Tenant Reports to determine if there is an SSA match involving another PHA or Multifamily program.
 - b) The Debts Owed to PHAs Report to determine if the caretaker owes a debt to the PHA, another PHA, or to a Multifamily program.
 - (1) The PHA will follow up on any issues identified.
 - (2) The PHA will maintain a report and document the family file.

CHAPTER 26: MOVES WITH CONTINUED ASSISTANCE

A participant family may move with continued assistance under the HCV program, either inside the PHA jurisdiction or under portability procedures.

A. Eligibility to Move

A participating family is eligible to move with continued tenant-based assistance if any of the following occur:

1. The assisted lease for the old unit has terminated. This includes a termination because:
 - a. The lease has expired and either the owner/landlord or family decided not to renew.
 - b. The PHA has terminated the HAP contract for the owner's/landlord's breach; or
 - c. The lease has terminated by mutual agreement of the owner/landlord and the family.
2. The owner/landlord has given the family a notice to vacate, or has commenced an action to evict the family, or has obtained a court judgment or other process allowing the owner/landlord to evict the family.
3. The family has given proper notice of lease termination (if the family has a right to terminate the lease on notice to the owner, for owner breach, or otherwise) after the initial term of the lease.
4. Survivors of a VAWA Violence/Abuse
 - a. The family or a member of the family, is or has been the survivor of VAWA violence/abuse and the move is needed to protect the health or safety of the family or family member, or
 - b. If any family member has been the survivor of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's request to move.
 - c. The PHA may not terminate assistance if the family, with or without prior notification to the PHA, moves out of a unit in violation of the lease, if such move occurs to protect the health or safety of a family member who is or has been the survivor of VAWA violence/abuse and who reasonably believed he or she was threatened with imminent harm from further violence if he or she remained in the dwelling unit. However, any family member that has been the survivor of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's move or request to move is not required to believe that he or she was threatened with imminent harm from further violence if he or she remained in the dwelling unit.
5. The PHA may conduct a reexamination of family income and composition prior to the family's move to ensure the income verification is within 60 days before the PHA issues the voucher.

B. Denying the Family's Request to Move

1. The PHA will prohibit:
 - a. More than one move by the family during any 12-month period.
 - b. Moves by the family during the initial term of the lease.
 - c. If the family owes a debt to the PHA or to another PHA.
 - d. Moves by families that have moved out of their assisted unit in violation of the lease.
2. Exceptions to prohibitions on family moves
 - a. As a reasonable accommodation for families with members who are persons with disabilities.
 - b. Survivor of a VAWA Violence/Abuse
 - 1) The above policies do not apply when the family or a member of the family is or has been a survivor of VAWA violence/abuse and the move is needed to protect the health or safety of the family or family member, or any family member has been the survivor of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's request to move.
 - 2) A family may receive a voucher from the PHA and move to another jurisdiction under the tenant-based assistance program if the family has complied with all other obligations of the HCV program and has moved out of the assisted dwelling unit in order to protect the health and safety of an individual who is or has been the survivor of VAWA violence/abuse and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit.
 - c. The PHA may allow the family to terminate the lease during the initial term if the owner agrees, in writing, to release the family from the lease or if the lease provides for such termination.
 - d. Harassment
 - 1) Harassment in housing or housing related transactions on the basis of race, color, religion, sex, disability, familial status, and national origin is prohibited under the Fair Housing Act.
 - 2) The PHA will not deny a family's request to move when a family member is subject to harassment because of race, color, religion, sex, disability, familial status, or national origin that causes the family to vacate the unit.
3. The PHA may deny a request to move for the following reasons:
 - a. The family's action or failure to act as described in 24 CFR § 982.552 or 982.553.
 - b. The family has violated a family obligation.
 - c. If the PHA does not have sufficient funding for continued assistance.

C. Denying Requests to Move Due to Insufficient Funding

The PHA may deny a family's request to move, including moves under portability, if the PHA does not have sufficient funding for continued assistance.

1. The PHA may only deny a request to move due to insufficient funding if all the following apply:
 - a. The move is to a higher cost unit (for moves within the PHA's jurisdiction) or to a higher cost area (for portability moves).
 - 1) Higher cost unit:
 - a) Is defined as a unit in which the PHA would have to pay a higher subsidy amount due to an increase in the gross rent for the new unit.
 - b) The PHA may not deny a family's request to move due to insufficient funding if the subsidy for the new unit is equal to or less than the current subsidy being paid for the family.
 - c) The PHA must not deny the move for families moving within the PHA's jurisdiction (even if the new unit is a higher cost unit) if the family must move from their current unit (e.g., the unit failed HQS, the owner failed to renew the lease, etc.).
 - d) If the family is moving under portability, the PHA may deny the move under the circumstances in paragraph (c) above if the family is moving to a higher cost area under portability and the receiving PHA is not absorbing the family into their program.
 - 2) Higher cost area:
 - a) Is defined as an area where the PHA would have to pay a higher subsidy amount due to higher payment standards or more generous subsidy standards of the receiving PHA.
 - b) A PHA may not deny request to move due to insufficient funding if the area the family has selected is not a higher cost area.
 - b. The receiving PHA is not absorbing the voucher (applicable only to portability moves).

If the receiving PHA will bill the initial PHA for the portability voucher and the cost of the HAP will increase due to the move, the initial PHA may deny the move if the initial PHA does not have sufficient funding for continued assistance.
 - c. The PHA would be unable to avoid termination of current families during the calendar year in order to remain within the PHA's budgetary allocation (including any available HAP reserves) for housing assistance payments.
2. The PHA may not deny a family's request to move due to insufficient funding because the PHA wishes to admit additional families from its waiting list into the HCV program, regardless of whether the PHA has unit months available to do so.

3. If the PHA approves a family's request to move within the PHA's jurisdiction or approves a portability move, then experiences a funding shortfall, the PHA may rescind the voucher only if the family is allowed to remain in their current unit.
 - a. If the family is not allowed to remain in their current unit (e.g., the family has already vacated the unit or the family has already notified the owner of their intent to vacate the unit and the owner has re-let the unit to another family or the unit failed HQS), the PHA must not rescind the voucher.
 - b. The PHA must allow the family to lease a new unit.
4. If the PHA is the initial PHA, the PHA may not terminate a portability voucher under a billing arrangement with the receiving PHA for insufficient funding because the initial PHA is not a party to the HAP contract. As the initial PHA, the PHA may not impose a cap on the amount of HAP the PHA will pay for a family that has moved under portability.
5. The PHA must provide written notification to the local HUD Office within 10 business days of the date on which the PHA made the determination to deny a family move based on insufficient funding.
6. The written notification to the local HUD Office must include the following documentation:
 - a. A financial analysis that demonstrates insufficient funds is projected to meet the current calendar year projection of expenses. The projection must not include vouchers that have been issued but are not yet under contract.
 - b. A statement certifying the PHA has ceased issuing vouchers and will not admit families from the waiting list while the limitation on moves is in place.
 - c. A copy of the PHA's policy stating how the PHA will address families who have been denied moves.
7. The PHA will inform families of the PHA's policies regarding denying a move due to insufficient funding by including the PHA's policies regarding denying a move due to insufficient funding in the HCV briefing packet.
8. If the PHA denies a family's request to move, including a portability move, due to insufficient funding:
 - a. The PHA will create a list of families whose moves have been denied due to insufficient funding.
 - b. The family will be notified by phone call, first class mail, or by email the notice will include the following policy statements:
 - 1) The PHA will not admit families from the waiting list while the denial of moves due to insufficient funding is in place.
 - 2) At the time funding becomes available, families who have been denied requests to move due to insufficient funding will be notified by phone call, mail, or by email that they may now exercise their right to move.

- 3) Families denied the request to move due to insufficient funding will be notified of their right to move on a first come, first served basis starting with the family that was first denied the request to move due to insufficient funding.
- 4) Families denied the request to move due to insufficient funding will take priority over families on the PHA waiting list.
- 5) The family's request to move will be open for consideration as long as the family remains eligible to move from the current unit.

D. Notice of Family Move

The family may terminate tenancy after the initial term of the lease.

1. The family must notify the PHA and the owner before the family moves out of the unit or terminates the lease on notice to the owner.
 - a. The family must give the owner notice of termination of the lease in accordance with the lease.
 - b. The family must provide a copy of the notice of termination of the lease to the PHA.
2. The family must notify the PHA if the family desires continued assistance in another unit.
3. Failure to notify the PHA and the owner before the family moves out of the unit is a breach of the obligations of the family.
4. Agreement to Remain in Occupancy
 - a. If the family does not locate a new dwelling, they may be required to submit an "Agreement to Remain in Occupancy."
 - b. The assisted tenancy may be extended for any period of time mutually agreed upon by the owner/landlord and family.
 - c. Absence of the Agreement to Remain in Occupancy, the HAP and the HAP contract may terminate at the end of the Notice to Move issued by the family.

E. VAWA Emergency Transfer Plan

The PHA shall adopt a VAWA Emergency Transfer Plan based on the HUD's model VAWA Emergency Transfer Plan which will allow tenants receiving HCV assistance and who are survivors of domestic violence, dating violence, sexual assault or stalking to request an emergency transfer if:

1. The tenant expressly requests the transfer; and
2. 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
3. In the case of a tenant who is a survivor 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.

4. The tenant who is a survivor 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.
5. 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.
6. The tenant may seek an internal emergency transfer and an external emergency transfer concurrently if a safe unit is not immediately available.
7. The PHA shall maintain the existing VAWA strict confidentiality measure in its Emergency Transfer Plan so as to not disclose the location of the new unit to the abuser.
8. The PHA will make the Emergency Transfer Plan available upon request and when feasible, make the plan publicly available.
9. The PHA will keep a record of all emergency transfers requested under its Emergency Transfer Plan and the outcome of the requests.
 - a. The PHA shall retain these records for a period of three (3) years or for a period of time as specified by program regulations.
 - b. The PHA must report the requests and outcomes to HUD annually.
10. An emergency transfer request must not be construed to supersede any PHA eligibility or other occupancy requirements.

CHAPTER 27: PORTABILITY

The term “portability” refers to the process of leasing a unit with tenant-based HCV assistance outside of the jurisdiction of the PHA that initially issued the family its voucher (the initial PHA). The PHA which receives the family that has ported from the initial PHA’s jurisdiction is the receiving PHA.

The PHA may act as both the initial PHA and receiving PHA, whereas the PHA may move families out of the PHA’s jurisdiction and families may wish to move into the PHA’s jurisdiction.

The provisions of portability do not apply to the PBV program, as PBV housing assistance subsidy is tied to the unit, not the family.

A. Portability Eligibility Requirements

Eligible families may utilize their portability option to lease a tenant-based voucher unit outside the jurisdiction of the initial PHA, anywhere in the United States and its territories, in jurisdictions of PHAs with a tenant-based voucher housing program.

1. Applicant Residency Requirements

The PHA will determine if an applicant family selected from the waiting list meets the residency requirement based on the family’s residence (domicile) at the time that the family initially submitted their application for assistance, not at the time the family reached the top of the PHA’s waiting list.

a. Resident Applicant:

An applicant that has not yet leased-up under the HCV program is eligible for portability if the head of household or spouse was a resident in the PHA’s jurisdiction at the time the application for HCV assistance was submitted.

- 1) The applicant head of household or spouse must provide proof of their domicile (legal residence) in the initial PHA’s jurisdiction as determined by state and local law.
- 2) Acceptable proof of residency includes but are not limited to:
 - (a) Valid and unexpired government issued driver’s license or photo ID.
 - (b) Current and unexpired voter’s registration card.
 - (c) Current state vehicle registration.
 - (d) Paycheck stub or letter of employment on company letterhead signed by the Human Resource Manager.
 - (e) Receipt of benefits, including health benefits, from any federal, state, or local agency.
 - (f) Current W-2 with residence address.
 - (g) Military discharge paperwork (DD214).

- (h) Current lease or mortgage documents.
 - (i) Utility bill (e.g., electric, gas, water, cable).
 - (j) School transcripts.
- b. Non-resident Applicant:
 - 1) The PHA will allow a non-resident applicant to utilize the portability option as a reasonable accommodation for a family that includes a member who is a person with disabilities.
 - 2) The PHA will provide portability to a non-resident applicant if the applicant or a member of the applicant family is or has been the survivor of VAWA violence/abuse, and the move is needed to protect the health or safety of the applicant or applicant family member, or any applicant family member who has been the survivor of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the applicant family's request to move.
 - 3) The portability residency requirements are not applicable for applicants of the HUD-VASH program.

2. Participant Families

Once a HAP contract is executed on behalf of an applicant family, the family becomes an HCV participant. The family becomes a participant on the effective date of the first HAP contract executed by the PHA for the family (first day of initial lease term).

- a. The PHA shall not allow the participant family to utilize their portability option if the family has moved out of the unit in violation of their lease, except if:
 - 1) The family moved out in violation of the lease in order to protect the health or safety of a person who is or has been the survivor of VAWA violence/abuse and who reasonably believes him/herself to be threatened with imminent harm from further violence by remaining in the dwelling unit, or
 - 2) Any family member has been the survivor of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's move or request to move and has otherwise complied with all other obligations under the HCV program.
- b. The PHA shall not allow the participant family to utilize their portability option for the family's action or failure to act as described in 24 CFR 982.552 or 982.553.

3. Income Eligibility

- a. Applicants: Applicant families who wish to utilize the portability option must meet the applicable HUD income limits in the receiving PHA jurisdiction.
 - 1) If the family meets all HCV eligibility criteria but is not income eligible in the receiving PHA's jurisdiction, the PHA will deny the applicant family's request to

move to that receiving PHA's jurisdiction and will inform the applicant family they may not move to the receiving PHA jurisdiction due to income ineligibility.

- 2) The applicant family must be income eligible in the area where the family initially leases a unit with HCV assistance.
- b. Participant Families: Income eligibility does not apply and is not redetermined when a participant family moves to a receiving PHA's jurisdiction under portability.

B. Use of Email or Other Delivery Confirmation Method

The PHA will use email or another delivery confirmation method to communicate between the initial PHA or receiving PHA. Future references of contact between the initial PHA and receiving PHA in this Administrative Plan means the contact was made in writing by email or other delivery confirmation method.

C. Initial PHA Responsibilities

This section outlines the responsibilities of the PHA when the family notifies the PHA of its desire to relocate outside of the PHA's jurisdiction. When a family moves out of the jurisdiction of the PHA with a voucher issued by the PHA, the PHA is the initial PHA.

1. Providing Information About Portability
 - a. As part of both the oral voucher briefing and the briefing information packet when applicants are selected from the waiting list, the PHA must provide information to all families about where the family may lease a unit, including an explanation of how portability works and how portability may affect the family's assistance.
 - b. Although the PHA is not required to provide an oral voucher briefing or briefing information packet when a participant family wishes to exercise their portability option, the PHA is required to provide information to all families about where the family may lease a unit, including how portability works and how portability may affect the participant family's assistance.

2. Determine the Family's Eligibility to Move Under Portability

Once the family informs the PHA of their desire to move under portability and where they want to move to, as the initial PHA, the PHA will determine the family's eligibility to move in accordance to Section A of this chapter.

3. Selecting the Receiving PHA.

The family must inform the PHA of the area to which the family wishes to move.

- a. If more than one PHA administers the HCV program in the area where the family wishes to move, the PHA will provide the family with the contact information for all the receiving PHAs that serve that area.
- b. The family has the option to select the receiving PHA when there is more than one PHA that serves that area.

- c. If the family requests it, the PHA must select the receiving PHA on behalf of the family. If the PHA selects the receiving PHA, the PHA is not required to provide the contact information for all the receiving PHAs that serve that area.

4. Initial Contact with the Receiving PHA

Once the receiving PHA has been selected and prior to approving the family's portability request, the PHA must contact the receiving PHA to determine if the receiving PHA will absorb the family into their program or bill the PHA.

- a. The receiving PHA must respond to the PHA in writing, of whether it will absorb the family or bill the PHA.
- b. If the receiving PHA makes the commitment to absorb the family into its program, the receiving PHA cannot reverse its decision at a later date without the consent of the PHA.
- c. It is the responsibility of the PHA, not the family, to contact the receiving PHA to determine whether the receiving PHA will absorb the family into its program or bill the PHA.

5. Portability Voucher Issuance

Once the portability request and billing/absorption arrangement have been approved, the PHA will:

- a. Issue the family a voucher to move, if the PHA has not already done so.
- b. Issue the voucher the same as would be issued for other voucher holders.

6. Family Contact to the Receiving PHA

Once the receiving PHA has been selected and the portability request approved, the PHA will advise the family how to contact and request assistance from the receiving PHA.

- a. The PHA will provide the following information to the family:
 - 1) Name of the receiving PHA
 - 2) Telephone number
 - 3) Email of the receiving PHA staff responsible for incoming portability families (if available)
 - 4) Any information shared by the receiving PHA with the PHA relating to appointments for voucher issuance
- b. A simple referral to HUD or to the receiving PHA's website does not fulfill the PHA's responsibilities of providing contact information to the family.
- c. The family's failure to contact the receiving PHA may delay the family's lease-up in the receiving PHA's jurisdiction.

7. Portability Information

- a. The PHA will promptly notify the receiving PHA to expect the portable family.
- b. The PHA must send the receiving PHA the following completed documents:
 - 1) Form HUD-52665 (Family Portability Information), Part I, Initial PHA Information and Certification
 - 2) A copy of the voucher (HUD-52646) issued by the PHA
 - a) The voucher must be current and unexpired
 - b) The voucher must be signed and dated by the family and the PHA
 - 3) The most recent form HUD-50058 (Family Report) and copies of all related verification information for the current form HUD-50058.
 - a) The form HUD-50058 is the latest form HUD-50058 completed for either a new admission, annual reexamination, or interim reexamination. It is not the form HUD-50058 that the PHA completes to report the portability move-out.
 - b) In the case of an applicant family, the PHA has not yet completed the form HUD-50058 in its entirety because the family is not yet a new admission. The PHA must provide the partially completed form HUD-50058 for the applicant family to the receiving PHA. The income information must be in a format similar to the form HUD-50058 so that the information is easily available for use by the receiving PHA.
 - c) For special purpose vouchers (HUD-VASH, NED, FUPF/FUPY, NHT) the PHA must include the special purpose voucher code on line 2n of the form HUD-50058.
 - d) Copies of supporting of family composition and verification information
 - (1) Copies of photo identification, including immigration identification
 - (2) Declaration of citizenship forms
 - (3) Copies of birth certificates
 - (4) Copies of verification of assets, income, and deductions/allowances
 - 4) Although, not required, the PHA will also provide the following to the receiving PHA:
 - a) Earned Income Disallowance information, if applicable
 - b) Information on reasonable accommodations, if applicable

D. Receiving PHA Responsibilities

This section outlines the responsibilities of the PHA when a family moves into the PHA's jurisdiction under portability. When a family moves into the PHA's jurisdiction with a voucher issued by an initial PHA, the PHA now becomes the receiving PHA.

1. Initial Contact with the Initial PHA

After the initial contact from the initial PHA, promptly contact the initial PHA and advise if the PHA will absorb the family into its program or bill the initial PHA.

- a. If the PHA informs the initial PHA that the PHA will absorb the portable family into its program, the PHA cannot reverse its decision at a later date without consent of the initial PHA.
- b. If the PHA informs the initial PHA that the PHA will bill the initial PHA, the PHA can absorb the family at a future date.

2. Requirement to Administer Assistance

- a. As the receiving PHA, the PHA must administer the incoming portable voucher in accordance with the PHA's policies and procedures.
- b. The PHA cannot refuse to assist an incoming portable family or refer/direct the family to another neighboring PHA for assistance.
- c. The PHA cannot have a policy of denying an incoming portability family if there is not a set number of days left on the initial PHA's voucher.

3. Portability Information

Once the portability information has been received from the initial PHA, the PHA will:

- a. Review the portability information for completeness.
- b. If the portability paperwork is incomplete, the PHA will contact the initial PHA the same day or the next business day and advise of the incomplete paperwork.

4. Within two (2) weeks after receipt of the completed portability information from the initial PHA, the PHA will schedule a briefing/interview with the portable family.

5. Receiving PHA Rescreening and Reexaminations

The PHA may screen the family using the receiving PHA's established admission criteria, policies for denial or termination of assistance, or conduct new reexamination certifications.

a. Applicant Families:

The receiving PHA may delay issuing a voucher or otherwise delay approval of a unit only if it is necessary to redetermine income eligibility, due to but not limited to new income, a reduction in household composition, or addition of household members.

b. Participant Families:

- 1) The receiving PHA does not redetermine the income eligibility of a portable family that is already receiving HCV assistance.
- 2) The receiving PHA may choose to conduct a new income reexamination but may not delay issuing the portable family a voucher or otherwise delay approval of a unit.

- 3) The receiving PHA may take subsequent action against the family based on the results (e.g., recalculating the HAP based on updated income information).

c. Denial or Termination of Assistance

The receiving PHA may rescreen families who have moved into their jurisdiction under portability by applying the receiving PHA's policies for denial or termination of assistance.

- 1) The receiving PHA may not delay issuing the family a voucher or otherwise delay approval of a unit until the rescreening processes are completed.
- 2) The receiving PHA may take subsequent action against the family based on the results of the rescreening.
- 3) If the receiving PHA refuses a portability move, the initial PHA is not precluded from assisting the family either in the initial PHA's jurisdiction or by allowing the family to port to another receiving PHA.

- d. If the PHA refuses to process or provide assistance under portability, the family must be given the opportunity for informal review or informal hearing.

6. Determining Unit Size

The family unit size for the family will be based on the receiving PHA's subsidy standards. The receiving PHA will determine the family unit size for the family based on the subsidy standards of the receiving PHA.

7. Receiving PHA Voucher Issuance

The receiving PHA must issue a voucher to the portable family for the family's search in the receiving PHA's jurisdiction.

a. Delaying of the issuance of the voucher

- 1) The receiving PHA cannot delay issuing the family a voucher or delay approval of a unit during the receiving PHA's screening process.
- 2) The receiving PHA may delay the issuance of the voucher or approval of the unit if the family refuses to comply with the receiving PHA's procedures.

b. Term of the Receiving PHA's voucher

- 1) The term of the voucher issued by the receiving PHA may not expire before 30 calendar days from the expiration date of the voucher issued by the initial PHA.
- 2) If the voucher issued by the initial PHA expires before the family arrives at the receiving PHA, the receiving PHA will contact the initial PHA to determine if the initial PHA will extend the voucher.

8. Suspension and Extension of the Portability Voucher

Any extension of the term of the voucher by the receiving PHA is only valid for the family's search in the receiving PHA's jurisdiction.

a. Mandatory Voucher Suspensions

- 1) The receiving PHA must suspend the term on the family's voucher when the family submits a request for tenancy approval.
- 2) The voucher suspension will end when the receiving PHA notifies the family in writing whether the request for tenancy approval was approved or denied.
- 3) In cases where the suspension term of the voucher will delay the initial billing submission, the receiving PHA must notify the initial PHA of the delayed billing before the billing deadline and document that the delay is due to the suspension of the voucher term.
 - a) If the receiving PHA meets these requirements, the initial PHA must extend the billing deadline by 30 days.
 - b) If the initial PHA did not receive the portability form within the new 30-day deadline, the initial billing is late.

b. Portability Voucher Extensions

- 1) Once the receiving PHA issues a voucher to the portable family, the receiving PHA's policies on extension of the voucher term apply.
 - a) The receiving PHA may extend the voucher term beyond the additional 30 days based on the receiving PHA's policies regarding voucher extensions.
 - b) The receiving PHA must ensure that the extension of the voucher term does not exceed the initial PHA's billing deadline, if the receiving PHA is billing the initial PHA.
 - c) The receiving PHA must ensure that any voucher expiration date leaves sufficient time to process a RFTA, execute the HAP contract, and cover the anticipated delivery time of the initial billing.
- 2) The receiving PHA must notify the initial PHA of any extension granted to the term of the voucher.

9. Notifying the Initial PHA

The PHA must promptly notify the initial PHA, by completing the form HUD-52665, Part II A and B, if:

- a. The family has leased and eligible unit, or
- b. The family failed to submit a request for tenancy approval for an eligible unit prior to the expiration of the voucher term.

E. Family Decides Not to Lease in the Receiving PHA's Jurisdiction

If the incoming portable family decides not to lease in the receiving PHA's jurisdiction:

1. The receiving PHA must refer the family back to the initial PHA.
2. The voucher of record for the family is once again the voucher originally issued by the initial PHA, and the initial PHA's policies apply.
3. Extension of the initial PHA's voucher to allow the family additional search time to return to the initial PHA's jurisdiction or to move to another jurisdiction are at the discretion of the initial PHA.
4. The initial PHA must apply its own policies on moves for families that decide not to use their voucher to port to another jurisdiction.

F. Portability Billing

Regulations provide that the receiving PHA may bill the initial PHA for HAP and administrative fees to fund the assistance for a portable family. The process of billing the initial PHA, including completing form HUD-52665, deadlines for initial billings submitted by receiving PHAs, late initial billings, and changes to the billing amount are addressed in this section.

1. Initial Billing
 - a. The initial PHA must enter the date by which the initial billing must be received by the initial PHA on form HUD-52665, Part I.
 - b. The receiving PHA must complete and send form HUD-52665, Part II A and B, and the new form HUD-50058 to the initial PHA within 90 days following the expiration date of the initial PHA's voucher.
2. Initial and Subsequent Billing Payments
 - a. Initial Payment: The initial PHA must pay the initial billing amount within 30 calendar days of the receipt of the form HUD-52665 from the receiving PHA.
 - b. Subsequent Payments: The initial PHA must pay no later than the 5th business day of each month for each month that the billing arrangement is in effect.
 - c. The initial PHA must continue to make the subsequent payments until the billing arrangement is terminated.
3. Timely Changes in Billing Amount
 - a. The receiving PHA must send a new form HUD-52665, Part II A and B, to report a change in the billing amount along with form the new HUD-50058.
 - b. The receiving PHA must notify the initial PHA of changes in the billing amount no later than 10 business days following the effective date of the change.

4. Untimely Report of Change in Billing
 - a. If the receiving PHA fails to send the form HUD-52665 and form HUD-50058 within 10 business days following the effective date of the HAP change, the initial PHA is not responsible for paying any increase in the monthly billing amount incurred prior to the notification.
 - b. If the HAP change resulted in a decrease in the monthly billing amount, the initial PHA will offset future monthly payment until the difference is reconciled.
5. Termination of Billing
 - a. A billing arrangement is terminated when the receiving PHA absorbs the family into its program after having billed the initial PHA or when the HAP contract is terminated for any reason.
 - b. The receiving PHA must send an updated form HUD-52665 A and B to the initial PHA no later than 10 business days following the effective date of the termination of the billing arrangement.

Portability Billing Summary	
Billing Type	Deadline
Initial Billing	90 days from the expiration date of the initial PHA's voucher 30 additional days if delayed billing is due to suspension of the voucher's term
Initial Billing Payment	30 days from receipt of initial billing
Subsequent Payments	5 th business day of the month
Change in the Billing Amount	10 th business days from effective date of change
Termination of Billing Arrangement	10 business days from effective date of termination

G. Portability Absorption

The receiving PHA may absorb the family into its HCV program provided it has funding available under its ACC and the decision will not result in over-leasing for the Calendar year.

1. The receiving PHA does not technically absorb a portable family into its program until the receiving PHA executes a HAP contract on behalf of the family in the receiving PHA's jurisdiction.
2. The receiving PHA has 10 business days from the effective date of the absorption to send an updated form HUD-52665 A and B to the initial PHA.
3. Retroactive absorptions are not allowed.

4. Once the receiving PHA absorbs the family into its HCV program, the initial PHA may close out the file.

H. FSS and Portability

Families participating in the FSS program may utilize their portability option.

1. Relocating FSS Family
 - a. The family who is currently participating in the FSS program.
 - b. The term relocating FSS family refers to an FSS family that moves from the jurisdiction of the PHA at least 12 months after signing its Contract of Participation.
2. Initial Occupancy: First 12 Months
 - a. A family participating in the HCV FSS program must lease an assisted unit, for a minimum period of 12 months after the effective date of the Contract of Participation, in the jurisdiction of the PHA that selected the family for the FSS program.
 - b. The PHA may approve a family's request to move outside the initial PHA jurisdiction under portability during this period.
3. After the First 12 Months
 - a. After the first 12 months of the FSS Contract of Participation, the HCV FSS family may move outside the initial PHA jurisdiction under portability procedures.
 - b. The PHA cannot prohibit the HCV FSS participant from moving under portability if the family is otherwise eligible to move under the PHA policies.

I. Controls and Accountability

The initial PHA will never submit an action code 6, End of Participation, for a family that has ported to another jurisdiction, including when the receiving PHA absorbs the family.

If the portable family decides to leave the HCV program or is in violation of the obligation of the family, either the initial PHA or receiving PHA may make a determination to deny or terminate the family's assistance in accordance with 24 CFR 982.552 and 982.553.

CHAPTER 28: 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 survivors 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 (including inspection 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/UIV 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, 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 Section 8 participant 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 HCV 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 Notification of Overpayment. This notice 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 days 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 HCV 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 Obligations of the Family, Application for Admission, Application for Continued Assistance, 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 statements at a mandatory reexamination or interim reexamination, which were later independently verified to be false.

H. The Family Conference for Serious Violations and Misrepresentations

When the PHA has established that material misrepresentation(s) has occurred, the PHA will schedule an interview with the family representative and the PHA staff person who is most knowledgeable about the circumstances of the family misrepresentation(s).

This conference will take place prior to any proposed action by the PHA.

1. The purpose of such a 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 appointment 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 HCV housing assistance.

2. Administrative Remedies

The PHA will terminate HCV housing assistance and demand payment of restitution in-full.

3. PHA Legal Action

If an amount of \$10,000 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 HCV housing assistance.

J. Notifying the Family of Proposed Action

1. The PHA will notify the family, by pre-paid first-class mail, of the proposed action no later than 10 business days after the appointment.
2. All notices will advise the family of their right to an informal hearing.

CHAPTER 29: DEBTS OWED TO THE PHA

When an action or inaction of the family results in an overpayment of HAP, the PHA must hold the family liable to repay any overpayment of HAP to the PHA. This tenant rent underpayment is referred to as retroactive rent. If the PHA discovers that the owner owes the PHA a portion of the HAP to which the owner is not entitled, the owner is required to reimburse the PHA.

A. Reasons for Retroactive Rent

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 or failure to report income.

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. Other unreported or underreported changes
 - f. 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 HCV Informational Briefing Packet 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.
3. The PHA has the discretion to establish thresholds and policies for Repayment Agreements in addition to HUD required procedures.

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;
The lump sum 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.
 - b. Monthly installments; or
 - c. A combination of a lump sum payment and monthly installments.
2. 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 1st day of the month and shall be considered delinquent on the 10th day of the month.
 - 1) If the 1st day of the month falls on a Saturday or Sunday, the retroactive payment will be due the following Monday.

- 2) If the 1st day of the month falls on a holiday (federal, state, or local), the retroactive payment will be due the 10th day of the month. If the 10th 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:
 - 1) Money order
 - 2) Cashier check
3. 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. Prior to the issuance of a voucher to move, the family must pay the retroactive rent amount in full.

6. The PHA will require the family to bring their retroactive rent payment current prior to issuance of a voucher to move to another unit, if the move is for the following reasons:
 - a. To protect the health and safety of survivors of VAWA violence/abuse.
 - b. As a reasonable accommodation for a family with a member who is a person with disabilities.
 - c. The HAP contract is terminated due to the owner's non-compliance with HQS.
 - d. The family size exceeds the HQS maximum occupancy standards.
 - e. A natural disaster was declared.

E. Repayment Agreement with Previous Tenant or Program Participant

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 HCV housing assistance and during the application 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 a voucher, 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 issued a voucher.
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 issued a voucher, 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 issued a voucher.

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
5. If the PHA determines that the family committed willful and intentional fraud, the PHA will require the family to repay the entire amount in full or the PHA will terminate the assistance.

G. Debts Owed to PHAs and Terminations

HUD maintains a national repository of debts owed to PHAs or Section 8 landlords and adverse information of former participants who have voluntarily or involuntarily terminated participation in the HCV 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 HCV program has ended, whether the family voluntarily or involuntarily moves out of the assisted unit:
 - a. Amount of any balance the family owes the PHA or Section 8 landlord (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. Owner Debt to the PHA

If the owner has received HAP to which the owner is not entitled, the PHA may recover such amounts from the owner.

1. Overpayment of HAP to owner may include but not be limited to:
 - a) Failure of owner to notify PHA unit was vacated by the family.
 - b) Failure of owner to notify PHA of a deceased tenant.
 - c) Non-compliance of owner's unit with HQS.
 - d) Failure of owner to notify PHA of change in owner supplied utilities.
2. The owner shall be required to reimburse the PHA for any overpaid HAP amounts within 30 days of the PHA's determination and notification to the owner of the debt. If the owner fails to repay the debt within the required timeframe and is entitled to future HAP, the PHA may:
 - a. Reduce the future HAP by the amount owed until the debt is paid in full.
 - b. Enter into a Repayment Agreement with the owner for repayment of the debt over a period of time.
3. If the owner refuses to repay the debt, fails to enter into a Repayment Agreement, or breaches a Repayment Agreement, the PHA will terminate the HAP contract and ban the owner from future participation in the PHA's HCV program and pursue other means for collection of the debt.

I. 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 retroactive rent will be automatically revoked and the family will be required to pay the

retroactive 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 30: TERMINATION OF ASSISTANCE AND HAP CONTRACTS

The PHA may terminate assistance for a family because of the family's action or failure to act. The PHA may also terminate the HAP contract if the owners fail to comply with their obligations under the terms of the HAP contract.

The PHA will provide families with a written description of the obligations of the family under the HCV program, grounds under which the PHA can terminate assistance, and the informal hearing procedures.

A. Termination of Assistance

Termination of assistance of a family may include:

1. Refuses to enter into a HAP contract or approve a lease.
2. Terminating the HAP under an outstanding HAP contract.
3. Refusing to process or provide assistance under portability procedures.

B. Automatic Terminations of the HAP Contract

The HAP contract terminates automatically when:

1. The family moves from the assisted unit;
2. The PHA terminates program assistance for the family;
3. The owner and the family terminate the lease;
4. The owner evicts the family; or
5. The HAP contract automatically terminates 180 calendar days after the last housing assistance payment to the owner.
 - a. This determination does not preclude the family from asking to terminate assistance immediately, nor does it impact any rights under the lease.
 - b. If the family experiences a change in circumstance during the 180 days, the family must notify the PHA of the changed circumstances and request an interim reexamination before the expiration of the 180 days.
 - c. Families whose assistance is terminated under this instance will have to reapply for assistance when PHA is accepting applications.

C. Mandatory Termination of Assistance

The PHA must terminate program assistance of the family for any of the following reasons:

1. If the family was evicted from housing assisted under the HCV program for a serious violation of the lease.

Serious violations (includes but is not limited to failure to pay rent or other amounts due under the lease, disturbance of neighbors, destruction of property, living or housekeeping

habits that cause damage to the unit), or repeated violation of the terms and conditions of the lease.

2. If any member of the family fails or refuses to sign and submit consent forms (i.e., declaration of citizenship, form HUD-9886-A Authorization for the Release of Information/Privacy Act Notice and other consent forms) for obtaining information.
3. If the family fails to submit required evidence of citizenship or eligible immigration status.
4. If any member of the household required to disclose their SSN does not disclose their SSN and provide the required documentation.

If the family is otherwise eligible, the PHA may defer the family's termination and provide the family an opportunity to comply with the SSN requirements within a period not to exceed 90 calendar days from the date the PHA determined the family noncompliant for the SSN disclosure and documentation requirement, only if the PHA determines:

- a. The failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside the control of the family; and
 - b. There is a reasonable likelihood that the family will be able to disclose the SSN and provide such documentation of the SSN by the deadline.
5. If any family member fails to meet the eligibility requirements concerning individuals enrolled at an institution of higher education.
 6. Death of the sole member of the family.
 7. If any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.
 8. Any member of the household is subject to a lifetime registration requirement under a state sex offender registration program.

D. PHA Authority to Terminate Assistance

The PHA has the authority and may at any time terminate HCV program assistance of a family for any of the following reasons:

1. If the family violates any obligations of family under the HCV program:
 - a. The family failed to supply any information that the PHA or HUD determined necessary in the administration of the program.
 - b. The family failed to supply any information requested by the PHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition.
 - c. If the participant provides information that is not true or complete.
 - d. If the family did not report an interim change in family composition or income, etc.,

which they were required to report, the PHA would determine how much the family owed the PHA, due to the unreported or untimely reported information.

- e. The family fails to allow the PHA to inspect the unit at reasonable times and after reasonable notice.
- f. The family may not commit any serious or repeated violation of the lease.

An incident or incidents of actual or threatened VAWA violence/abuse will not be construed as a serious or repeated lease violation by the survivor, or threatened survivor, of the VAWA violence/abuse or as good cause to terminate the tenancy, occupancy rights, or assistance of the survivor.

- g. The family failed to notify the PHA and the owner before the family moved out of the unit or terminated the lease on notice to the owner.

Except if the family moved out in violation of the lease in order to protect the health or safety of a person who is or has been the survivor of VAWA violence/abuse and who reasonably believed to be threatened with imminent harm from further violence by remaining in the dwelling unit (or any family member has been the survivor of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's move or request to move), and has otherwise complied with all other obligations under the HCV program.

- h. The family failed to promptly give the PHA a copy of any owner eviction notice.

- 2. If any member of the family has been evicted from federally assisted housing in the last five (5) years.
- 3. If a PHA has ever terminated assistance under the HCV program for any member of the family.
- 4. If any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- 5. If the family currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.
- 6. If the family has not reimbursed any PHA for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.
- 7. If the family breaches an agreement with the PHA to pay amounts owed to a PHA, or amounts paid to an owner by a PHA.
 - a. The PHA, at its discretion, may offer a family the opportunity to enter into an agreement to pay amounts owed to a PHA or amounts paid to an owner by a PHA.
 - b. The PHA may prescribe the terms of the agreement.
- 8. If the family has engaged in or threatened abusive or violent behavior toward PHA personnel.

9. If the family has been engaged in criminal activity or alcohol abuse.
10. If the family signs an agreement with an owner/landlord to pay for the owner/landlord to repair tenant caused HQS fail items, and the family fails to repay the owner/landlord pursuant to said agreement, assistance may be terminated.
11. If a household member is fleeing to avoid prosecution, or custody or confinement after prosecution for a crime that is a felony under the law of the place from which the individual flees;
12. If a family member has violated or is violating a condition of probation or parole imposed under federal or state law.

E. Termination of Assistance for Criminals and Alcohol Abusers

1. The PHA has established the following standards to be applied as appropriate, for drug-related criminal activity, violent criminal activity, and alcohol abuse concerning termination of assistance:
 - a. The PHA has determined a "pattern" as at least two (2) drug or alcohol related criminal offenses within the 3 months period while the family is participating in the HCV program.

A pattern of illegal use of a drug by any household member interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.
 - b. Evidence of criminal activity shall be defined as a preponderance of evidence for criminal activity.
 - c. Currently engaging in illegal use of a drug shall be defined as within 90 days from the date the PHA discovered the use of the illegal drug.
 - d. Reasonable cause shall be determined by a preponderance of evidence of illegal use of a drug charge or other criminal activity.
 - e. The PHA may determine the use of an illegal drug through a preponderance of the evidence of a drug-related charge.
 - f. The PHA shall determine involvement in criminal activity through a preponderance of evidence for a criminal activity.
 - g. There is no time period concerning a preponderance of evidence of a drug-related charge for manufacturing, production, or distribution of methamphetamine on or off the premises of federally assisted housing. Such household member(s) being convicted of this offense will always be denied admission.
2. As a measure to determine whether if any member of the household has violated the obligations of the family under the HCV program for drug-related criminal activity, violent criminal activity, or other criminal activity, the PHA has established the following standards:

Drug-related criminal activity, criminal activity, and alcohol abuse include such activity engaged in on or near the premises by any member of the family, guest, or by any other person in the family's control.

- a. Any household member is currently engaged in any illegal use of a drug.

Drug means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

- b. Any family member has violated the family's obligation not to engage in any drug-related criminal activity.

Drug-related criminal activity means the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute, or use the drug.

- c. Any household member has violated the family's obligation not to engage in violent criminal activity.

Violent Criminal Activity means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

- d. Any household member is engaged in the abuse or pattern of abuse of alcohol to the extent that the abuse interferes and/or threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

Abuse of alcohol includes behavior or a pattern of behavior of any family member and/or guest that as a result of the abuse of alcohol interferes with the health, safety, or right of peaceful enjoyment of the premises by other residents.

3. A perpetrator of domestic violence, dating violence, sexual assault, or stalking.

F. Termination of Assistance 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 terminates 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 terminate the assistance; and
 - c. Notice of the right to obtain a free copy of the report and dispute any information in the report.

G. Family Self-Sufficiency (FSS) Participants

The PHA will not terminate HCV housing assistance of an FSS family for noncompliance with the Contract of Participation.

However, PHA may withhold supporting services from the FSS family upon notice to the family.

H. Termination of HAP Contract Due to Insufficient Funding

The PHA may terminate the HAP contract if the PHA determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program.

Termination of HAP contracts due to insufficient funding will only be implemented as a last resort and will be compliant with Equal Opportunity and civil rights requirements.

1. Determination of Insufficient Funding

The PHA will use the following criteria to determine adequacy of funding:

- a. If the PHA has adequate funds to service the existing vouchers under HAP contract through the end of the calendar year, funds will be determined to be sufficient and the PHA will not terminate contracts or vouchers due to insufficient funding.
- b. If the PHA has inadequate funds to service the existing vouchers under HAP contract through the end of the calendar year, funds will be determined to be insufficient and the PHA may begin procedures to terminate HAP contracts, stop issuing vouchers, or rescind recently issued vouchers due to insufficient funding.
- c. In determining if funding under the Consolidated Annual Contributions Contract (CACC) is insufficient to support continued assistance for families in the program, the PHA will take into consideration its available budget authority (which includes unspent prior year HAP funds in the PHA's Unrestricted Net Position (UNP)).
- d. The PHA will conduct an analysis of funds vs. expenditures using HUD approved methods to determine if funds are insufficient to support the current vouchers under HAP contract through the end of the calendar year.
- e. The PHA will notify the HUD field office and its financial analyst at the Financial Management Center (FMC) prior to termination actions due to insufficient funding.

2. Alternative Measures

Before terminating HAP contracts on the basis of insufficient funding, the PHA must ensure that it has carefully considered all cost-savings measures and the impact such terminations will likely have on HCV program applicants and participants. These may include:

- a. Utilizing alternative sources of unrestricted non-federal funding that may be available.
- b. Use of HUD approved outside source of funds

- c. Reviewing and revising rent reasonableness if necessary.
 - d. Ensuring accurate utility allowances.
 - e. Implementing interim reexaminations for income increases.
 - f. Implementing minimum rents.
 - g. Lowering payment standards.
 - h. Requesting receiving PHAs to absorb portability vouchers that are currently being billed.
3. Owner Notification
- a. The PHA will notify the owner by certified mail, giving as much notice as possible but no less than 30 days prior to the effective date of the termination. Failure to accept certified mail does not constitute failure of the PHA to notify the owner.
 - b. The notice of termination will include, at a minimum:
 - 1) The reason for the HAP contract termination.
 - 2) Regulatory and Administrative Plan citations regarding authority to terminate for insufficient funding.
 - 3) Effective date of termination.
 - 4) Rights and responsibilities of the owner.
 - 5) PHA contact person.
4. Family Notification
- a. The PHA will notify the family by certified mail, giving as much notice as possible but no less than 30 days prior to the effective date of the termination. Notice to a family under the protection of a court order, Fair Housing Voluntary Compliance Agreement, or the Violence Against Women Act will be delivered a minimum of 60 days prior to the effective date of the termination. Failure to accept certified mail does not constitute failure of the PHA to notify the family.
 - b. The notice of termination will include, at a minimum:
 - 1) The reason for the voucher termination.
 - 2) Regulatory and Administrative Plan citations regarding authority to terminate for insufficient funding.
 - 3) Effective date of termination.
 - 4) Rights and responsibilities of the family (keep contact info current, etc.).
 - 5) Special assistance available from the PHA.
 - 6) PHA contact person.
 - 7) Information on resuming assistance.

- 8) Options that may be open to the family (public housing assistance, comparable tenant-based assistance, etc.).
5. Order of Termination and Resuming Assistance
The PHA will work with the HUD Shortfall Prevention Team to determine the order of termination of HCV assistance, including the PBV program and special purpose vouchers.

I. Termination of the Tenancy by the Family

The family may terminate tenancy after the initial lease term. The family may terminate the tenancy during the initial term if the owner agrees to release the family from the lease.

1. Family termination notice requirements
 - a. The family must give notice to vacate to the owner as required by the lease.
 - b. The family must give the PHA copy of the notice to vacate given to the owner at the same time.
 - c. The family must give the notice to vacate to the owner and PHA prior to moving out of the unit.
 - 1) Except for survivors of VAWA violence/abuse and the move is needed to protect the health or safety of the family or family member, or
 - 2) If any member has been the survivor of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's request to move.
2. Continued Assistance
 - a. The family must notify the PHA whether the family needs continued assistance in another unit.
 - b. If family is eligible for continued assistance, the PHA will schedule a reexamination appointment and issue the family another voucher to lease-up in another unit.

J. Termination by Owner

The owner must limit termination to those allowed by the lease and HUD requirements in the HUD-required tenancy addendum.

1. During the term of the lease (the initial term of the lease or any extension term), the owner may only terminate the tenancy because of:
 - a. Serious or repeated violation of the lease;
 - b. Violation of federal, state, or local law that imposes obligations on the tenant in connection with the occupancy or use of the unit and the premises;
 - c. Criminal activity or alcohol abuse; or
 - d. Other good cause.

2. Other good cause for termination of tenancy
 - a. During the initial lease term, other good cause for termination of tenancy must be something the family did or failed to do.
 - b. During the initial lease term or during any extension term, other good cause may include:
 - 1) Disturbance of neighbors,
 - 2) Destruction of property, or
 - 3) Living or housekeeping habits that cause damage to the unit or premises.
 - c. After the initial lease term, such good cause may include:
 - 1) The tenant's failure to accept the owner's offer of a new lease or revision;
 - 2) The owner's desire to use the unit for personal or family use or for a purpose other than use as a residential rental unit; or
 - 3) A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, the owner's desire to rent the unit for a higher rent).
 - 4) The examples of other good cause do not preempt any state or local laws to the contrary.
3. Criminal activity or alcohol abuse.
 - a. The owner may terminate the tenancy during the term of the lease if any member of the household, a guest or another person under a resident's control commits any of the following types of criminal activity:
 - 1) Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, other residents (including property management staff residing on the premises);
 - 2) Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises;
 - 3) Any violent criminal activity on or near the premises; or
 - 4) Any drug-related criminal activity on or near the premises.
 - b. The owner may terminate the tenancy during the term of the lease if any member of the household is:
 - 1) Fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees; or
 - 2) Violating a condition of probation or parole under federal or state law.

- c. The owner may terminate the tenancy for criminal activity by a household member if the owner determines that the household member has committed the criminal activity, regardless of whether the household member has been arrested or convicted for such activity.
 - d. The owner may terminate the tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety or right to peaceful enjoyment of the premises by other residents.
4. The family is not responsible for payment of the portion of the rent to the owner covered by HAP under the HAP contract between the owner and the PHA.
- a. During the term of the lease, the owner may not terminate the tenancy of the family for nonpayment, including late payment, of the HAP by the PHA.
 - b. The PHA failure to pay the HAP, including late payment, to the owner is not a violation of the lease between the family and the owner.

5. Owner Notification Requirements

The owner eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action.

- a. The owner may only evict the family from the unit by instituting a court action.
- b. Owner notice of grounds
 - 1) To terminate the tenancy the owner must give the family written notice of the owner's intent to terminate the tenancy and the reasons for the termination.
 - 2) The tenancy does not terminate before such notice is given.
 - 3) Notice must be given to the family at or before commencement of any eviction action.
 - 4) The notice of grounds may be included in or combined with any owner eviction notice to the family.
 - 5) The owner must give the PHA a copy of any owner eviction notice at the same time the owner notifies the family.
- c. The PHA will continue to make HAP to the owner as long as the family remains a program participant and remains in the unit, even if the owner has started the eviction process.
- d. The PHA will continue to pay the HAP to the owner until the family moves or the court judgment allows the owner to evict.

K. Consideration of Circumstances before Termination of Assistance

The PHA and owner may consider all specific circumstances of each family in determining whether to terminate assistance or evict the family, respectfully, because of family's action or failure to act by members of the family.

1. Circumstances the PHA and owner may consider include but are not limited to:
 - a. The seriousness of the case or offending action.
 - b. The extent of participation or culpability of individual family members.
 - 1) The PHA may impose, as a condition of continued assistance for other family members, a requirement that other family members who participated in or were culpable for the action or failure will not reside in the unit. The PHA may permit the other members of a participant family to continue receiving assistance.
 - 2) The owner may require a tenant to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.
 - c. Mitigating circumstance related to the disability of a family member.
 - d. The extent to which the family (leaseholder) has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action.
 - e. If the family includes a person with disabilities, the PHA decision concerning such action is subject to consideration of reasonable accommodation.
 - f. The effects of termination of assistance on other family members who were not involved in the action or failure to act.
 - g. The effect on the community of termination or the failure of the owner to take such action.
 - h. In determining whether to terminate assistance or terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the PHA or owner may consider whether such household member:
 - 1) Is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully.
 - 2) The PHA or owner may require the family 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.
 - i. The likelihood of reoccurrence.
 - j. Age at the time of the criminal activity.
 - k. Length of time since conviction.
 - l. The effect the owner's action on the integrity of the HCV program.
2. Nondiscrimination limitation and protection for survivors of VAWA violence/abuse. The PHA's termination actions and the owner's termination of tenancy actions must be

consistent with Fair Housing and Equal Opportunity provisions and protections for survivors of VAWA violence/abuse.

CHAPTER 31: INFORMAL REVIEWS AND INFORMAL HEARINGS

The purpose of the informal review or informal hearing is to resolve applicant or participant disputes with the PHA without legal action for PHA decisions affecting eligibility or amount of assistance and to correct PHA errors that might have occurred in the PHA's decision making process.

A. Difference between the Informal Review or Informal Hearing

1. Informal Review: Is for program applicants.
2. Informal Hearing:
 - a. Is for program participants.
 - b. The PHA must give the opportunity for an informal hearing before the PHA terminates HAP for the family under an outstanding HAP contract.

B. When an Informal Review is Not Required

The PHA is not required to provide the applicant an opportunity for an informal review for any of the following:

1. Discretionary administrative determinations by the PHA.
2. General policy issues or class grievances.
3. A determination of the family unit size under the PHA subsidy standards.
4. A PHA determination not to approve an extension of the voucher term.
5. A PHA determination not to grant approval of the tenancy.
6. A PHA determination that a unit selected by the applicant is not in compliance with HQS.
7. A PHA determination that the unit is not in accordance with HQS because of the family size or composition.

C. When an Informal Hearing is Not Required

The PHA is not required to provide a participant family an opportunity for an informal hearing for any of the following:

1. Discretionary administrative determinations by the PHA.
2. General policy issues or class grievances.
3. Establishment of the PHA schedule of utility allowances for families in the program.
4. A PHA determination not to approve an extension of the voucher term.
5. A PHA determination not to approve a unit or tenancy.
6. A PHA determination that an assisted unit is not in compliance with HQS. (However, the PHA must provide the opportunity for an informal hearing for a decision to terminate

assistance for a breach of the HQS caused by the family).

7. A PHA determination that the unit is not in accordance with HQS because of the family size.
8. A determination by the PHA to exercise or not to exercise any right or remedy against the owner under a HAP contract.

D. When an Informal Hearing is Required

The PHA must give a participant family an opportunity for an informal hearing to consider whether the following PHA decisions relating to the individual circumstances of a participant family are in accordance with the law, HUD regulations and PHA policies:

1. A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment.
2. A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the PHA utility allowance schedule.
3. A determination of the family unit size under the PHA subsidy standards.
4. A determination to terminate assistance for a participant family because of the family's action or failure to act under the 24 CFR §982.552.
5. A determination to terminate assistance because the participant family has been absent from the assisted unit for longer than the maximum period permitted under PHA policy and HUD rules.

E. Informal Hearing Determination of Ineligible Immigration Status

When the PHA makes a determination of ineligible immigration status, the PHA must offer applicants, as well as HCV participating families, the opportunity to request an informal hearing.

1. After notification of the CIS decision on appeal, or in lieu of request of appeal to the CIS, the family may request the PHA provide an informal hearing. This request must be made:
 - a. Within 30 days of receipt of the notice of denial or termination of assistance, or
 - b. Within 30 of receipt of the CIS appeal decision
2. Assistance to the family may not be delayed, denied, reduced, or terminated on the basis of ineligible immigration status of a family member if:
 - a. The primary and secondary verification of any immigration documents that were timely submitted has not been completed;
 - b. The family member for whom required evidence has not been submitted has moved from the assisted unit;
 - c. The family member who is determined not to be in an eligible immigration status following CIS verification has moved from the assisted unit;

- d. The CIS appeals process has not been concluded;
 - e. Assistance is being prorated;
 - f. Assistance for a mixed family is continued in accordance with §§5.516 and 5.518; or
 - g. Deferral of termination of assistance is granted in accordance with §§5.516 and 5.518.
3. The informal hearing procedures shall follow the normal informal hearing procedures and include the following:
- a. The family 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 responsible entity relies.
 - b. The family shall be entitled to arrange for an interpreter to attend the informal hearing, at the expense of the family, or PHA, as may be agreed upon by the two parties to the proceeding.
 - c. The family shall be entitled to have the informal hearing recorded by audiotape (a transcript of the informal hearing may, but is not required to, be provided by the PHA).
4. The PHA will keep the following documents for a minimum of five (5) years that may have been submitted by the family, or provided to the PHA as part of the CIS appeal or the informal hearing process:
- a. The application for housing assistance;
 - b. The form completed by the family for income reexamination;
 - c. Photocopies of any original documents (front and back), including original CIS documents;
 - d. The signed verification consent form;
 - e. The CIS verification results;
 - f. The request for a CIS appeal;
 - g. The final CIS determination;
 - h. The request for an informal hearing; and
 - i. The final informal hearing decision.
5. A decision against a family member does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

F. Notification to the Family

If the PHA decision has affected a family's eligibility for housing assistance or amount of assistance, the PHA must notify the family that the family may ask for an explanation of the basis of the PHA determination, and that if the family does not agree with the determination,

the family may request an informal review or informal hearing on the decision.

1. The Notice of the PHA's Decision

- a. When the PHA has made its decision, the PHA shall give the family written notice within 10 business days of the decision.
- b. The Notice will contain the following information:
 - 1) A brief statement of the reason for the decision.
 - 2) A statement that if the family does not agree with the decision, the family may submit a written request for an informal review or informal hearing within 10 business days from receipt of the notice.
 - 3) The VAWA Notice of Occupancy Rights (form HUD-5380).
 - 4) The Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation (form HUD-8382).
- c. The PHA will accept the written request for an informal review or informal hearing by:
 - 1) In person delivery to the PHA
 - 2) Email
 - 3) Fax
 - 4) U.S. Post (must be postmarked within the allotted timeframe)

2. Scheduling the Informal Review or Informal Hearing

The PHA may or may not conduct an informal review or informal hearing if the family fails to submit the request within the time stipulated. If the request is not submitted timely, it shall mean that the family has waived their right to request an informal review or informal hearing.

- a. Expeditious Hearing Process:
 - 1) Where an informal review or informal hearing is required, the PHA will proceed with the informal review or informal hearing in an expeditious manner upon request by the family.
 - 2) The PHA will schedule the informal review or the informal hearing within 10 business days of the request by the family.
- b. Location of the Informal Review or Informal Hearing

The informal review or informal hearing will be conducted at a location that is appropriately set up, confidential and will accommodate any request for reasonable accommodation. The informal review or informal hearing may be conducted:

 - 1) At the PHA office.
 - 2) At a location designated by the PHA.

- 3) At a location connected by electronic audio/visual media or telephone conference call agreed upon by the two parties.
- c. Time of the Informal Review or Informal Hearing
 - 1) The PHA should schedule the informal review or informal hearing with enough time to thoroughly conduct the proceedings.
 - 2) No Show Policy of the Informal Review or Informal Hearing
 - a) If the family is not present (without good cause) at the informal review or informal hearing 15 minutes past the scheduled time, the PHA shall consider it a no show and the request for the informal review or informal hearing will be denied.
 - b) Good cause is considered:
 - 1) Hospitalization. No Transportation, Connection/Technical Issues (Virtual Hearing)
 - c) If the family fails to appear at the informal review or informal hearing on the date scheduled without any request for an adjournment on strong grounds, the matter will be decided by the parties that are present or dismissed immediately with no right for its restoration. The hearing officer may or may not allow an application for adjournment.
- d. Representation:
 - 1) The family can either appear in person or may be represented by an attorney or any other person at the family's expense.
 - 2) The family shall be entitled to arrange for an interpreter to attend the informal review or informal hearing, at the expense of the family, or PHA, as may be agreed upon by the two parties to the proceeding.
 - 3) The PHA can be represented by an attorney or any other representative.
- e. Discovery:
 - 1) The family must be given the opportunity to review/examine any PHA documents which are directly relevant to the informal review or informal hearing prior to the informal review or informal hearing date.
 - 2) The discovery procedures also apply to the PHA.
 - 3) If either party does not make the documents available upon request, the party cannot rely on the documents during the informal review or informal hearing.

G. Hearing Officer

The PHA will designate any person or persons as hearing officer or hearing officers to conduct the informal review or informal hearing. The power to designate a hearing officer shall rest solely with the PHA.

1. The hearing officer can be any person other than a person who made or approved the decision under review, or a subordinate of such person.
2. The hearing officer will regulate the conduct of the hearing in accordance with hearing procedures.

H. Procedures of the Informal Review or Informal Hearing

The hearing officer will meet with the family and PHA at the appointed time of the informal review or informal hearing.

1. The hearing officer will advise both the family and PHA that the informal review or informal hearing will be recorded (e.g., by audiotape or transcript).
2. The hearing officer will review all the documents, policies, regulations, and other relevant information used to make the PHA decision.
3. Evidence:
 - a. The family and the PHA shall be given the opportunity to present evidence orally and written and may question any witnesses.
 - 1) The family will begin their case by introducing documents it relies on and by taking oral testimony of witnesses in support of their contention.
 - 2) The PHA will then begin its defense by introducing documents it relied on and by taking oral statements from witnesses, if necessary, in justification of its decision.
 - 3) The hearing officer will have the opportunity to ask questions to both the family and the PHA.
 - b. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.
4. The family and the PHA will close their cases and make final submissions, if they choose to, prior to the decision.
5. The hearing officer will advise the family and the PHA that all information presented, either orally or in documentation, will be considered in making a final decision, and a notice of that decision will be provided to the family and PHA in writing within 10 business days.

I. Issuance of the Decision

The decision of the hearing officer shall be in writing and based on the facts established, HUD regulations, PHA policy, and the applicable law.

1. Factual determinations relating to the individual circumstances of the family shall be based on the preponderance of the evidence presented during the informal review or informal hearing.
2. The decision shall clearly state the reason on which the decision is arrived.

3. This final decision shall be given within 10 business days of the date of the informal review or informal hearing.
4. A copy of the decision shall be furnished promptly to the family and the PHA.
5. The PHA will not be bound by an informal hearing decision:
 - a. Concerning a matter for which the PHA is not required to provide an opportunity for an informal hearing or that otherwise exceeds the authority of the hearing officer.
 - b. Contrary to HUD regulations or requirements, or otherwise contrary to federal, state, or local law.
 - c. If the PHA determines that it is not bound by the hearing decision, the PHA will promptly notify the family of the determination and the reasons for the determination.

CHAPTER 32: SPECIAL HOUSING TYPES

At the PHA's discretion, the PHA may permit participating households to use HCV housing assistance in a variety of special housing types.

The PHA's decision to allow participating households to use HCV assistance in special housing types will be based on the PHA's assessment of the difficulties encountered by families currently looking for housing, applicant and participant demographics suggesting a need for specialized housing, and the availability of suitable housing of the various types in the local market.

The PHA will allow the use of a special housing type if needed as a reasonable accommodation for persons with disabilities so that the HCV program is readily accessible to and usable by persons with disabilities, even if the PHA does not normally allow the use of special housing types or limits the number of families using these special housing types.

The PHA will not designate a single unit as more than one type of special housing, except of leasing both a manufactured home and space.

The PHA administers the following special housing types:

A. Single Room Occupancy (SRO)

An SRO unit provides living and sleeping space for the exclusive use of the occupant but requires that the occupant share sanitary and/or food preparation facilities with others. There is no federal limitation on the number of SRO units in an SRO facility. There is a separate lease and HAP contract for each assisted person in an SRO unit. The standard HAP contract is used.

1. Occupancy

- a. An SRO unit may not be occupied by more than one person.
- b. Program regulations do not place a limit on the number of units in an SRO facility, although the size of a facility may be limited by local laws.

2. HQS Standards

HQS standards for the HCV program apply with the exception described below:

a. Sanitary Facilities

- 1) At least one flush toilet that can be used in privacy, a lavatory basin, and a bathtub or shower in proper operating condition must be provided for each six persons (or fewer) residing in the SRO facility.
- 2) If the SRO units are leased only to men, flush urinals may be substituted for up to one half of the required number of toilets.
- 3) There must, however, be at least one flush toilet in the SRO facility.
- 4) Every lavatory basin and bathtub or shower must always have an adequate supply of hot and cold running water.

- 5) All sanitary facilities must be in proper operating condition and must be adequate for personal cleanliness and the disposal of human waste.
 - 6) In addition, the SRO facility must utilize an approvable public or private disposal system.
 - 7) Sanitary facilities must be reasonably accessible from a common hall or passageway to all persons sharing them and may not be located more than one floor above or below the SRO unit.
 - 8) They may not be located below grade unless the SRO units are located on that level.
- b. Space and Security**
- 1) An SRO unit must contain at least 110 square feet of floor space, and at least four-square feet of closet space with an unobstructed height of at least five feet, for use by the occupant.
 - 2) If the closet space is less than four square feet, the habitable floor space in the SRO unit must be increased by the amount of the deficiency.
 - 3) Exterior doors and windows accessible from outside the SRO unit must be lockable.
- c. Access and Fire Safety**
- 1) Access
 - a) Access doors to the SRO unit must have working locks for privacy.
 - b) The occupant must be able to access the unit without going through any other unit.
 - c) Each unit must have immediate access to two or more approved means of exit from the building, appropriately marked and leading to safe and open space at ground level.
 - d) The SRO unit must also have all other means of exit required by state or local law.
 - 2) Fire Safety
 - a) All SRO facilities must have a sprinkler system that protects major spaces.
 - b) "Major spaces" are defined as hallways, large common areas, and any other areas specified in local fire, building, or safety codes.
 - c) SROs must also have hard-wired smoke detectors, and any other fire and safety equipment required by state or local law.
- d. Food Preparation, Refuse Disposal, and Lead-Based Paint**
- HQS applicable to food preparation and refuse disposal do not apply to SRO units. Lead-based paint does not apply since SRO will not house children.

3. Payment Standard and HAP Calculation

- a. The payment standard for SRO housing is 75% of the PHA's 0-bedroom payment standard amount, or the HUD-approved area exception payment standard amount, on the PHA's payment standard schedule.
- b. The HAP for an assisted occupant in an SRO facility is the lower of:
 - 1) The SRO payment standard amount minus the TTP, or
 - 2) The gross rent for the unit minus the TTP.
4. Utility Allowance

The utility allowance for an SRO unit is 75% of the PHA's 0-bedroom utility allowance.

B. Congregate Housing

Congregate housing is intended for use by elderly persons or persons with disabilities. Congregate housing contains a shared central kitchen and dining area and a private living area for the individual household of at least a living room, bedroom, and bathroom. Food service for the families must be provided. There is a separate lease and HAP contract for each assisted family in congregate housing. The standard HAP contract is used.

1. Occupancy

- a. Elderly persons and/or persons with disabilities may live in congregate facilities.
- b. With PHA approval a live-in aide may live in the congregate unit with an elderly person and/or a person with disabilities.

2. HQS Standards

HQS for the HCV program apply with the exception that each unit have a kitchen. The following standards below apply in place of HQS standards for food preparation and refuse disposal.

a. Food Preparation and Refuse Disposal Requirements

- 1) A refrigerator of appropriate size in the private living area of each family.
- 2) Central kitchen and dining facilities are located within the premises and accessible to the families. These facilities must:
 - a) Contain suitable space and equipment to store, prepare, and serve food in a sanitary manner;
 - b) Must be used to provide a food service that is provided for the families and that is not provided by the families; and
 - c) Must be for the primary use of families on the congregate units and be sufficient in size to accommodate the families.
- 3) The congregate housing must contain adequate facilities and services for the sanitary disposal of food waste and refuse, including facilities for temporary

storage where necessary.

b. Lead-Based Paint

Lead-based paint HQS does not apply unless a child under the age of six (6) is expected to reside in the unit.

c. Payment Standard and HAP Calculation

1. The payment standard for an individual unit in a congregate housing facility is based on the number of bedrooms in the private living area for the assisted family.
2. If there is only one bedroom in the unit (not including the bathroom or the kitchen, if a kitchen is provided), the PHA's payment standard for a 0- bedroom unit, or HUD-approved exception area payment standard, is used.
3. If the unit has two or more bedrooms (other than the bathroom and the kitchen), the PHA will use the PHA's 1-bedroom payment standard, or HUD-approved area exception payment standard.
4. Note: A live-in aide must be counted when determining the family unit size.
5. The HAP for an assisted occupant in a congregate housing facility is the lower of:
 - a) The applicable payment standard minus the TTP, or
 - b) The gross rent for the unit minus the TTP.
6. HCV assistance should be calculated on the shelter portion (including utilities) of the family's monthly housing expenses only. The family's cost for food service should not be included in the rent for a congregate housing unit.

C. Group Home

A group home is a state-licensed, certified, or otherwise state-approved facility intended for occupancy by elderly persons and/or persons with disabilities. The group home consists of residents' bedrooms, which can be shared by no more than two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents. For purposes of the HCV program, a group home is for the exclusive residential use of two (2) to 12 persons who are elderly and/or are persons with a disability. This includes assisted and unassisted residents, and any live-in aides. There is a separate lease and HAP contract for each assisted person.

1. Occupancy

- a. Elderly persons and/or persons with disabilities may live in group homes.
 - 1) If approved by the PHA, a live-in aide may live in the group home with an elderly person and/or person with disabilities.
 - 2) The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

- b. Except for live-in aides, all persons living in a group home, whether assisted or not, must be elderly persons and/or persons with disabilities.
- c. Persons living in a group home must not require continual medical or nursing care.

2. HQS Standards

The entire unit must comply with the HCV program HQS standards, with the following standards below applying in place of HQS standards for sanitary facilities, food preparation and refuse disposal, space and security, structure and materials, and site and neighborhood:

a. Sanitary Facilities

- 1) Group homes must have at least one bathroom in the unit, with a flush toilet that can be used in privacy, a fixed basin with hot and cold running water, and a shower or bathtub with hot and cold running water.
- 2) A group home may contain private or common bathrooms. However, no more than four residents can be required to share a bathroom.
- 3) All sanitary facilities must be readily accessible to and usable by residents, including persons with disabilities.
- 4) All sanitary facilities must be in proper operating condition and must be adequate for personal cleanliness and the disposal of human waste.
- 5) The group home must utilize an approvable public or private disposal system.

b. Food Preparation and Service

- 1) Group home units must contain a kitchen and dining area with adequate space to store, prepare, and serve food in a sanitary manner.
- 2) Food preparation and service equipment must be in proper operating condition and be adequate for the number of residents in the group home.
- 3) The facilities for food preparation and service may be private or may be shared by the residents.
- 4) The kitchen must contain a stove or range, and oven, a refrigerator, and a sink with hot and cold running water.
- 5) The sink must drain into an approvable public or private disposal system.
- 6) Group homes must contain adequate facilities and services for the sanitary disposal of food waste and refuse, including facilities for temporary storage where necessary.

c. Space and Security

- 1) Group homes must contain at least one bedroom of appropriate size for every two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents.

- 2) Each unit must provide adequate space and security for the assisted person.
- 3) Doors and windows that are accessible from outside the unit must be lockable.
- d. Structure and Material
 - 1) To avoid any threat to the health and safety of the residents, group homes must be structurally sound.
 - 2) Elevators must be in good condition.
 - 3) Group homes must be accessible to and usable by residents with disabilities.
- e. Site and Neighborhood
 - 1) Group homes must be located in a residential setting.
 - 2) The site and neighborhood should be reasonably free from hazards to the health, safety, and general welfare of the residents, and should not be subject to serious adverse conditions, such as:
 - Dangerous walks or steps
 - Smoke or dust
 - Instability
 - Excessive noise
 - Flooding, port drainage
 - Vibrations or vehicular traffic
 - Septic tank back-ups
 - Excessive accumulation of trash
 - Sewage hazards
 - Vermin or rodent infestation
 - Mud slides
 - Fire hazards
 - Abnormal air pollution
 - Lead-Based Paint

f. Lead-Based Paint

Lead-based paint HQS does not apply unless a child under the age of six (6) is expected to reside in the unit.

3. Payment Standards and HAP Calculation

- a. Unless there is a live-in aide, the family unit size for an assisted occupant of a group home is zero or one-bedroom unit, depending on the PHA's subsidy standard. If there is a live-in aide, the aide must be counted in determining the family unit size.
- b. The payment standard used to calculate the HAP is the lower of the payment standard for the family unit size or the pro-rata share of the payment standard for the group home size.
 - 1) The pro-rata share is calculated by dividing the number of persons in the assisted household by the total number of persons (assisted and unassisted) living in the group home.
 - 2) The number of persons in the assisted family equals one assisted person plus any PHA-approved live-in aide.
- c. The HAP for an assisted occupant in a group home is the lower of the payment

standard minus the TTP or the gross rent minus the TTP.

4. Utility Allowance

The utility allowance for an assisted occupant in a group home is the pro-rata share of the utility allowance for the group home unit size.

5. Rent Reasonableness

The rents paid by participating families residing in group homes are generally subject to applicable standards for determining rent reasonableness.

- a. The rent to the owner for an assisted family must not exceed the pro-rata portion of the reasonable rent for the group home.
- b. In determining reasonable rent, the PHA must consider whether sanitary facilities and facilities for food preparation and service are common facilities or private facilities.
- c. When these facilities are private versus common, the PHA's rent reasonableness determination may provide additional consideration when determining the reasonable rent.

D. Shared Housing

Shared housing is a single housing unit occupied by an assisted family and another resident or residents. The shared unit consists of both common space for use by the occupants of the unit and separate private space for each assisted family. The unit may be a house or an apartment. There is a separate HAP contract and lease for each assisted family.

1. Occupancy

- a. An assisted family may share a unit with other persons assisted under the HCV program, or with other unassisted persons. The owner of a shared housing unit may reside in the unit, but housing assistance may not be paid on behalf of the owner. The resident owner may not be related by blood or marriage to the assisted family.
- b. If approved by the PHA, a live-in aide may reside with the family to care for a person with disabilities.
- c. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

2. Housing Quality Standards

The PHA may not give approval to reside in shared housing unless the entire unit, including the portion of the unit available for use by the assisted family under its lease, meets HQS.

- a. HQS for the HCV program apply to shared housing, with additional requirements for facility standards, as well as the following standards for space and security in place of HQS.
- b. Facilities.

Facilities available to the assisted family, whether shared or private, must include a living room, a bathroom, and food preparation and refuse disposal facilities.

c. Space and Security.

- 1) The entire unit must provide adequate space and security for all assisted and unassisted residents.
- 2) The private space for each assisted family must contain at least one bedroom for each two persons in the family.
- 3) The number of bedrooms in the private space of an assisted family must not be less than the family unit size. A zero or one-bedroom unit may not be used for shared housing.

3. Payment Standard and HAP Calculation

- a. The payment standard for a family in shared housing is the lower of the PHA's payment standard for the family unit size or the pro-rata share of the PHA's payment standard for the shared housing unit size.
- b. The pro-rata share is calculated by dividing the number of bedrooms available for occupancy by the assisted family in the private space by the total number of bedrooms in the unit.
- c. The HAP for a family in shared housing is the lower of the payment standard minus the TTP or the gross rent minus the TTP.

4. Utility Allowance

The utility allowance for an assisted family living in shared housing is the pro-rata share of the utility allowance for the shared housing unit.

5. Rent Reasonableness

The rents paid by participating families residing in shared housing are generally subject to applicable standards for determining rent reasonableness.

- a. The rent paid to the owner for the assisted family must not exceed the pro-rata portion of the reasonable rent for the shared unit.
- b. For reasonable rent determination, the PHA may consider whether sanitary and food preparation areas are private or shared.
- c. When these facilities are private versus shared, the PHA may provide additional consideration when determining the reasonable rent.

E. Cooperative Housing

Cooperative housing is housing owned by a nonprofit corporation or association, where a member of the corporation or association has the right to reside in a particular apartment and to participate in management of the housing. Residents purchase memberships in the ownership entity. Rather than being charged rent, a cooperative member is charged a carrying

charge. Cooperative housing does not apply to assistance for a cooperative member who has purchased membership using the HCV homeownership option, or to rental assistance for a family that is not a cooperative member, and simply leases a cooperative housing unit from a cooperative member.

1.Occupancy

- a. There are no program restrictions on who may occupy a cooperative housing unit.
- b. The occupancy agreement/lease and other appropriate documents must provide that the monthly carrying charge is subject to Section 8 limitations on rent to owner.

2.Housing Quality Standards

HQS for the HCV program apply to cooperative housing. There are no additional HQS requirements.

- a. The PHA remedies in regard to breach of HQS do not apply.
 - 1) Rather, if the unit and premises are not maintained in accordance with HQS, the PHA may exercise all available remedies regardless of whether the family or the cooperative is responsible for the breach of HQS.
 - 2) No housing assistance payment can be made unless the contract unit meets HQS, and the defect is corrected within the period as specified by the PHA.
 - 3) All HQS defects must be corrected within the period of time as specified by the PHA and the PHA verifies correction.
 - a) Life-threatening defects must be corrected within 24 hours.
 - b) All other defects must be corrected within a reasonable period of time, as determined by the PHA.
- b. In addition to breaches of HQS caused by the cooperative, breaches of HQS by the family include any of the following:
 - 1) Failure to perform any maintenance for which the family is responsible in accordance with the terms of the cooperative occupancy agreement between the cooperative member and the cooperative;
 - 2) Failure to pay rent for any utilities that the cooperative is not required to pay for, but which are to be paid for by the cooperative member;
 - 3) Failure to provide and maintain any appliances that the cooperative is not required to provide, but which are to be provided by the cooperative member; or
 - 4) Any damages to the dwelling unit or premises (beyond ordinary wear and tear) by any member of the household or guests.

3.Payment Standard and HAP Calculation

- a. The payment standard for a cooperative housing unit is the payment standard for units of the same bedroom size on the PHA's payment standard schedule.

- b. The HAP for a cooperative housing unit is the lower of the PHA's payment standard minus the TTP or the gross rent (carrying charge plus any utility allowance), minus the TTP.
- c. In cooperative housing, the rent to owner is the monthly carrying charge under the occupancy agreement/lease between the member and the cooperative.
 - 1) The monthly carrying charge includes the member's share of the cooperative debt service, operating expenses, and necessary payments to cooperative reserve funds.
 - 2) The carrying charge does not include down payments or other payments to purchase the cooperative unit or to amortize a loan made to the family for this purpose.

4. Rent Reasonableness

The rent for a cooperative housing unit must be reasonable based on rents for comparable unassisted units.

F. Manufactured Home

A manufactured home is a manufactured structure, transportable in one or more parts, that is built on a permanent chassis, is designed for use as a principal place of residence and meets HCV program HQS requirements.

1. Manufactured Home Assistance Under the HCV Program

A manufactured home may be assisted under the HCV program in one of three ways:

- a. Regular rental assistance:
 - 1) This is not a special housing type where the PHA has discretion over whether to provide this type of assistance.
 - 2) The PHA must permit a family to lease a manufactured home and space with assistance under the HCV program.
 - a) The family rents a manufactured home under the regular voucher program.
 - b) There is no separate charge to the family for the home space.
 - c) Rent for the unit covers both the manufactured housing unit and the space.
- b. Manufactured home space rental assistance:
 - 1) This is a special housing type under the HCV program, meaning that the PHA is not required to provide this type of assistance as part of its HCV program, except if needed as a reasonable accommodation.
 - 2) The family owns the manufactured home but is renting the space on which the home resides.
- c. Homeownership voucher assistance:
 - 1) This is a special housing type under the HCV program, meaning that the PHA is

not required to provide this type of assistance as part of its HCV program, except if needed as a reasonable accommodation.

- 2) The family purchases the manufactured home under the homeownership voucher program and the program assists the family with their monthly homeownership expenses.

2. Occupancy

There are no program restrictions on who may occupy a manufactured home.

3. Housing Quality Standards

HQS for the HCV program applies to manufactured homes, including recreational vehicles. In addition, the following HQS requirements apply:

a. Performance requirement

A manufactured home must be placed on the site in a stable manner and must be free from hazards such as sliding or wind damage.

b. Acceptability criteria

A manufactured home must be securely anchored by a tie-down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors to resist wind overturning and sliding.

4. Payment Standard and HAP Calculation

- a. If a family rents a manufactured home under the regular HCV program, the payment standard for a manufactured housing unit and space is the payment standard for units of the same size on the PHA's payment standard schedule.
- b. The HAP for a manufactured home is the lower of the PHA's payment standard minus the TTP or the gross rent minus the TTP.
- c. The rent paid to the owner includes the rent for the unit, for the manufactured home space, and maintenance, services, and utilities that the owner provides under the lease.

5. Rent Reasonableness

The PHA must determine that the rent paid to the owner for a manufactured home is reasonable based on rents for comparable unassisted units.

G. HCV Homeownership Program

See Appendix D:

CHAPTER 33: RECORDS MANAGEMENT

Effective records management is necessary to safeguard family information and ensure the PHA's authority to obtain, use, and dispose of such information is in accordance and consistent with applicable laws and regulations.

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 HCV 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 HCV program, the PHA will destroy, by shredding, the criminal records no later than 10 business days after admission to the program.
 - 2) If the family is denied admission to the HCV program based on the criminal record, the PHA will retain the criminal record during the period allowed for requesting an informal review and if requested, until the informal review has been completed.
 - 3) The PHA will destroy, by shredding, the criminal record no later than 10 business days after the period allowed to request an informal review has expired or no later than 10 business days after receiving the informal review decision.
 - b. For termination of assistance
 - 1) If the PHA proposes termination of the family assistance from the HCV 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 10 business days after the period allowed to request an informal hearing has expired or no later than 10 business 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 10 business 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 to owner 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 an HCV program participant 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) To the owner for use in connection with judicial eviction proceedings by the owner 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.

- b. Disclosure of records may be only made if the following conditions are satisfied:

- 1) If the PHA has determined that criminal activity by the household member as shown by such records received from a law enforcement agency may be a basis for eviction from the Section 8 unit; and
- 2) If the owner certifies in writing that it will use the criminal conviction records only for the purpose and only to the extent necessary to seek eviction in a judicial proceeding of a Section 8 tenant based on the criminal activity by the household member that is described in the criminal conviction records.
- 3) The PHA may rely on an owner's certification that the criminal record is necessary to proceed with a judicial eviction to evict the tenant based on criminal activity of the identified household member, as shown in the criminal conviction record.
- 4) Upon disclosure as necessary in connection with judicial eviction proceedings, the PHA is not responsible for controlling access to or knowledge of such records after such disclosure.

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 survivor of VAWA violence/abuse 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 VAWA violence/abuse shall be maintained confidential pursuant to the Violence Against Women Act.

G. Opportunity to Dispute Criminal Records

The PHA must give the family an opportunity to dispute the accuracy and relevance of the criminal record in the informal review, for applicants, or the informal hearing, for participants, process.

This opportunity must be provided before a denial of admission, eviction, or lease enforcement action on the basis of such information.

CHAPTER 34: USE OF ADMINISTRATIVE FEES AND ADMINISTRATIVE FEE RESERVES

This chapter provides guidance on the use of HCV ongoing administrative fees for expenses related to assisting HCV families to lease units, including the costs of security deposit assistance and landlord incentive and retention payments. Administrative fees are authorized under Section 8(q) of the Housing Act of 1937, which provides that the Secretary shall establish fees for the costs of administering tenant-based rental assistance under the HCV program. Section 8(q) set forth the calculation for use in fiscal year 1991, and further provided that for subsequent fiscal years the Secretary would establish the amount of the fee based on changes in wage data or other objectively measurable data that reflects the costs of administering the program as determined by the Secretary.

A. Eligible Uses of the HCV Administrative Fees

The eligible uses of HCV administrative fees include both 1) costs incurred by the PHA in carrying out administrative responsibilities under HCV program regulations and 2) other eligible expenses in administering the HCV program.

1. Administrative Activities

a. Front-Line and Day-to-Day Operation Activities

These activities include but are not limited to

- 1) Applicant intake,
- 2) Lease-up activities,
- 3) Income determinations and reexaminations,
- 4) Unit inspections,
- 5) Disbursing HAP to landlords,
- 6) Policy and operational planning and implementation,
- 7) Financial management, and
- 8) HCV record-keeping and reporting.

b. Indirect Overhead Activities

These activities include activities associated with operating the HCV program including but not limited to:

- 1) PHA management,
- 2) Human resources,
- 3) Legal,
- 4) Finance,
- 5) Accounting and payroll,

- 6) Information technology,
- 7) Procurement, and
- 8) Quality control.

c. Central Office Cost Center (COCC)

If the PHA uses HUD's asset management central office cost center (COCC), the PHA is permitted to charge the HCV program to recover its central office costs, and those costs are eligible expenses of HCV administrative fees.

d. Housing Search Assistance Activities

Administrative activities include but are not limited to housing search assistance activities such as:

- 1) Pre-move counseling,
- 2) Helping a family identify and visit potentially available units during their housing search,
- 3) Helping a family find a unit that meets the household's disability-related needs,
- 4) Providing transportation and directions, and
- 5) Assisting with the completion of rental applications.

e. Post-Lease Up Activities

Post-lease up activities often related to housing search assistance efforts, such as:

- 1) Post-move counseling, and
- 2) Landlord/tenant mediation.

f. Recruitment and Outreach Activities

These activities cover HCV owner recruitment and outreach activities, including:

- 1) The costs associated with materials or webpages specifically geared to owners, and
- 2) Landlord liaison staff and associated expenses.

2. Other Eligible Uses of the HCV Administrative Fees

In addition to the PHA's typical administrative costs, the PHA may choose to incur other expenses for activities designed to help assist HCV families in leasing units under the HCV program, which while not required by HUD HCV regulations, clearly will assist the PHA in achieving the mission and purpose of the HCV program. The PHA may use its administrative fees to support these other activities should the PHA have the resources available to do so.

a. Owner Incentive and/or Retention Payments

The PHA will not make incentive (e.g., signing bonuses) or retention payments to owners that agree to initially lease their unit to an HCV family and/or renew the lease of an HCV family.

b. Security Deposit Assistance

The PHA will not provide security deposit assistance for the family.

c. Utility deposit assistance/utility arrears

The PHA will provide utility deposit assistance for some or all of the family's utility deposit expenses.

1) Assistance can be provided for deposits (including connection fees) required for the utilities to be supplied by the tenant under the lease.

2) The PHA will not pay the utility deposit assistance directly to the family, provided the PHA verifies the family paid the utility deposit.

3) The PHA will place conditions on the utility deposit assistance, such as requiring the utility supplier or family to return the utility deposit assistance to the PHA at such time the deposit is returned by the utility supplier (less any amounts retained by the utility supplier.)

4) Utilities in Arrears

Some families may have large balances with gas, electric, water, sewer, or trash companies prior to admission to the HCV program that will make it difficult if not impossible to establish services for tenant-supplied utilities.

a) The PHA will not provide the family with assistance to help address these utility arrears to facilitate leasing and their admission to the HCV program. Utility deposit assistance that is returned to the PHA remains restricted to HCV administrative fee eligible uses (if returned before the end of the PHA fiscal year in which the administrative fee used to fund the deposit was received) or HCV administrative fee reserve eligible uses, as applicable.

d. Application fees/non-refundable administrative or processing fees/refundable application deposit assistance/broker fees. The PHA may choose to assist the family with some or all of these expenses and may limit the amount of assistance provided for each individual expense.

e. Holding fees. In some markets, it is not uncommon for an owner to request a holding fee that is rolled into the security deposit after an application is accepted but before a lease is signed. The PHA may cover part or all of the holding fee for units where the fee is required by the owner after a tenant's application has been accepted but before the lease signing. The PHA and owner must agree how the holding fee gets rolled into the deposit and under what conditions the fee will be returned. Furthermore, owners need to accept responsibility for making needed repairs to a unit required by the initial

housing quality standards (HQS) inspection and can only keep the holding fee if the family is at fault for not entering into the lease.

- f. Renter's insurance if required by the lease. The PHA may assist the family with some or all of the cost of renter's insurance but only in cases where the purchase of renter's insurance is a condition of the lease and is also required of unassisted families on the premises. PHAs need to exercise caution with respect to the frequency of when the renter's insurance assistance payments are made when such assistance is provided directly to the family.⁴ For example, providing such assistance on a regular, recurring basis (such as on a monthly basis) to the family would impact the family's income calculation.

B. Reporting of Other Expenses in the Voucher Management System (VMS)

The PHA will maintain a single administrative fee reserve account for the HCV program.

1. Consistent with Governmental Accounting Standards Board (GASB) guidance reserve accounts formerly identified by HUD as Unrestricted Net Assets (UNA) and Net Restricted Assets (NRA) are now identified as Unrestricted Net Position (UNP) and Restricted Net Position (RNP), respectfully.
2. On an annual basis, the PHA will credit to the UNP the total of:
 - a. The difference between program administrative fees (paid by HUD for the PHA fiscal year) and PHA program administrative expenses for the fiscal year; **plus**
 - b. The net of revenue (admin fee payments and HAP reimbursements received from Initial PHAs) and expenses (HAP paid) related to the administration of unabsorbed portability units administered (Port-Ins); **plus**
 - c. Interest and other income earned on the investment of administrative fee reserves (and up to \$500 per calendar year in interest and investment income earned on HAP and RNP funds); **plus**
 - d. The portion of fraud recoveries actually collected that flows to the administrative fee reserves (usually 50% of total collected); **plus**
 - e. Any other miscellaneous administrative revenues or equity transfers to the HCV administrative fee reserve; **minus**
 - f. Any expenditures from the reserve account to cover excess HAP costs not covered by HAP funding and HAP reserves (RNP account) or other allowed uses of administrative reserves.

C. Use of Administrative Fee Reserves

Beginning with the enactment of the 2004 Appropriations Act, the use of administrative fee reserves is restricted to activities related to the provision of Section 8 tenant-based assistance, including related development activities.

1. Administrative fee reserves from Federal Fiscal Year (FFY) 2004 and subsequent funding periods (referred to as “post-2003” funds) are restricted to HCV activities even though under GAAP they are referred to as unrestricted net position accounts.
2. Administrative fee reserves remaining from funding periods prior to the FFY 2004 Appropriations Act (referred to as “pre-2004” funds) are restricted in use.

D. Use of Administrative Fees

The HCV program regulations at 24 CFR 982.152 provide that PHA administrative fees may only be used to cover costs incurred to perform PHA administrative responsibilities for the program in accordance with HUD regulations and requirements.

1. During the PHA’s current fiscal year, any administrative fees received in the PHA’s fiscal year may only be used for this purpose.
2. If a surplus of administrative fees remains at the end of the PHA’s fiscal year, the amount by which the program administrative fees paid by HUD for the PHA fiscal year exceeded the PHA’s HCV administrative expenses for the fiscal year is added to the administrative fee reserves.

Note: If the PHA lacks administrative fee reserves and needs to temporarily supplement the administrative fee provided by HUD with non-federal, non-restricted funds in order to cover eligible HCV program administrative expenses, the PHA may use subsequent administrative fees to reimburse the source of the non-federal, non-restricted funding used as the temporary bridge to cover the HCV program administrative expenses.

However, HCV administrative fees may never be loaned to another program in order to cover that program’s expenses, regardless of whether the PHA intends to reimburse the HCV program at a later date.

E. Use of Pre-2004 Administrative Fee Reserves

Any administrative fees funded prior to the FFY 2004 Appropriations Act remain subject to the regulatory requirements at 24 CFR 982.155(b)(1).

1. The PHA must use funds in the administrative fee reserve to pay program administrative expenses in excess of administrative fees paid by HUD for a PHA fiscal year. If funds in the administrative fee reserve are not needed to cover PHA administrative expenses (to the end of the last expiring funding increment under the consolidated ACC), the PHA may use these funds for other housing purposes permitted by state and local law. However, HUD may prohibit use of the funds for certain purposes.
2. Due to the restrictions imposed by the FFY 2004 and subsequent appropriations, the use of administrative fee reserves for “other housing purposes permitted by state and local law” only applies to pre-2004 administrative fee reserves.

F. Use of Post-2003 Administrative Fee Reserves

The FFY 2004 Appropriations Act and subsequent appropriations require that administrative fee reserves provided from these appropriations shall only be used for activities related to the HCV program, including related development activities. Examples of related development activities could include modifications to HCV units to provide accessibility features or PBV development costs.

1. Any post-2003 administrative fees moved into the administrative fee reserve account at year end may not be used for "other housing purposes permitted by state and local law."
2. If the PHA has not adequately administered the HCV program according to HUD requirements, HUD may prohibit use of funds in the administrative fee reserve and may direct the PHA to use funds in the reserve to improve administration of the HCV program or to reimburse ineligible expenses.
3. Post-2003 administrative fee reserves may not be used for Low Rent Public Housing (PH) development activities, PH maintenance, or PH funding shortfalls, nor may they be loaned to other PHA programs.

G. Use of HAP Funds

HAP funding, which includes RNP accounts, may only be used within the HCV Program for eligible expenses related to HAP (PHA's share of the rent), Family Self-Sufficiency escrow payments, and utility reimbursements.

1. HAP shall not, under any circumstances, be used for any other purpose such as to cover administrative expenses or to be loaned, advanced, or transferred (referred to as operating transfers due to/due from) to other component units or other programs (housing or non-housing) such as Low Rent Public Housing.
2. Use of HAP for any purpose other than eligible HAP needs is a violation of law, and such illegal uses or transfers will result in administrative fee sanctions and possible breach of the ACC.
3. In instances where the PHA is found to have misappropriated HAP funds by using the funds for any purpose other than valid HAP expenses for units up to the baseline, HUD will require the immediate return of the funds to the RNP account.
4. HUD may take action against the PHA or any party that has used HAP or RNP funds for non-HAP purposes.

H. Board Approval for Administrative Fee Reserve Expenditures

1. The Board of Commissioners (Board) shall establish a threshold for the amount of annual expenditures that may be made from the administrative fee reserve for other housing purposes without prior approval of the Board which shall only apply to pre-2004 administrative fee reserves.
2. For such pre-2004 administrative fee reserve expenditures that exceed the Board's

threshold, the PHA Board, as part of its approval, must make an affirmative determination that the expenditures are necessary and reasonable for the other purposes consistent with state and local law.

APPENDIX A: HUD VERIFICATION HIERARCHY AND TECHNIQUES

HUD VERIFICATION HIERARCHY AND TECHNIQUES		
Level	Verification Technique	Ranking/Order of Acceptability
6	Upfront Income Verification (UIV) , using HUD's Enterprise Income Verification (EIV) System	Highest PHAs must pull the EIV Income Report for each family at every annual reexamination. EIV may be used as the sole verification of Social Security income. EIV income information may be used to calculate other types of annual income when family agrees (see Level 4 for more information).
5	Upfront Income Verification (UIV) using non-HUD system (e.g., The Work Number, web-based state benefits systems, etc.).	Highest
4	Written Third-Party Verification from the source, also known as "tenant-provided verification;" or EIV + Self-Certification PHAs can choose either option when both are available to verify income. PHAs must use written, third-party verification when the income type is not available in EIV (e.g., self-employment, Go Fund Me accounts, general public assistance, Veterans Administration benefits, etc.)	High Written, third-party verification is used when tenant disputes EIV-reported employment and income information. The EIV Income Report may be used to verify and calculate income if the family self-certifies that the amount is accurate and representative of current income. The family must be provided with the information from EIV.
3	Written Third-Party Verification Form	Medium Use if Level 5 or Level 4 verification is not available or is rejected by the PHA and when the applicant or tenant is unable to provide acceptable documentation. May substitute Level 2 for written, third-party verification form, only completing one of the two forms of verification before moving to self-certification.
2	Oral Third-Party Verification	Medium

HUD VERIFICATION HIERARCHY AND TECHNIQUES		
Level	Verification Technique	Ranking/Order of Acceptability
1	Self-Certification	Low Use as a last resort when unable to obtain any type of third-party verification or if specifically permitted, such as to determine actual income from assets when the family certifies that net family assets do not exceed \$50,000.

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APPENDIX B: INCOME INCLUSIONS AND EXCLUSIONS CHART

INCOME INCLUSIONS AND EXCLUSIONS CHART			
INCOME CODE	DESCRIPTION	INCLUDE	INCOME EXCLUSIONS
WAGES			
Own Business	Net income from a professional or business operation [24 CFR 5.609 (b)(28)(i)].	Withdrawals of cash or assets from the professional or business operation [24 CFR 5.609(b)(28)(ii)]. Do not deduct for expenditures for business expansion [24 CFR 5.609 (b)(28)(i)]. Do not deduct for amortization of capital indebtedness in determining net income [24 CFR 5.609(b)(28)(i)].	Withdrawals of cash or assets from the professional or business operation, if the withdrawal is a reimbursement for cash or assets invested in the operation by the family [24 CFR 5.609(b)(28)(ii)]. Allowance for depreciation of assets used in a business may be deducted, based on straight line depreciation, as provided in Internal Revenue Service (IRS) regulations [24 CFR 5.609(b)(28)(i)].
Federal Wage	Compensation received from federal government employment, which includes federal government agencies and instrumentalities.	Wages from federal government employment.	Income from employment of children under 18 years old [24 CFR 5.609(b)(3)]. Earnings in excess of the amount of the deduction for a dependent for each full-time student 18 years old or older (excluding the head of household and spouse) [24 CFR 5.609(b)(14)]. Amounts earned by temporary Census employees; terms of employment may not exceed 180 days for the purposes of the exclusion [24 CFR 5.609(b)(24)(i)].
PHA Wage	Compensation earned through work performed for the Public Housing Agency (PHA).	Wages paid to any family member from the PHA.	Income from employment of children under 18 years old [24 CFR 5.609(b)(3)]. Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by the resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development [24 CFR 5.609(b)(12)(iii)]. Earnings in excess of the amount of the deduction for a dependent for each full-time student 18 years old or older (excluding the head of household and spouse) [24 CFR 5.609(b)(14)].
Military Pay	All regular pay, special pay and allowances of a member of the Armed Forces (including the Coast Guard, National Guard, and Reserve units).	The full amount of the head of household's or spouse's military pay, not just the amount sent home, regardless of whether the head of household or spouse or co-head is on the lease. Subsistent allowances. Uniform allowances. Other allowances.	Income from employment of children under 18 years old [24 CFR 5.609(b)(3)]. The special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11)]. Earnings in excess of the amount of the deduction for a dependent for each full-time student 18 years old or older (excluding the head of household and spouse) [24 CFR 5.609(b)(14)]. Other pay specifically excluded by law.
WAGES			
Other Wage	Wages and salary received from private or public sources (other than military pay and federal wages). Also include income in lieu of earnings in this category.	Overtime pay. Commissions. Fees. Tips. Bonuses. Other compensation for personal services. Severance pay. Termination pay.	Income from employment of children under 18 years old [24 CFR 5.609(b)(3)]. Income of a live-in aide, foster child, or foster adult, as defined in 24 CFR 5.403 and 5.603 [24 CFR 5.609(b)(8)]. Earnings and benefits from employment training programs funded by HUD [24 CFR 5.609(b)(12)(iv)]. Reimbursement for out-of-pocket expenses while attending a public assisted training program [24 CFR 5.609(b)(12)(ii)]. Incremental earnings and benefits from

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INCOME INCLUSIONS AND EXCLUSIONS CHART			
INCOME CODE	DESCRIPTION	INCLUDE	INCOME EXCLUSIONS
			participation in qualifying Federal, State, Tribal, or local employment training programs and training of a family member as resident management staff [24 CFR 5.609(b)(12)(iv)]. Earnings in excess of the amount of the deduction for a dependent for each full-time student 18 years old or older (excluding the head of household and spouse) [24 CFR 5.609(b)(14)]. See generally 79 Fed. Reg. 28,938 (May 20, 2014) and updated Federal Register Notice to be published June 2023 on federally mandated exclusions [24 CFR 5.609(b)(22)]. Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002 [Public Law 107-110, 42 U.S.C. 604(h)(4)].
WELFARE			
General Assistance	Payments made under a financial or medical assistance program(s) provided by a state, tribe, or local government jurisdiction.	Payments provided by a state, tribe or local government for medical or financial assistance	Amounts paid by or authorized by a State Medicaid agency (including through a managed care entity) or other State or Federal agency to a family to enable a family member who has a disability to reside in the family's assisted unit [24 CFR 5.609(b)(19)]. The value of allotment provided to an eligible household under the Food Stamp Act of 1977 (7 USC 2017b), [24 CFR 5.609(b)(22)]. Incremental earnings and benefits from participation in qualifying Federal, State, Tribal and local employment training programs [24 CFR 5.609(b)(12)(iv)]. Any amount received under the Richard B. School Lunch Act U.S.C.1760(e) and the Children Nutrition Act of 1966 (42 U.S.C. 17809(b)) including reduced priced lunches and food under the Special Supplemental Food Program for Women, Infants and Children (WIC).
Annual Imputed Welfare Income	The annual income not received by a family because of a welfare benefit reduction but is included in the family's annual income for determining rent.	The dollar amount by which the family's welfare benefits were reduced by a TANF agency because of fraud or noncompliance [24 CFR 5.615].	The amount by which the family's welfare benefits were reduced, if the family was not an assisted resident at the time of sanction [24 CFR 5.615(c)(5)].
TANF Assistance	Temporary Assistance to Needy Families (TANF) is a benefit designed to meet a family's ongoing basic needs. Not all states refer to this income as TANF. A state may have a different name (other than TANF) for this type of income. See 45 CFR 260.31 for additional information on TANF assistance and exclusions.	TANF assistance is funded from federal or state dollars. The term assistance includes cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses) Payments to individual recipients by a TANF agency, or other agency on its behalf. Benefits based on participation in work experience or community service (or any other work activity in 45 CFR 261.30). Supportive services such as transportation and childcare	Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member [24 CFR 5.609(b)(6)]. For purposes of the FSS program only, see 24 CFR 984.103 for the definition of "welfare assistance."

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INCOME INCLUSIONS AND EXCLUSIONS CHART			
INCOME CODE	DESCRIPTION	INCLUDE	INCOME EXCLUSIONS
		provided to families who are <i>not</i> employed.	
SS/SSI/PENSIONS			
Pension	A periodic distribution paid for retirement benefits.	Pensions. Annuities. Retirement or profit- sharing plans. Individual Retirement Accounts (IRAS). Simplified Employee Pensions (SEPS). Life insurance and endowment policies.	Lump-sum benefits payable as a death benefit [24 CFR 5.609(b)(24)(vii) and (26)].
SS/SSI/PENSIONS			
SSI	The Supplemental Security Income (SSI) program provides cash assistance to family members who have limited income and resources, are 65 or older, blind, or disabled. Family members under 18 can also receive SSI if they have an impairment that prohibits an adult family member from working.	Periodic amounts received from the SSI program. State supplements to SSI.	Deferred periodic amounts from SSI benefits that the family member received in a lump sum amount or in prospective monthly amounts [24 CFR 5.609(b)(16)]. 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) [24 CFR 5.609(b)(12)(i)].
Social Security	Benefits from the Social Security Administration.	Child's benefits. Divorced wife's insurance benefits. A widow(er) entitled to mother's or father's insurance benefits. Parent's, brother's, or sister's benefits. Retirement insurance benefits. Spouse's benefits. Surviving divorced spouse's benefits. Widow(er)'s benefits. Spouse's benefits. Comparable benefits under the Railroad Retirement Act.	Deferred periodic amounts from Social Security benefits that the family member received in a lump sum amount or in prospective monthly amounts [24 CFR 5.609(b)(16)].
SSDI	The Social Security Disability Insurance program.	Disabled workers' benefits. Disabled widow(er)'s benefits.	Deferred periodic amounts from Social Security benefits that the family member received in a lump sum amount or in prospective monthly amounts [24 CFR 5.609(b)(16)].
OTHER INCOME SOURCES			
Child Support	Financial or medical assistance that a parent provides voluntarily or by court order for upkeep and general well-being of their child(ren).	Payments from a parent for child rearing. Regular contributions toward support from a public or private welfare agency.	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 (42 U.S.C. 9858q);
Health and Medical Care Reimbursement	Any income received to reimburse medical expenses.		Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member [24 CFR 5.609(b)(6)].
OTHER INCOME SOURCES			

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INCOME CODE	DESCRIPTION	INCLUDE	INCOME EXCLUSIONS
Indian Trust/ Per Capita	Judgment funds awarded by the Indian Claims Commission, the Court of Claims, or funds held in trust for an Indian tribe by the Secretary of the Interior.	Amounts over the first \$2,000 of per capita shares received from judgment funds.	Certain payments received under the Alaska Native Claims Settlement Act (43 USC 1626(c)), [24 CFR 5.609(b)(22)]. Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 USC 459(e)), [24 CFR 5.609(b)(22)]. Income derived from the disposition of funds of the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat 2503-04), [24 CFR 5.609(b)(22)]. The first \$2,000 of per capita shares from judgment funds awarded by Indian Claims Commission or the US Court of Claims, the interests of individual Indians in trust or restricted lands, including the first \$2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-08), [24 CFR 5.609(b)(22)]. Payments received under the Maine Indian Claims Settlement Act of 1980 (25 USC 1721), [24 CFR 5.609(b)(22)]. Payments received by the Indian Claims Commission to the Confederate Tribes and Bands of the Yakima Indian Nation or the Apache Tribe of the Mescalero Reservation (Pub. L. 95-433), [24 CFR 5.609(b)(22)]. Payments, funds or distributions authorized, established or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b)), [24 CFR 5.609(b)(22)]. 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 (Public Law 111-269; (25 U.S.C. 4103(9)) to the definition of income applicable to programs authorized under NAHASDA and administered by the Office of Native American Programs [24 CFR 5.609(b)(22)]. A lump sum or a periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the case entitled <u>Elouise Cobell et al. v. Ken Salazar et al.</u>, 816 F.Supp.2d 10 (Oct. 5, 2011 D.D.C.), as provided in the Claims Resolution Act of 2010 (Public Law 111-291), [24 CFR 5.609(b)(22)].
OTHER INCOME SOURCES			
Other Non-Wage Sources	Any other income source not otherwise specified.		Payments received for the care of foster children (including kinship payments for residents) or foster adults, or State or Tribal kinship or guardianship care payments [24 CFR 5.609(b)(4)]. Any assistance that 479B of the Higher Education Act of 1965, as amended (20 U.S.C. 1087uu) requires be excluded from family income [24 CFR 5.609(b)(9)]. (For Section 8 heads of households, spouses, and co-heads, the appropriations dictate. See PIH supplemental HOTMA notice.) Student financial assistance for tuition, books, and supplies, room and board, and other fees required

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INCOME INCLUSIONS AND EXCLUSIONS CHART			
INCOME CODE	DESCRIPTION	INCLUDE	INCOME EXCLUSIONS
			and charged to a student by an institution of higher education and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit [24 CFR 5.609(b)(9)]. (For Section 8 heads of households, spouses, and co-heads, the appropriations dictate. See PIH supplemental HOTMA notice.) Income and distributions from any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and income earned by government contributions to, and distributions from, "baby bond" accounts created, authorized, or funded by Federal, State, or local government [24 CFR 5.609(b)(10)]. 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 [24 CFR 5.609(b)(13)]. Adoption assistance payments for a child in excess of the amount of the deduction for a dependent [24 CFR 5.609(b)(15)]. Refunds or rebates under state or local law for property taxes paid on dwelling unit [24 CFR 5.609(b)(18)]. Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(b) apply [24 CFR 5.609(b)(22)].
OTHER INCOME SOURCES			
			Major disaster and emergency assistance received by individuals and families under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Pub. L. 93-288, as amended) comparable disaster assistance provided by States, local governments, and disaster assistance organizations shall not be considered as income or a resource when determining eligibility for or benefit levels under federally funded income assistance or resource-tested benefit programs (42 U.S.C. 5155(d)), [24 CFR 5.609(b)(22)]. Payments or allowances under DHHS' low-income home energy assistance program (LIHEAP) (42 USC 8624(f)), [24 CFR 5.609(b)(22)]. Payments received from programs funded under Title V of the Older Americans Act of 1965 (42 USC 3056(f)), [24 CFR 5.609(b)(22)]. Deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts [24 CFR 5.609(b)(16)]. Payments related to aid and attendance under 38 USC 1521 to veterans in need of regular aid and attendance [24 CFR 5.609(b)(17)]. Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any fund

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INCOME INCLUSIONS AND EXCLUSIONS CHART			
INCOME CODE	DESCRIPTION	INCLUDE	INCOME EXCLUSIONS
			established pursuant to the settlement in the Agent Orange product liability litigation (M.L.D. No.381), [24 CFR 5.609(b)(22)]. Earned Income Tax Credit refund tax payments received on or after on or after January 1,1991, for programs administered under the United States Housing Act of 1937, title V of the Housing Act of 1949, section 101 of the Housing and Urban Development Act of 1965, and sections 221(d)(3) 235, and 236 of the National Housing Act (26 U.S.C. 32(j)), [24 CFR 5.609(b)(22)]. Any allowance paid under the provisions of 38U.S.C. 8133(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 USC 1811-16), and children of certain Korean and Thailand service veterans born with spina bifida (38 U.S.C. 1821-22), [24 CFR 5.609(b)(22)].
OTHER INCOME SOURCES			
			Any amount of crime victim compensation that the applicant (under the Victims Crime Act) receives through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims Crime Act because of the commission of a crime against the applicant (34 U.S.C. 20102(c)), [24 CFR 5.609(b)(22)]. Allowances, earnings, and payments to individuals participating in programs under the Workforce Investment Act of 1998 reauthorized as the Workforce Innovation and Opportunity Act of 2014 (Public Law 113-128 section 181(a)(2)), (29 U.S.C. 3241(a)(2)), [24 CFR 5.609(b)(22)]. Payments made under the Emergency Rental Assistance Program pursuant to the Consolidated Appropriations Act, 2021 (Public Law 116-260), and the American Rescue Plan Act of 2021 (Public Law 117-2) (24 CFR 5.609(b)(22)). Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d)), [24 CFR 5.609(b)(22)]. Distributions of the principal or corpus of a trust, or distributions of income from a trust when the distributions are used to pay the costs of health and medical care expenses for a minor, for irrevocable trusts or revocable trusts outside the control of the family or household that are excluded from net family assets under 24 CFR 5.603(b) [24 CFR 5.609(b)(2)]. Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation [24 CFR 5.609(b)(5)]. Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled [24 CFR 5.609(b)(7)]. Loan proceeds received by the family or a third party [24 CFR 5.609(b)(20)]. Payments received by Tribal members as a result of

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INCOME CODE	DESCRIPTION	INCLUDE	INCOME EXCLUSIONS
			claims relating to the as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other Federal law [24 CFR 5.609(b)(21)].
OTHER INCOME SOURCES			
			Replacement housing "gap" payments made in accordance with 49 CFR part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another Federally subsidized housing unit. Such replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments [24 CFR 5.609(b)(23)]. Civil rights settlements or judgments, including settlements or judgments for back pay [24 CFR 5.609(b)(25)].
Unemployment Benefits	Periodic payments in lieu of earnings.	All payments in place of earnings, such as unemployment compensation, unless some other income exclusion is applicable.	See income exclusions at 5.609(b) to determine if any are applicable. See generally 79 Federal Register 28,938 (May 20, 2014) and updated Federal Register Notice to be published June 2023 on federally mandated exclusions [24 CFR 5.609(b)(22)] to determine if any are applicable.
Safe Harbor Determination	When the PHA uses a safe harbor determination of family income, drawing on the total income as indicated by an approved Federal means-tested form of public assistance.	The entire family income provided by the annual income determination made by administrators of means-tested forms of Federal public assistance may be provided on one line.	

APPENDIX C: HUD INFLATIONARY ADJUSTMENT ITEMS

HUD will annually publish the eight inflation-adjusted items in the table below no later than September 1, and the updated values will be shared online at the HUDUser Web site. The publication will apply to both MFH and PIH programs. The revised amounts will be effective on January 1 of the following year.

Adjusted Item	Regulatory Reference	Amount Effective January 1, 2024 (subject to annual adjustment)	Rounding Methodology
<i>Eligibility restriction on net family assets</i>	<i>24 CFR 5.618(a)(1)(i)</i>	<i>\$100,000</i>	<i>Nearest dollar</i>
<i>Threshold above which imputed returns must be calculated on net family assets</i>	<i>24 CFR 5.609(a)(2) and (b)(1)</i>	<i>\$50,000</i>	<i>Nearest dollar</i>
<i>Threshold above which the total value of non-necessary personal property is included in net family assets</i>	<i>24 CFR 5.603(b) Net family assets</i>	<i>\$50,000</i>	<i>Nearest dollar</i>
<i>The amount of net assets for which the PHA may accept self-certification by the family</i>	<i>24 CFR 5.618(b)(1) 24 CFR 5.659(e) 24 CFR 960.259(c)(2)</i>	<i>\$50,000</i>	<i>Nearest dollar</i>
<i>Mandatory deduction for elderly and disabled families</i>	<i>24 CFR 5.611(a)(2)</i>	<i>\$525</i>	<i>Next lowest multiple of \$25</i>
<i>Mandatory deduction for a dependent</i>	<i>24 CFR 5.611(a)(1)</i>	<i>\$480</i>	<i>Next lowest multiple of \$25</i>
<i>Income exclusion for earned income of dependent full-time students</i>	<i>24 CFR 5.609(b)(14)</i>	<i>\$480</i>	<i>Next lowest multiple of \$25</i>
<i>Income exclusion for adoption assistance payments</i>	<i>24 CFR 5.609(b)(15)</i>	<i>\$480</i>	<i>Next lowest multiple of \$25</i>

APPENDIX D: HCV HOMEOWNERSHIP PROGRAM

GLOSSARY

ACRONYMS USED IN THE HCV PROGRAM	
Acronym	Definition
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
CR	Contract Rent
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

ACRONYMS USED IN THE HCV PROGRAM	
Acronym	Definition
GAO	Government Accounting Office
GR	Gross Rent
HA	Housing Agency
HAP	Housing Assistance Payment
HCV	Housing Choice Voucher Program
HHS	U.S. Department of Health and Human Services
HQS	Housing Quality Standards
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
NOFO	Notice of Funding Opportunity

ACRONYMS USED IN THE HCV PROGRAM	
Acronym	Definition
OIG	HUD Office of the Inspector General
OMB	U.S. Office of Management and Budget
PASS	Plan to Achieve Self-Support
PBV	Project-Based Voucher
PHA	Public Housing Authority
PIC	PIH Information Center
PIH	Public and Indian Housing
PMSA	Primary Metropolitan Statistical Area
PS	Payment Standard
QC	Quality Control
QHWRA	Quality Housing and Work Responsibility Act
RAD	Rental Assistance Demonstration
REAC	Real Estate Assessment Center
RFTA	Request for Tenancy Approval
SAFMR	Small Area Fair Market Rent
SAVE	Systematic Alien Verification for Entitlements Program
SEMAP	Section 8 Management Assessment Program
SRO	Single Room Occupancy
SSA	Social Security Administration
SWICA	State Wage Information Collection Agency
TPS	Temporary Protective Status

ACRONYMS USED IN THE HCV PROGRAM	
Acronym	Definition
TPV	Tenant Protection Vouchers
TTP	Total Tenant Payment
UA	Utility Allowance
UIV	Upfront Income Verification
URP	Utility Reimbursement Payment
VASH	Veterans Affairs Supportive Housing Program
VAWA	Violence Against Women Reauthorization Act of 2013
VCA	Voluntary Compliance Agreement
VMS	Voucher Management System

DEFINITIONS

Abatement

Stopping HAP to an owner with no potential for retroactive payment

Absorption

In portability, the point at which the receiving PHA stops billing the initial PHA for assistance on behalf of a portability family and starts making assistance payments with funding under its consolidated ACC.

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 affect 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 means annual income (as determined under § 5.609) of the members of the family residing or intending to reside in the dwelling unit, after making the following deductions:

- Mandatory deductions.
 - \$480 for each dependent, which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25;
 - \$525 for any elderly family or disabled family, which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25;
 - The sum of the following, to the extent the sum exceeds ten percent of annual income:
 - Unreimbursed health and medical care 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 a disability, to the extent necessary to enable any member of the family (including the member who is a person with a disability) to be employed. This deduction may not exceed the combined 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.
 - Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.
- Additional deductions: For public housing, a PHA may adopt additional deductions from annual income.

Administrative Fee

Is the fee paid by HUD to the PHA for administration of the program.

Administrative Fee Reserve (formerly “Operating Reserve”)

Account established by PHA from excess administrative fee income. The administrative fee reserve must be used for housing purposes.

Administrative Plan

The plan that describes PHA policies for administration of the HCV program.

Admission

The point when the family becomes a participant in the program. The date used for this purpose is the effective date of the first HAP contract for a family (first day of initial lease term) in the tenant-based program.

Adult

A person who is 18 years of age or older, or who 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.

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

Includes, with respect to the family:

- All amounts, not specifically excluded, received from all sources by each member of the family

who is 18 years of age or older or is the head of household or spouse of the head of household, plus unearned income by or on behalf of each dependent who is under 18 years of age, and

- When the value of net family assets exceeds \$50,000 (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and the actual returns from a given asset cannot be calculated, imputed returns on the asset based on the current passbook savings rate, as determined by HUD.

Applicant

A family or individual that has applied for admission to the HCV program but is not yet a program participant.

Assisted Units

Include units occupied by voucher program participants, as well as units assisted under a federal, state, or local government program. Units may also be considered "assisted" due to rent control or housing conversion actions. The PHA must exclude "assisted" units from rent comparisons in determining rent reasonableness.

Authorized Voucher Unit

The number of units for which the PHA is authorized to make assistance payments to owners under its annual contributions contract.

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.

Basic Range

The payment standards between 90% and 110% of the FMR.

Biennial

Occurring every two years.

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.

Budget Authority

An amount authorized and appropriated by the Congress for payment to PHAs under the HCV program. For each funding increment in the program, budget authority is the maximum amount that may be paid by HUD to the PHA over the ACC term of the funding increment.

Building

A structure with a roof and walls that contains one or more dwelling units.

Carbon Monoxide Alarm

A single or multiple station alarm intended to detect carbon monoxide gas and alert occupants by a distinct audible signal. It incorporates a sensor, control components and an alarm notification appliance in a single unit.

Carbon Monoxide Detector

A device with an integral sensor to detect carbon monoxide gas and transmit an alarm signal to a connected alarm control unit.

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 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 or natural, 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.

Codes

Includes building codes, housing codes, health and safety codes, sanitation codes and any law, ordinance or governmental regulation concerning fitness for habitation, or the construction, maintenance, operation, occupancy, or use of a dwelling unit.

Complaint Inspection

Complaint inspections occur when the family, owner, or member of the public complains about the condition of an HCV housing unit.

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.

Common Space

Space available for use by assisted families and other occupants of the unit.

Congregate Housing

Special housing type for elderly persons or persons with disabilities that meets the HQS for congregate housing.

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.

Continuously Assisted

An applicant is continuously assisted under the 1937 Housing Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the Housing Choice Voucher Program.

Contract of Participation

A contract in 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, and which 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.

Cooperative Housing

Special housing type: Housing owned by a corporation or association, and where a member of the corporation or association has the right to reside in a particular unit, and to participate in management of the housing.

Cooperative Member

A family of which one or more members owns membership shares in a cooperative.

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.

Date of Admission

The HCV program will recognize two separate dates of admission:

The date of voucher issuance: The endpoint of the 6-month period during which a family member under the age of 6 years who lacks an SSN may have been added to an applicant family.

The date of lease-up (the effective date of the HAP contract): The starting point for the 90-period allotted to a family to obtain an SSN for a newly added child under the age of 6 years.

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

survivor, and

- Where the existence of such a relationship shall be determined based on 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.

Day Laborer

An individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future.

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

This determination is made using HUD's HQS and/or equivalent state or local standards approved by HUD.

Defective Paint Surface

Paint on applicable surfaces that are cracking, scaling, chipping, peeling or loose (with reference to lead-based paint poisoning prevention).

De Minimis Errors

A de minimis error is an error where the PHA determination of family income deviates from the correct income determination by no more than \$30 per month in monthly adjusted income (\$360 in annual adjusted income) per family.

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.

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.

Discriminatory Housing Practice

The Fair Housing Act prohibits housing discrimination on the basis of race, color, national origin, religion, sex, familial status, and disability.

Displaced Family

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

Domestic Violence

Includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the survivor, by a person with whom the survivor shares a child in common, by a person who is cohabitating with or has cohabitated with the survivor as a spouse or intimate partner, by a person similarly situated to a spouse of the survivor under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth survivor 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 survivor" includes a person who is or has been in a social relationship of a romantic or intimate nature with the survivor, 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.

Domicile

The legal residence of the household head or spouse as determined in accordance with state and local law.

Drug

A controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

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

Means the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute, or use the drug.

Drug-Trafficking

The illegal selling, transporting, or importing of unlawful control substances.

Earned Income

Earned income means income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment.

Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare, social security, and governmental subsidies for certain benefits), or any cash or in-kind benefits.

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 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.

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

A person who is at least 62 years of age.

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.

Employer Identification Number (EIN)

The nine-digit taxpayer identifying number of an individual, trust, estate, partnership, association, company, or corporation that is assigned pursuant to Section 6011(b) of the Internal Revenue Code of 1986, or corresponding provisions of prior law, or pursuant to Section 6109 of the Code. The Employer Identification Number has nine digits separated by a hyphen, as follows: 00-0000000.

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.

Eviction

Means any action initiated by the owner/landlord to regain possession of a dwelling unit and use of the premises.

Evidence of Citizenship of Eligible Immigration Status

The documents that must be submitted to the PHA as evidence of citizenship or eligible immigration status.

Exception Payment Standard

The payment standard below 90% or above 110% of the FMR, with HUD's approval.

Extremely Low-Income Families

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.

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, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe and sanitary rental housing of modest (nonluxury) nature with suitable amenities. In the HCV program, the FMR may be established at the ZIP code level (see definition of Small Area Fair Market Rents), metropolitan area level, or nonmetropolitan county level.

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

Includes, but is not limited to, the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

- A single person, who may be:
 - An elderly person, displaced person, disabled person, near-elderly person, or any other single person;
 - An otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)), and is homeless or is at risk of becoming homeless at age 16 or older; 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 the home because of placement in foster care is considered a member of the family);
 - An elderly family;
 - A near-elderly family;
 - A disabled family;
 - A displaced family; and
 - The remaining member of a tenant family.

Family Rent to Owner

Is the port of the rent to owner paid by the family.

Family Self-Sufficiency (FSS)

The program established by a PHA to promote self-sufficiency among participating families, including the coordination of supportive services to these families.

Family Share

The portion of the rent to owner and the utilities allowance paid by the family.

Family Unit Size

The appropriate number of bedrooms for a family as determined by the PHA under the PHA subsidy standards.

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

Foster Adult

A member of the household who is 18 years of age or older and meets the definition of a foster adult under state law. In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental condition and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

Foster Child

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

FSS Account

FSS account means the FSS escrow account authorized by Section 23 of the 1937 Act.

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 receives assistance under the HCV program, 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 24 CFR 984.103.

FSS Slots

FSS slots refer to the total number of vouchers that comprise the minimum size of a PHA's Section 8 FSS program.

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.

Gross Rent

The entire housing cost and is calculated by adding the rent to owner and the utility allowance for the unit. If all the utilities are included in the rent, the rent to owner and the gross rent will be the same.

Group Home

Special housing type: A dwelling unit that is licensed by a state as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide).

Guest

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.

Head of Household

The adult member of the family, 18 years old or older, and who is the head of the household for purposes of determining income eligibility and rent.

Health and Medical Care Expenses

Health and medical care expenses are any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body.

Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed.

Higher Cost Area

As related to portability, is defined as an area where the PHA would have to pay a higher subsidy amount due to higher payment standards or more generous subsidy standards of the receiving PHA (e.g., the receiving PHA issues a 3-bedroom voucher to a family that received a 2-bedroom voucher from the initial PHA).

Higher Cost Unit

As related to portability, is defined as a unit which requires a higher subsidy amount due to an increase in the gross rent for the new unit.

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.

Homeownership Assistance

Assistance for a family under the homeownership option. There are two alternative and mutually exclusive forms of homeownership assistance by a PHA for a family: monthly homeownership assistance payments, or a single down payment assistance grant. Either form of homeownership assistance may be paid to the family, or to a mortgage lender on behalf of the family.

Homeownership Expenses

In the homeownership option: A family's allowable monthly expenses for the home, as determined by the PHA.

Home-Visit (telephone interview)

When applicants/participants are unable to physically come into the PHA's office due to age or medical condition, a home-visit (telephone interview) can be done to gather the needed to either complete an application for housing or for annual reexamination.

Verifications needing signatures can be either mailed to the individual or other arrangements can be made at PHA's discretion.

Household

Includes everyone who lives in the unit, including the family, foster children and adults, and PHA-approved live-in aide. Household members are used to determine the unit size.

Housing Assistance Payment

The monthly assistance payment by a PHA and is calculated as the lower of: the payment standard for the family minus the TTP or the gross rent minus the TTP, which includes: (1) A payment to the owner for rent to the owner under the family's lease; and (2) An additional payment to the family if the total assistance payment exceeds the rent to owner.

Housing Assistance Payments Contract

A written contract between the PHA and an owner in the form prescribed by HUD headquarters, for the purpose of providing housing assistance payments to the owner on behalf of an eligible family.

Housing Quality Standards

The HUD minimum quality standards developed by HUD in accordance with 24 CFR 5.703 for the HCV program, including any variations approved by HUD for the PHA under 24 CFR 5.705(a)(3).

Housing Choice Voucher Program

Is the federal government's major program for assisting very low-income families, the elderly and, persons with disabilities.

The statutory merger of the Section 8 tenant-based certificate and voucher programs into the new Housing Choice Voucher Program and makes other amendments to other provisions of the interim rule published on May 14, 1999.

HUD

U.S. Department of Housing and Urban Development.

HUD Local 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

An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction but is included in the family's annual income and therefore reflected in the family's rental contribution.

Income Limits

HUD sets income limits that determine eligibility for assisted housing programs including the Public Housing, Section 8 project-based, Section 8 Housing Choice Voucher, Section 202 housing for the elderly, and Section 811 housing for persons with disabilities programs. HUD develops income limits based on Median Family Income estimates and Fair Market Rent area definitions for each metropolitan area, parts of some metropolitan areas, and each non-metropolitan county.

Independent Contractor

An individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code Federal income tax requirements and whose earnings are consequently subject to the Self-Employment Tax.

In general, an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done.

Independent Entity

- The unit of general local government; however, if the PHA itself is the unit of general local government or an agency of such government, then only the next level of general local government (or an agency of such government) or higher may serve as the independent entity; or
- A HUD-approved entity that is autonomous and recognized under State law as a separate legal entity from the PHA. The entity must not be connected financially (except regarding compensation for services performed for PHA-owned units) or in any other manner that could result in the PHA improperly influencing the entity.

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.

Initial Rent to Owner

The contract rent at the beginning of the initial lease term.

Initial PHA

In portability, the term refers to both:

- A PHA that originally selected a family that subsequently decides to move out of the jurisdiction of the selecting PHA.
- A PHA that absorbed a family that subsequently decides to move out of the jurisdiction of the absorbing PHA.

Initial Lease Term

The initial term of the assisted lease. The initial lease term is at least 12 months. At the PHA's discretion, lease term may be shorter than 12 months.

Initial Payment Standard

The payment standard at the beginning of the HAP contract term.

Institution of Higher Education

An institution of higher education as defined in 20 U.S.C. 1001 and 1002.

Interim Reexaminations

A family may request an interim reexamination of family income or composition because of any changes since the last determination.

The PHA must conduct any interim reexamination within a reasonable period of time after the family request or when the family's adjusted income decreases by 10% or more (or lower threshold per HUD or PHA policy) for when a family's adjusted income increases by 10% or more; however, the PHA may not consider any increase in the earned income of the family when estimating or calculating whether the family's adjusted income has increased, unless the family has previously received an interim reduction during the certification period.

Jurisdiction

The area in which the PHA has authority, under state and local law, to administer the HCV 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.

Landlord

Either the owner of the property or his/her representative, or the managing agent or his/her representative, as shall be designated by the owner.

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 an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the PHA.

In cooperative housing, a written agreement between a cooperative and a member of the cooperative. The agreement establishes the conditions for occupancy of the member's cooperative dwelling unit by the member's family with housing assistance payments to the cooperative under a HAP contract between the cooperative and the PHA. For purposes of this part 982, the cooperative is the Section 8 "owner" of the unit, and the cooperative member is the Section 8 "tenant."

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.

Living/Sleeping Room

A living room may be used as sleeping (bedroom) space, but no more than two persons may occupy the space.

A bedroom or living/sleeping room must have at least one window and two electrical outlets in proper operating condition.

Local Preference

A preference used by the PHA to select among applicant families.

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.

The limitation on major life activity cannot be insubstantial. It must be significant.

Manufactured Home

A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence and meets the HQS.

Manufactured Home Space Rent

Is the total of (a) the rent charged for the manufactured home space; (b) owner maintenance and management charges for the space the owner must provide under the lease; (c) monthly payments made by the family to amortize the cost of purchasing the manufactured home, including any required insurance and property taxes; and (d) the applicable PHA utility allowance for tenant-paid utilities.

Marriage

Marriage certified by a formal marriage license, or an informal marriage (common-law marriage), as may be specified in state or local laws or regulations.

Maximum Initial Rent Burden

The maximum rent burden at initial occupancy (when the family initially moves into the unit or signs the first assisted lease for a unit). The family may pay the TTP plus the amount by which the gross rent for the unit selected exceeds the applicable payment standard so long as the resulting family share does not exceed 40% of the family's monthly adjusted income.

Maximum Subsidy

The maximum amount of subsidy that the PHA can pay for a participant in the HCV program and is calculated as the payment standard minus the TTP.

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 member of the family, other than the head of family or spouse, who is under 18 years of age.

Mixed Family

A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

Monthly Adjusted Income

One-twelfth of adjusted income.

Monthly Income

One-twelfth of annual income.

National

A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession, 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 family assets is the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment.

Noncitizen

A person who is neither a citizen nor a national of the United States.

NOFO

Notice of Funding Opportunity (NOFO). For budget authority that HUD distributes by competitive process, the Federal Register document that invites applications for funding. This document explains how to apply for assistance and the criteria for awarding the funding.

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 owner by the family, members of the family's household, or by their invitees or guests. However, uncleanness does not constitute normal wear and tear.

Obligations of the Family

An agreement, in the form prescribed by HUD, between the PHA and the family to be assisted under the HCV program, stating the obligations and responsibilities of the family

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 HQS space standards: Provide adequate space and security for the family; and Have at least one bedroom or living/sleeping room for each two persons.

Owner

Any person or entity, including a cooperative, having the legal right to lease or sublease a unit to a participant.

Participant

A family that has been admitted to the PHA program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the PHA for the family (first day of initial lease term).

Passbook Rate and Determination

Annually HUD will publish the passbook rate based on the Federal Deposit Insurance Corporation (FDIC) National Deposit Rate for savings accounts, which is an average of national savings rates published on a monthly basis.

Payment Standard

The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

Payment Standard Schedule

Is a schedule that establishes payment standard amounts by unit size (number of bedrooms) for each FMR area in the PHA jurisdiction.

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.
- **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.

PHA-Owned Unit

A dwelling unit in a project that is:

- Owned by the PHA (including having a controlling interest in the entity that owns the project);
- Owned by an entity wholly controlled by the PHA; or
- Owned by a limited liability company or limited partnership in which the PHA (or an entity wholly controlled by the PHA) holds a controlling interest in the managing member or general partner.

A controlling interest is:

- Holding more than 50% of the stock of any corporation;
- Having the power to appoint more than 50% of the members of the Board of Directors of a non-stock corporation (such as a nonprofit corporation);
- Where more than 50% of the members of the Board of Directors of any corporation also serve as directors, officers, or employees of the PHA;
- Holding more than 50% of all managing member interests in an LLC;
- Holding more than 50% of all general partner interests in a partnership; or
- Equivalent levels of control in other ownership structures.

PHA Plan

The annual plan and the 5-year plan as adopted by the PHA and approved by HUD.

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.

Portability

Means the ability to rent a dwelling unit with Section 8 tenant-based assistance outside the jurisdiction of the initial PHA.

Premises

The building or complex in which the dwelling units 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.

Program Receipts

HUD payments to the PHA under the consolidated ACC, and any other amounts received by the PHA in connection with the program.

Promptly

Means within 10 calendar days

Prorated Assistance

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 assistance is prorated based on the percentage of household members who are citizens or have established eligible immigration status.

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.

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 HCV tenant-based rental assistance:

- Whose annual income increases as a result of employment of a family member who is a person with disabilities 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 who is a person with disabilities 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 who is a person with disabilities, 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, 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.

Real Property

Has the same meaning as that provided under the law of the state in which the property is located.

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.

Reasonable Rent

A rent to owner that is not more than either:

- Rent charged for comparable units in the private unassisted market; or
- Rent charged by the owner for a comparable unassisted unit in the building or premises.

Receiving PHA

In portability, a PHA that receives a family selected for participation in the tenant-based program of another PHA. The receiving PHA issues a voucher and provides program assistance to the family.

Reexaminations

The PHA must reexamine the income and composition of all families at least once in twelve (12) months. The family is required to submit any certification, release, information, or documentation that the Housing Authority or HUD has determined necessary.

The PHA will adjust the total tenant payment and housing assistance payment to reflect the changes in income and family composition.

Rent to Owner

The total monthly rent payable to the owner under the lease for the unit. Rent to owner includes payment for any housing services, maintenance, and utilities to be provided by the owner in accordance with the lease.

Request for Tenancy Approval (RFTA)

A form (form HUD-52517) submitted by or on behalf of a family to a PHA once the family has identified a unit that it wishes to rent using tenant-based voucher assistance.

Responsible Entity

The person or entity responsible for administering the restrictions on providing assistance to noncitizens with ineligible immigrations status. The entity responsible for administering the restrictions on providing assistance to noncitizens with ineligible immigration status under the various covered programs is as follows:

- For the Section 235 Program, the mortgagee.

- For Public Housing, the Section 8 Rental Voucher, and the Section 8 Moderate Rehabilitation programs, the PHA administering the program under an ACC with HUD.

Seasonal Worker

An individual who is hired into a short-term position and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry.

Section 8 Management Assessment Program (SEMAP)

A system used by HUD to measure PHA performance in key Section 8 program areas. See 24 CFR part 985.

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. See also paragraph 1-2, Authority.

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 owner/landlord by the family as a pledge to abide by terms or conditions of the rental agreement.

Setup Charges

Charges payable by the family for assembling, skirting, and anchoring the manufactured home.

Sexual Assault

Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the survivor lacks capacity to consent.

Sex-Offender

HUD determines a sex-offender to be someone who is required to be registered in a state life-time sexual offender registry.

Sexual Orientation

One's emotional or physical attraction to the same and/or opposite sex (e.g., homosexuality, heterosexuality, or bisexuality).

Shared Housing

Special housing type: A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family.

Single Family Home

Means a structure maintained and used as a single dwelling unit. Notwithstanding that a dwelling unit shares one or more walls with another dwelling unit, it is a single-family residence if it has direct access to a street or thoroughfare and does not share heating facilities, hot water equipment, nor any other essential facility or service with any other dwelling unit.

Single Room Occupancy

Special housing type: A unit which contains no sanitary facilities or food preparation facilities, or which contains one but not both types of facilities and which is suitable for occupancy by a single eligible individual capable of independent living.

Small Area Fair Market Rents (SAFMRs or Small Area FMRs)

Small Area FMRs are FMRs established for U.S. Postal Service zip code areas and are calculated in accordance with 24 CFR 888.113(a) and (b).

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.

Special Housing Types

Subpart M of part 982, states the special regulatory requirements for: SRO housing, congregate housing, group home, shared housing, manufactured home (including manufactured home space rental), cooperative housing (rental assistance for cooperative member) and homeownership option (homeownership assistance for cooperative member or first-time homeowner).

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: that person; a member of the immediate family of that person; or 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.

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.

Subsidy Standards

Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

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.

Suspension

The term on the family's voucher stops from the date that the family submits a request for PHA approval of the tenancy, until the date the PHA notifies the family in writing whether the request has been approved or denied.

Temporary Protective Status (TPS)

Provides families with temporary immigration status to the United States. Families that are granted TPS under the Victims of Trafficking and Violence Protection Act of 2000 (P.L. 106- 386) are provided with a "T" visa and are considered to have eligible immigration status under Section 207 of the Immigration and Nationality Act (INA). Families with a "T" visa are eligible for full housing assistance.

Tenancy Addendum

The HAP contract form required by HUD shall include an addendum (the "tenancy addendum"), that sets forth:

- The tenancy requirements for the program (in accordance with this section and §§982.309 and 982.310); and
- The composition of the household as approved by the PHA (family members and any PHA-approved live-in aide).
- All provisions in the HUD-required tenancy addendum must be added word-for-word to the owner's standard form lease that is used by the owner for unassisted tenants. The tenant shall have the right to enforce the tenancy addendum against the owner, and the terms of the tenancy addendum shall prevail over any other provisions of the lease.

Tenant

The person or persons (other than a live-in aide) who executed the lease as lessee of the dwelling unit.

Tenant-Based

Rental assistance that is not attached to the structure.

Tenant-Paid Utilities

Utilities and services that are not included in the rent to owner and are the responsibility of the assisted family, regardless of whether the payment goes to the utility company or the owner. The utilities and services are those necessary in the locality to provide housing that complies with HQS. The utilities and services may also include those required by HUD through a Federal Register notice after providing opportunity for public comment.

Tenant Rent

Rent amount the family pays to the owner after deducting the housing assistance payment (HAP) to owner from the rent to owner.

Term

Means the period of occupancy specified in the rental agreement.

Total Tenant Payment (TTP)

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); or
- The PHA minimum rent.

Unearned Income

Any annual income, as calculated under annual income, that is not earned income

Unit

The residential space for the private use of the family.

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).

U.S. 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, or persons who have obtained a U.S. Certificate of Naturalization.

Utilities

Water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection, and sewage services. Telephone service is not included.

Utility Allowance

If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent, but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by the PHA or HUD of the monthly costs 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.

The utility allowance for the family shall be the lesser of:

- The size of unit actually leased by the family; or
- The family unit size as determined under the PHA subsidy standards.

In cases where the unit size leased exceeds the family unit size as determined under the PHA subsidy standards as a result of a reasonable accommodation, the PHA must use the appropriate utility allowance for the size of the unit actually leased by the family.

Utility Hook Up Charges

Costs payable by the family for connecting its manufactured home to utilities such as water, gas, electrical and sewer lines.

Utility Reimbursement

Is the amount, if any, by which the utility allowance for a unit, if applicable, exceeds the total tenant payment for the family occupying the unit. The portion of the housing assistance payment that exceeds the amount of rent to the owner. May also be referred to as Utility Allowance Reimbursement Payment or URP.

VAWA

The Violence Against Women Act of 1994, as amended (42 U.S.C. 13925 and 42 U.S.C. 14043e *et seq.*).

VAWA Violence/Abuse

Collectively domestic violence, dating violence, sexual assault, or stalking.

Verification Techniques and Ranking:

- Level 6: Highest
Upfront Income Verification (UIV), using HUD's Enterprise Income Verification (EIV system)
- Level 5: Highest
Upfront Income Verification (UIV), using non-EIV (e.g., The Work Number, web-based state benefits systems, etc.)
- Level 4: High
Written, third-party verification from the source, also known as "tenant-provided verification;" EIV + Self-Certification; PHAs can choose either option when both are available to verify income. PHAs must use written, third-party verification when the income type is not available in EIV (e.g., self-employment, Go Fund Me accounts, general public assistance, Veterans Administration benefits, etc.) Party Verification.
- Level 3: Medium
Written Third-Party Verification Form
- Level 2: Medium
Oral Third-Party Verification
- Level 1: Low
Self-Certification (not third-party verification)

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 reasonably likely to cause, serious bodily injury or property damage.

Voucher Holder

A family holding a voucher with an unexpired term (search time).

Voucher (Rental Voucher)

A document issued by a PHA to a family selected for admission to the HCV program. The voucher describes the program, and the procedures for PHA approval of a unit selected by the family. The voucher also states the obligations of the family under the HCV program.

Waiting List

List of families organized according to HUD regulations and PHA policy who are waiting to be selected for the HCV program.

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-to-Work

Families assisted by a PHA with voucher funding awarded to the PHA under the HUD Welfare-to-Work Voucher Program.

Welfare Rent

The portion of welfare assistance specifically designated to meet the family's actual housing costs.

Withholding

Stopping HAP to an owner while holding them for potential retroactive disbursement.

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.

ADMISSIONS AND CONTINUED OCCUPANCY POLICY



Housing Authority of the City Of Lakeland

2026/2027

Housing Authority of the City Of Lakeland
Lakeland, Florida

ADMISSIONS AND CONTINUED OCCUPANCY POLICY

Adopted by PHA Board of Commissioners

Resolution No.: _____

Date of Adoption: _____

Effective Date of Implementation: _____

DRAFT

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: 2025

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INTRODUCTION AND STATEMENT OF LOCAL OBJECTIVES

The **Housing Authority of the City Of Lakeland**, 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 Act of 1937 (FHA), 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 1958 and empowered with the responsibility and authority to maintain the public housing program for the Lakeland of Lakeland, Florida. In 2022, the PHA was selected as a Moving to Work (MTW) agency through the Asset Building Cohort of the MTW Expansion, which was authorized by the 2016 MTW Expansion Statute. The PHA's participation in the MTW program is through the end of its fiscal year 2043.

MTW is a demonstration program for PHAs that provides them the opportunity to design and test innovative, locally designed strategies that use federal dollars more efficiently, help residents find employment and become self-sufficient, and increase housing choices for low-income families. MTW allows PHAs exemptions from many existing public housing regulations and provides funding flexibility with how the PHAs use their federal funds.

The PHA entered into a MTW Amendment to the Annual Contribution Contract (MTW ACC Amendment) which amended (superseded) the ACC terms and conditions in effect between the PHA and HUD for the public housing program. As a participant in the MTW demonstration, the PHA must operate in accordance with the express terms and conditions set forth in the MTW Operations Notice. The MTW Operations Notice may be superseded or amended by HUD at any time during the 20-year MTW term.

The PHA is only exempted from specific provisions of the FHA and its implementing regulations as specified in the MTW Operations Notice. Each such exemption also extends to sub-regulatory guidance to the extent that the sub-regulatory guidance implements the provision of the FHA or its implementing regulations exempted pursuant to the MTW Operations Notice.

The PHA remains subject to all other applicable requirements including but not limited to those in Title 24 of the Code of Federal Regulations and Title 42 of the U.S. Code, Appropriations Acts, Annual Contributions Contracts, notices of funding availability under which the PHA has received funds, and the applicable requirements (collectively referred to as Requirements) listed in the MTW Operations Notice, as they may be amended or implemented in the future. Accordingly, if any Requirement, other than the provisions of the FHAct and its implementing regulatory requirements or sub-regulatory guidance exempted pursuant to exemption or authorization granted by the MTW ACC Amendment, the PHA, as a MTW agency, remains subject to that Requirement.

HUD-approved MTW activities are noted in this ACOP.

A. Legal Jurisdiction

The area of operation of the PHA is geographically defined as Polk County and High County.

B. Mission Statement

PHA's Mission Statement

Our Mission is to provide quality, affordable housing and self-sufficiency opportunities in an effective and professional manner, in Lakeland and Polk County Florida.

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/President/CEO

Deputy Executive Director/Senior Vice-President

Vice-President of Finance and Administration

Public Housing Manager

Public Housing Assistant Manager

Property Management/Regional Manager

Property Assistant Manager

Resident Services Coordinator/Manager

ROSS Service Coordinator

Maintenance Supervisor

Maintenance Staff

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. Conflict of Interest

In accordance with the Annual Contributions Contract, Section 16, Conflict of Interest, neither the PHA nor any of its contractors or subcontractors may enter into any contract or arrangement in connection with the project (public housing project) in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:

- Any present or former member or officer of the PHA of the governing body of the PHA, or any member of the officer's immediate family, (except any present or former tenant commissioner who does not serve on the governing body of a resident corporation, and who otherwise does not occupy a policymaking position with the resident corporation, the PHA or a business entity);
- Any employee of the PHA, or any contractor, subcontractor, or agent of the PHA, who formulates policy or who influences decisions with respect to the programs, or any member of the employee's immediate family, or the employee's partner.
- Any public official, member of the local governing body, or State or local legislator, or any member of such individuals' immediate family, who exercises functions or responsibilities with respect to the programs or the PHA.
- Any member of the Congress of the United States.

Any member of the classes described above must disclose their interest or prospective interest to the PHA and HUD.

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 Conflict-of-Interest policy 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 may be waived by the HUD field office for good cause.

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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. Housing Opportunities Through Modernization Act of 2016 (HOTMA)

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). HUD published a rule in the Federal Register on October 24, 2016 (81 FR 73030), announcing which statutory changes made by HOTMA could be implemented immediately and which statutory changes required further action by HUD.

On November 29, 2016 (81 FR 85996), HUD published a Federal Register notice seeking public input on how HUD should determine the income limit for public housing residents pursuant to Section 103 of HOTMA, and this was followed by a July 26, 2018 (83 FR 35490) notice that made some provisions of Section 103 of HOTMA effective.

On January 18, 2017, HUD published a proposed rule (82 FR 5458) that made multiple HOTMA provisions for the Housing Choice Voucher (HCV) program, unrelated to sections 102, 103, and 104, effective and solicited public comment on HUD's implementation methods. The conforming regulatory changes for the HCV program provisions implemented by the January 18, 2017, rulemaking are not part of this final rule and are being addressed through a separate rulemaking.

Many of the statutory provisions in HOTMA are intended to streamline administrative processes and reduce burdens on PHAs and owners of housing assisted by Section 8 programs. Sections 102, 103, and 104 of HOTMA require that HUD make changes to its regulations and take other actions - some of which will also reduce burdens on PHAs, and private owners once implemented.

On September 17, 2019 (84 FR 48820), HUD published a proposed rule to update its regulations according to HOTMA's statutory mandate and to implement the provisions of Sections 102, 103, and 104 of HOTMA that require rulemaking. Additional details about the proposed rule may be found at 84 FR 48820 (September 17, 2019). That proposed rule has additional information on the proposed regulatory changes and how they relate to HOTMA. In addition, on December 4, 2020 (85 FR 78295), HUD re-opened public comment on specific provisions dealing with families whose income rises above the new cap for residing in public housing.

On February 14, 2023 (88 FR 9600), HUD published the HOTMA final rule. This final rule follows the publication of the September 17, 2019, proposed rule and considers the public comments received, including public comments received in response to HUD's December 4, 2020, notice reopening public comments.

L. 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 Section 8 HCV program are governed by the Code of Federal Regulations, the Federal Register, HUD notices/guidance, handbooks and guidebooks, memorandums, and guidelines, 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 term tenant is used interchangeably with the terms "applicant," "participant," "resident," and "family." 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 survivor, or threatened survivor, of the domestic violence, dating violence, sexual assault, or stalking, or as good cause to terminate the tenancy, occupancy rights, or assistance of the survivor.
- 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 approved members of the assisted family) may reside in the unit.
 - 3) If the PHA has given approval, 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 accommodation 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 survivor, if the tenant or an affiliated individual of the family, is the survivor.

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.

C. Release of Information and Consent by Applicants and Participants

Each member of the family of an assistance applicant or participant who is at least 18 years of age, and each family head of household and spouse, regardless of age, must sign one or more consent forms.

1. Consent Forms Authorization

Assistance applicants and participants shall be responsible for the signing and submitting of consent forms, including form HUD-9886, by each applicable family member.

a. Applicants

The assistance applicant must submit the signed consent forms to the PHA when eligibility is being determined.

b. Participants

On or after January 1, 2024, the participant must sign and submit consent forms at their next annual/regularly scheduled or interim income reexamination.

c. Subsequent Authorization to Release Information and Consent Forms

After all applicants or participants over the age of 18 in a family have signed and submitted a consent form once on or after January 1, 2024, family members do not need to sign and submit subsequent consent forms at the next interim or regularly scheduled income reexamination except under the following circumstances:

- 1) When any person 18 years or older becomes a member of the family, that family member must sign and submit a consent form.
- 2) When a member of the family turns 18 years of age, that family member must sign and submit a consent form within 30 days of the family member turning 18 years of age; or
- 3) As required by HUD or the PHA in administrative instructions.

2. Required Contents of the Consent Forms

Consent forms will be used to request information directly from third parties (e.g., date hired, rate of pay, commissions, bonus, etc.). The consent forms will contain at a minimum:

- a. A provision authorizing HUD and the PHA to obtain from State Wage Information Collection Agencies (SWICAs) any information or materials necessary to complete or verify the application for participation and to maintain continued assistance under the public housing program; and

- b. A provision authorizing HUD or the PHA, who is responsible for determining eligibility for or the level of assistance, to verify with previous or current employers income information pertinent to the assistance applicant's or participant's eligibility for or level of assistance.
 - c. A provision authorizing HUD to request income return information from the Internal Revenue Service (IRS) and the Social Security Administration (SSA) for the sole purpose of verifying income information pertinent to the assistance applicant's or participant's eligibility or level of benefits.
 - d. A provision authorizing the PHA to obtain any financial record from any financial institution, as the terms financial record and financial institution are defined in the Right to Financial Privacy Act (12 U.S.C. 3401), whenever the PHA determines the record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits; and
3. HUD-9886: Authorization for the Release of Information/Privacy Act Notice
- The head of household, spouse, or co-head, regardless of age and adults, 18 years of age and older, will be required to sign the form HUD-9886, Authorization for Release of Information/Privacy Act Notice.
- a. Purposes of Form HUD-9886
 - 1) In signing the form HUD-9886, the family is authorizing HUD and the PHA to request income information from the sources listed on the form.
 - 2) HUD and the PHA will use this information to verify the family's income, in order to ensure that the family is eligible for assisted housing benefits and that these benefits are set at the correct level.
 - 3) HUD and the PHA may participate in computer matching programs with these sources in order to verify the family's eligibility and level of benefits.
 - b. Form HUD-9986 Authorizes the Following:
 - 1) HUD and the PHA to request verification of salary and wages from current or previous employers.
 - 2) HUD and the PHA to request wage and unemployment compensation claim information from the State agency responsible for keeping that information.
 - 3) HUD to request certain tax return information from the SSA and U.S. Internal Revenue Service (IRS).
 - 4) The PHA to request verification of any financial record from any financial institutions as defined in the Right to Financial Privacy Act (12 U.S.C. 3401)), whenever the PHA determines the record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits.

c. Sources of Information Obtained

The form HUD-9886 only authorizes the release directly from employers and financial institutions of information regarding any period(s) within the last five (5) years when assisted housing benefits were received.

1) State Wage Information Collection Agencies (SWICAs)

The form HUD-9886 is limited to wages and unemployment compensation the family has received when the family received assisted housing benefits.

2) U.S. Social Security Administration (HUD only)

The form HUD-9886 is limited to the wage and self-employment information and payments of retirement income as referenced at Section 6103(l)(7)(A) of the Internal Revenue Code (IRC).

3) U.S. Internal Revenue Service (HUD only)

The form HUD-9886 is limited to unearned income (i.e., interest and dividends).

4) Information may also be obtained directly from:

- a) Current and former employers concerning salary and wages; and
- b) Financial institutions as defined in the Right to Financial Privacy Act (12 U.S.C. 3401), whenever the PHA determines the record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits.
- c) Information obtained from these sources will be used to verify information that the family provides in determining eligibility for assisted housing programs and the level of benefits.
- d) The form HUD-9886 only authorizes release directly from employers and financial institutions of information.

4. Effective Dates of Consent Forms and Form HUD-9886

Consent forms and form HUD-9886 will remain effective until the earliest of:

- a. The rendering of a final adverse (denied) decision for an assistance applicant.
- b. The cessation of a participant's eligibility (termination) for assistance from HUD and the PHA; or
- c. The express revocation by the assistance applicant or recipient (or applicable family member) of the authorization, in a written notification to HUD or the PHA.
- d. If the family voluntarily leaves the public housing program, the family's assistance is considered terminated and the signed form HUD-9886 will no longer be in effect.

5. Criminal Background Check

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

a. 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.

b. State Sex Offender Registration

1) 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.

2) 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.

c. Crimes and Other Sex Offenses

1) If the PHA obtains criminal records from a state or local agency showing that a household member has been convicted of a crime/sex offense, relevant to applicant screening, lease enforcement, or eviction, the PHA will notify the household of the proposed action to be based on the information and must provide the subject of the record and the applicant or tenant a copy of such information, and an opportunity to dispute the accuracy and relevance of the information.

2) This opportunity must be provided before a denial of admission, eviction, or lease enforcement action on the basis of such information.

d. 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.

e. The family will not incur any costs for the drug and criminal background check.

6. Penalties from Failing to Sign Consent Forms

Refusing to sign consent forms prohibits the PHA from requesting and accessing income information and financial records, including generating any EIV reports and using EIV data to verify income.

a. Deny or Terminate Housing Assistance

In accordance with the provisions governing the public housing program, if the participant or any member of the participant's family, does not sign and submit the consent form as required then the:

- 1) Assistance to and admission of an applicant will be denied; or
- 2) Assistance to, and the tenancy of, a participant will be terminated.

b. Cross References

Individuals should consult the regulations and administrative instructions for the public housing program for further information on the use of income information in determinations regarding eligibility.

7. Penalties for Revocation of Consent Forms

The executed consent forms will remain effective until the family is denied assistance, the assistance is terminated, or if the family provides written notification to the PHA to revoke consent. The PHA will explain to the families the families' right to revoke consent forms and the consequences for the revocation of the consent forms.

- a. Revocation of consent forms prohibits the PHA from requesting and accessing income information, including generating any EIV reports and using EIV data to verify income (although the data matches between HUD and other agencies will continue to automatically occur in the EIV system if the family is not terminated from the program).
- b. Without the family's executed consent form, the PHA may not process annual or interim reexaminations of income, including when the family's income decreases and the family requests an interim reexamination to decrease the tenant rent.
- c. If the applicant, participant, or any member of the applicant's or participant's family revokes his/her consent forms, that revocation of the consent forms will result in:
 - 1) Denial of admission for applicants.
 - 2) Termination of assistance for participant families.
 - 3) Denial of admission or termination of assistance is subject to the PHA's informal hearing and grievance procedures, respectfully.
- d. PHAs will notify their HUD office when an applicant or participant family member revokes their consent.

8. Penalties for Revocation of Financial Consent Form

The PHA will explain to the families the families' right to revoke financial consent forms and the consequences for the revocation of the financial consent forms.

- a. Revocation of financial consent forms prohibits the PHA from requesting and accessing financial records.

- b. Without the family's executed financial consent form, the PHA may not process annual or interim reexaminations of income, including when the family's income decreases and the family requests an interim reexamination to decrease the tenant rent.

- 1) Termination of assistance for participant families.

- 2) Denial of admission or termination of assistance is subject to the PHA's informal review and hearing procedures, respectfully.

- c. If the applicant or any member of the applicant's or participant's family revokes his/her financial consent forms, with respect to the ability of the PHA to access financial records from financial institutions, no penalty will be assessed.

- d. The PHA will notify the PHA's local HUD office when an applicant or participant family member revokes their consent.

9. 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 is required to notify families of the use of computer matching agreements/activities. The PHA must provide the families with the opportunity to refute adverse information before being denied or terminated on the basis of a match.
- e. 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 the adult responsible for the minor.).

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 Lakeland, Florida 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 includes but are not limited to
 - 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 reexaminations 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 accordance with federal law and policy. Additionally, since the PHA must follow state and local laws in its jurisdiction, this ACOP will be deemed automatically revised should any of those laws or regulations change.

In the event an applicable HUD, state, or local 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.

All issues not addressed in this ACOP related to the public housing program are governed by the Code of Federal Regulations, HUD handbooks and guidebooks, Federal Registers, memos, notices, guidelines, and other applicable law.

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. Equal Access Rule

The public housing program is open to all eligible individuals regardless of sexual orientation, gender identity, or marital status.

a. Prohibited Inquiries

- 1) The PHA is prohibited from inquiring about an applicant's or participant's sexual orientation or gender identity for the purposes of determining eligibility or otherwise making housing available.
- 2) The individual may voluntarily self-identify their sexual orientation or gender identity.

b. Permissible Inquiries

- 1) The PHA is permitted to ask an applicant's or participant's sex in order to determine the number of bedrooms for which a household may be eligible based on the PHA's written subsidy standards.
- 2) The PHA must collect and report the public housing program participant's sex through form HUD-50058 and submit the data electronically to the Information Management System/PIH Information Center (IMS/PIC).
- 3) The PHA may maintain voluntary and anonymous reporting of sexual orientation or gender identity for compliance with data collection requirements by state and local governments or other federal assistance programs so long as information obtained pursuant to such reporting has no bearing on eligibility for housing or program participation.

c. Program Compliance

- 1) A PHA's actions or practices that are inconsistent with the rule could result in HUD's determination that the PHA has failed to comply with program requirements.

- 2) HUD may pursue any available remedy, including:
 - a) Sanctions or corrective action plans that it deems appropriate to remedy the violation.
 - b) A review of the PHA's policies and performance to determine if it is complying with the Equal Access Rule.
 - c) Monitoring by PIH or HUD's Office of Fair Housing and Equal Opportunity (FHEO).
 - d) A request for information concerning allegations of noncompliance.
- 3) The PHA must cooperate with HUD and provide access to staff, records, and beneficiaries as needed.
3. The PHA will not, on the grounds of race, color, 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

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.

1. 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. Fair Housing 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. The PHA will prominently display the posters:
 - a. Each office where applications are accepted; and
 - b. Each management office, except single-family dwellings.

4. Individuals who believe that they have been discriminated against with respect to housing may request and receive assistance from PHA staff in filing such complaints.
5. 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.
6. The PHA will not deny an individual with physical disabilities an opportunity to apply for housing assistance due to inaccessible application offices.
7. 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.
8. 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.
9. 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.
10. 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 or severity of a disability of such a person.
11. 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.

12. 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.
13. The PHA will ensure that all PHA-property, including buildings, common areas, offices, and office spaces are accessible to persons with disabilities.
14. The PHA will post the TDD/TDY telephone number to facilitate accessibility for the hearing impaired.
15. 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, disability, or violation of the Equal Access Rule.
16. The PHA will review its policies and procedures, at least annually, to ensure compliance with all Fair Housing and 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 reasonable accommodation.

- 2) The PHA is not obligated to provide 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 accommodation 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 may 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 (VAWA)

Protects tenants and applicants, and affiliated individuals who are survivors (While VAWA, HUD's regulations, HUD forms, and other HUD guidance generally use the term "victim," this policy will use the VAWA 2022 preferred term "survivor," which will have the same meaning as "victim.") of domestic violence, dating violence, sexual assault, and/or stalking (collectively VAWA violence/abuse) 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. Survivors of VAWA violence/abuse are eligible for protections without regard to sex, gender identity, or sexual orientation.
4. Survivors 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 survivor of VAWA violence/abuse.
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 survivors 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 survivor of VAWA violence/abuse. In addition, other reasonable accommodations may be needed on a case-by-case basis.
2. Where a guest or unassisted member is a survivor of VAWA violence/abuse, a tenant cannot be evicted or have assistance terminated on the basis of the VAWA violence/abuse 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 will provide the Notice of Occupancy Rights, form HUD-5380, and the Certification Form, form HUD-5382, to each adult applicant and to each adult participant 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 VAWA Notice of Occupancy Rights explains the VAWA protections for applicants and for participants, including the rights to confidentiality and any VAWA protection limitations.

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

2. VAWA Protections for Applicants

If the applicant otherwise qualifies for public housing assistance the applicant cannot be denied admission or denied assistance because the applicant is or has been a survivor of VAWA violence/abuse.

3. Protections for Tenants

- a. If a tenant is receiving public housing assistance, the tenant may not be terminated from participation or be evicted from the assisted unit because the tenant is or has been a survivor of VAWA violence/abuse.
- b. If a tenant or an affiliated individual of the tenant is or has been the survivor of VAWA violence/abuse by a member of the tenant's household or any guest, the tenant may not be denied rental assistance or occupancy rights under the public housing program assistance solely on the basis of criminal activity directly relating to that incident of VAWA violence/abuse.

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 survivors to comply with a written request for documentation about an incident or incidents of VAWA violence/abuse.

1. VAWA Certification Form

- a. Provides that the survivor or someone on the survivor'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 survivor or someone filling out the form on the survivor'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 survivor or it cannot be provided safely.
- g. Clarifies that the date and time of incident should be completed only if known by the survivor.
- h. Requires the survivor or someone filling out the form on the survivor'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 tenants and applicants that when the HUD-5382 is submitted on the survivor'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 VAWA violence/abuse if the PHA was aware of the abuse and encouraged the survivor to request VAWA protections.

2. Requesting Documentation

The PHA may choose to request an individual to document their claim of VAWA violence/abuse.

- a. The PHA must request the documentation in writing.
- b. Providing the survivor with 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 survivor 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 survivor 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 violence/abuse 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 survivor to provide third-party documentation of survivor status, unless:

- a. More than one tenant or applicant provides documentation to show they are survivors of VAWA violence/abuse 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. Limitations of VAWA Protections

The tenant may invoke VAWA protections on more than one occasion and the PHA will not subject additional conditions that would adversely affect the tenant's tenancy because they have invoked VAWA protections. There are no limitations on the number of occasions a survivor can invoke VAWA protections.

1. Nothing in this Chapter limits the authority of the PHA, when notified of a court order, to comply with a court order with respect to:
 - a. The rights of access or control of property, including civil protection orders issued to protect a survivor of VAWA violence/abuse; or
 - b. The distribution or possession of property among members of a household.
2. The PHA may evict or terminate assistance to a tenant for any violation not premised on an act of VAWA violence/abuse that is in question against the tenant or an affiliated individual of the tenant.

The PHA will not subject the tenant who is or has been a survivor of VAWA violence/abuse or is affiliated with an individual who is or has been subject to VAWA violence/abuse, to a more demanding standard than other tenants when determining whether to evict or terminate assistance.

3. The PHA may terminate assistance or evict a tenant if the PHA can demonstrate an actual and imminent threat to other tenants, PHA employees, or those employed at or providing

services to the PHA would be present if that tenant or lawful occupant is not terminated from assistance or evicted.

- a. An 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.
- b. Words, gestures, actions, or other indicators can be considered an actual and imminent threat.
- c. In determining whether an individual would pose an actual and imminent threat, the PHA will consider the following factors:
 - 1) The duration of the risk,
 - 2) The nature and severity of the potential harm,
 - 3) The likelihood that the potential harm will occur, and
 - 4) The length of time before the potential harm will occur.
4. The PHA will utilize termination of assistance or eviction only when there are no other actions the PHA can employ to reduce or eliminate the threat, including but not limited to transferring the survivor to a different unit, barring the perpetrator from the property, and contacting law enforcement in order to keep the property safe to prevent the perpetrator from acting on a threat.
5. The PHA will terminate tenancy or assistance to any household member who is the perpetrator of VAWA violence/abuse or who engages in criminal acts of physical violence against family members or others.

H. VAWA Confidentiality

Given the significant safety issues faced by survivors of VAWA violence/abuse, it is critical that the PHA establish or update existing policies to maintain the confidentiality and privacy of survivors who seek protections under VAWA.

1. The PHA shall retain in strictest confidence all information pursuant to VAWA including the fact that an individual is a survivor of VAWA violence/abuse.
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.

4. Communicating with the Survivor

When communicating with an applicant, participant, or tenant who has requested VAWA protections, the PHA will take precautions to avoid inadvertent disclosure of confidential information to another individual or entity.

- a. The PHA will not leave messages that contain confidential information or refer to VAWA, the VAWA protections, or VAWA violence/abuse on the survivor's voicemail or with other individuals, including members of the survivor's household.
 - b. The PHA will not send mail regarding VAWA violence/abuse (e.g., a written request to complete form HUD-5282, or written extension of the 14-business day timeframe to respond to the PHA's request for documentation) to the survivor's address as the perpetrator may have access to the survivor's mail.
5. The PHA may employ the following to address the challenges of collecting information from and communicating with survivors of VAWA violence/abuse to avoid unintentional disclosure:
- a. Conduct the intake session in a private room, where the individual and staff person can talk without the risk of other staff or clients overhearing.
 - b. Explain the PHA's information sharing policies.
 - c. Clarify information sharing policies with referring/referral agencies and other service and business partners.
 - d. Communicate to the individual who in the PHA is responsible for handling questions or complaints about confidentiality.
 - e. Work with the tenants to make delivery arrangements of VAWA documents that do not place the survivor at risk.
 - f. Serve individuals off-site as needed or when appropriate.
 - g. Provide adequate time for the individual to review and sign forms.
 - h. Provide reasonable accommodations to permit individuals to follow or access any rules, policies, practices, or services, such as modifying a policy requiring that the survivor come into the office to pick up VAWA documents to instead deliver the form to the survivor.
 - i. Ensure effective communication with persons with disabilities, e.g., provide sign language interpreters for persons who are deaf, accessible documents and assistance filling out forms for persons with visual impairments or have low vision.
 - j. Provide interpretation and/or documents translated into the appropriate language when necessary for person with limited English proficiency.

- k. Provide accessible documents or assistance filling out forms for individuals with disabilities.
- l. Ensure relevant staff understand confidentiality policies and procedures through regular staff training.
- m. Post notices about the importance of maintaining confidentiality throughout the office, including the intake room and around other areas of the PHA.
- n. Direct staff to respond to third-party inquiries only after verifying that written client consent has been obtained.
- o. Maintain distinct phone lines for certain purposes.
- p. Use a PHA post office box to receive written correspondence.
- q. Avoid using language referencing domestic violence or sexual assault in PHA names, program names, organization names, and staff titles.

I. VAWA Prohibition on Retaliation

Provides protections against retaliation for survivors and other persons who oppose acts made unlawful by VAWA, who seek to enforce VAWA's protections, or who participate in enforcement proceedings.

- 1. It is illegal for the PHA to discriminate against any person because that person has opposed any act or practice made unlawful by VAWA's housing provisions, or because that person testified, assisted, or participated in any related matter.
- 2. It is illegal for a PHA to coerce, intimidate, threaten, interfere with, or retaliate against any person who exercises or assists or encourages a person to exercise any rights or protections under VAWA's housing provisions.

J. Right to Report Crimes and Emergencies

Provides protections against actual or threatened penalties for persons requesting law enforcement or emergency assistance.

- 1. Landlords, homeowners, tenants, residents, occupants, and guests of, and applicants for, housing shall have the right to seek law enforcement or emergency assistance on their own behalf or on behalf of another person in need of assistance.
- 2. It is prohibited to penalize or threaten to penalize persons because they request assistance or report criminal activity of which they are a survivor or otherwise not at fault under the laws or policies adopted or enforced by "covered governmental entities," which is any municipal, county, or state government that receives funding under Section 106 of the Housing and Community Development Act of 1974.

K. Compliance Process Review

The PHA is required to establish a VAWA compliance review process.

1. The PHA will:
 - a. Incorporate the VAWA compliance review process into its existing compliance review processes where possible,
 - b. Perform the VAWA compliance review on a regular basis,
 - c. Publicly disclose the VAWA compliance review assessment of the information collected;
2. Six Items for Compliance Review
 - a. Compliance with requirements prohibiting the denial of assistance, tenancy, or occupancy rights on the basis of domestic violence, dating violence, sexual assault, or stalking;
 - b. Compliance with VAWA confidentiality provisions
 - c. Compliance with the notification requirements
 - d. Compliance with the provisions for accepting documentation
 - e. Compliance with emergency transfer requirements; and
 - f. Compliance with the prohibition on retaliation
3. The PHA will develop regulations to implement the VAWA compliance review in consultation with the appropriate stakeholders, which includes the following, but not limited to:
 - a. Individuals and organizations with expertise in the housing needs and experiences of survivors of VAWA violence/abuse; and
 - b. Individuals and organizations with expertise in the administration or management of HUD programs subject to VAWA statutory requirements and protections.

L. VAWA FHEO Enforcement Authority

HUD and the U.S. Department of Justice shall implement and enforce VAWA consistent with, and in a manner that provides, the same rights and remedies as those provided for the Fair Housing Act.

Effective October 1, 2022, individuals who believe their VAWA rights have been violated may file complaints with HUD's Offices of Fair Housing and Equal Opportunity (FHEO) and General Counsel (OGC). The FHEO and OGC will begin investigating such complaints using HUD's existing Fair Housing Act complaint process.

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. Survivors of domestic violence, dating violence, sexual assault, or stalking
 - i. Veterans of the U.S. armed forces

- j. Involuntary displaced families
- 2. The PHA will develop easily understood and usable outreach information/material that is expressed in simple and direct terms.
- 3. 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.
- 4. The PHA methods of outreach to families may include but are not limited to:
 - a. Postings on the PHA website and other social media.
 - b. U.S. Postal mail outs.
 - c. Distribute outreach materials to identify local resources such as, advocacy groups, community service groups and agencies, elements of city and county governments, and colleges and universities.
 - 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, 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 survivors of VAWA violence/abuse.

- 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, the PHA may design an appropriate form and, as part of the PHA's 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 assist the PHA in determining 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 is determined 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. Site-Based Waiting List

A site-based waiting list is a separate waiting list for a specific site or sites. Site-based waiting lists allows applicants to select the developments where they will accept dwelling unit offers. The PHA has adopted a site-based waiting list.

1. The PHA will ensure that the site-based waiting list is consistent with all applicable civil rights and fair housing laws and regulations.
2. Prior to operating a site-based waiting list, the PHA will obtain HUD approval as part of the PHA's Annual Plan approval process.
3. If the PHA decides to establish a site-based waiting list after the submission of its PHA Plan, the PHA is required to determine if the amendment qualifies as a significant amendment to the PHA Plan.
4. For HUD approval for more than one site-based waiting list:
 - a. The PHA must have an acceptable reporting rate (submission of the form HUD-50058 in an accurate, complete, and timely manner) to the Public and Indian Housing Center (PIC) or successor system.
 - b. Site-based waiting lists would not violate any court order or settlement agreement or be inconsistent with a pending civil rights complaint.
 - c. The PHA must maintain accurate records about each site and provide all applicants with complete information about all sites, including:
 - 1) The location of each site;
 - 2) The number, size, and type of dwelling units;
 - 3) Amenities such as childcare, security, transportation, and special programs available at and near each site; and
 - 4) The average length of wait to receive a dwelling unit.
5. The PHA will manage its site-based waiting list in a manner that is consistent with the PHA's activities to affirmatively further fair housing, such as marketing to populations least likely to apply for public housing.
 - a. The PHA will have a system for regular review of the results of its site-based waiting list operation to examine any changes in the racial, ethnic, or disability-related tenant composition of each site.

- b. Annually, as part of its Annual Plan preparation, the PHA will assess any changes in the racial, ethnic, or disability-related tenant composition of sites with site-based waiting lists, based on data that has been determined to be accurate by the PHA's Independent Public Accountant
 - c. At least every three (3) years the PHA will use independent testers or some other method approved by HUD to ensure that site-based waiting list is not being implemented in a discriminatory manner, and no patterns or practices of discrimination exist, and providing the results to HUD.
 - d. The PHA will make changes in its site-based waiting list procedures, as needed, based on the data and methods listed in paragraphs a - c of this section to affirmatively further fair housing.
6. Conversion from a Community-Wide Waiting List to a Site-Based Waiting List
- a. After the PHA receives HUD approval to operate a site-based waiting list:
 - 1) The PHA will first obtain the site preference of current applicants by:
 - a) Requesting a waiting list update from the current applicants.
 - b) Providing information about each site to the current applicants and providing an opportunity for the applicants to select the development(s) where they would accept a unit offer, or to opt for the "first available" unit offer.
 - 2) Next, the PHA will provide new applicants the same opportunity to select the developments or opt for the "first available" unit offer.
 - 3) Once the initial site-based waiting lists have been established, the PHA will inform all applicants of the length of each list and provide the applicants, once their application is updated, an opportunity to change their site selection.
 - b. The PHA will refer to its Annual Plan process and obligations to further fair housing, for guidance in the development of a site-based waiting list process.

B. 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 will announce the opening of the waiting list through a public notice.

- a. The notice will comply with HUD fair housing requirements, containing the equal housing opportunity logo and non-discrimination statement in its message.
- b. The notice will be placed in a local 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 will provide details on where and when interested families can apply.
- f. The notice will state any limitations on who may apply (i.e., working families, extremely low-income, 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) Gender 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 require interested applicants to report changes in the following circumstances within 10 business days of occurrence.
 - a) Change in contact information (address or phone number)
 - b) Changes in income
 - c) Changes in household composition
 - d) Change in preference claimed.
 - e) Change in site (applicable only to site-based waiting list)
- 3) The PHA will send a waiting list update letter with an update form, by first class mail, to last known address that the PHA has on record to each applicant on the PHA's waiting list requesting information regarding their continued interest in maintaining a place on the waiting list and to report any changes in their circumstances.
 - a) The waiting list update letter will include a deadline date, 10 days from the date of the waiting list letter, by which the applicant must complete and return the waiting list update form to the PHA.
 - b) The applicant will be able to return the waiting list update form to the PHA by mail, email, fax, or in person.
 - c) If the applicant did not notify the PHA of a move as required, the PHA shall not be responsible for the applicant's failure to receive the waiting list update letter.

- d) Notification of a change in address to the U.S. Post Office or sources other than the PHA is not considered compliance with the requirements to notify the PHA.
- e) The PHA does not accept responsibility for mail delays.
- f) The PHA shall notify the applicant in writing if the changes reported on the waiting list update form affects the applicant's position on the waiting list or eligibility for the public housing program.

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 update letter within the allotted time period.

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

- 2) If the waiting list update letter is returned marked "Addressee Unknown."
- 3) If the waiting list update letter is returned with no forwarding address.
- 4) If the waiting list update letter is returned with a forwarding address, the waiting list update letter will be mailed to the address indicated.

a) The applicant will have 10 business days, from the date of the second waiting list update letter, to respond to the PHA.

- b) If the applicant fails to respond to the second waiting list update 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 VAWA violence/abuse. Family members who are survivors of such acts may be considered for admission only if the perpetrator is no longer in the household.

- 8) The applicant fails to respond to the PHA's request for information or updates.

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

7. Recorded Wait List Message

During periods of time when application taking is closed, the PHA will not maintain a list of individuals who wish to be notified when the waiting list is reopened. The PHA will

maintain a recorded message providing current information on when the waiting list will or might be reopened.

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, online.

a. In Person Submission

- 1) The PHA will accept applications at the location(s) and during dates and time period indicated in the announcement of the opening of the waiting list.
- 2) Reasonable Accommodation
 - a) As a reasonable accommodation for persons with disabilities, the application may be mailed to the applicant and, if requested, it will be mailed in an accessible format.
 - b) To provide specific accommodation for persons with disabilities, the applicant may call the PHA to make special arrangements to complete the application.
- 3) 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.

b. Online Submission

- 1) The PHA will accept online (website to be provided by the PHA) applications completed and submitted during the dates and time period indicated in the announcement of the opening of the waiting list.
- 2) The application submission date and time will be assigned by the online application program.
- 3) When the waiting list is closed, the online submission for the applications will be disabled.

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.

3. Placement on the Waiting List

- a. When the waiting list has closed, the PHA will select from all the pre-applications the predetermined number of pre-applications, as noted in the announcement of the opening of the waiting list, for placement on the waiting list. Applicants will be placed on the waiting list based on preferences and date and time of application.
- b. Pre-applicants Selected for the Waiting List
 - 1) Pre-applicants with preferences will be placed on the waiting list by preference by date of time of pre-application.
 - 2) Pre-applicants with no preference will be placed on the waiting list by date and time of pre-application.

4. 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.

- a. If the pre-application determines the family to be potentially eligible, the applicant will be notified:
 - 1) In writing of the date and time of placement on the public housing program waiting list.
 - 2) That the family will be required to complete a full application.
 - 3) The information on the pre-application is not verified until the applicant has been selected for final eligibility determination.
 - 4) The approximate amount of time before the final eligibility appointment will be scheduled.
 - 5) Final eligibility will be determined when the full application process is completed, and all information is verified.
 - 6) 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.).
- b. If the pre-application determines the family to be ineligible:
 - 1) The PHA will mail a letter of ineligibility to the applicant stating the reason(s) that determined them ineligible, and
 - 2) Include a statement that the applicant has a right to request an informal hearing on such determination.

5. 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 may be scheduled by mail and will provide the applicant with at least 10 calendar days' notice.

1) The PHA require all household members 18 years of age and older, including the live-in aide (if applicable) 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.

6. 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.

7. 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.

8. Application 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 to adopt local preferences:

Preferences are only used to establish the order of applicants on the PHA's waiting list.

- a. Preferences
 - a. Do not impact eligibility for applicants who are otherwise ineligible.
 - b. Do not change the right of the PHA to adopt and enforce applicant screening criteria.
- b. The PHA's adoption and implementation of local preferences is subject to HUD requirements concerning income-targeting, deconcentration and income-mixing, and selection preferences for developments designated exclusively for elderly or disabled families or for mixed population developments.
- c. The PHA shall publicize preferences by posting copies in each office where applications are received, and by furnishing copies to applicants or the public upon request
- d. The PHA will inform and explain to all applicants about the available preferences and will give the applicants an opportunity to claim a preference prior to application submission.
- e. The PHA may limit the number of applicants that qualify for any local preference.
- f. The PHA will not deny an eligible applicant family based on a failure to meet the requirement of local preference.
- g. The PHA cannot establish a local preference for families who agree to participate in the Family Self-Sufficiency (FSS) program.

2. The PHA has elected to adopt the following as the local preferences:

PREFERENCES	RANK OR POINT VALUE
Working Families	5
Persons with Disabilities	25
Survivors of VAWA violence/abuse	45
Veteran	30
Persons who are elderly	5

3. Changes in Local Preference

Applicants on the PHA's waiting list who did not qualify for a preference when they applied may experience a change in circumstances that later qualifies them for a local preference – or the reverse may occur.

- The PHA will provide written notification to the applicants on the waiting list of any changes to the PHA's adopted local preferences.
- The applicants will be given an opportunity to document that they qualify for such local preferences.
- The PHA will require applicants on the PHA's waiting list to report changes in the local preference within 10 business days of occurrence.
- If the applicant's local preference status changes, the applicants retain their original date and time of application.
- The applicant may move up or down on the waiting list in accordance with the changes in the local preference and date and time of the application.

4. Verification of Local Preferences.

The PHA is not required to verify the applicant's local preference at the time of application. The applicant will be placed on the waiting based on the preference claimed.

- Local preferences will be verified the same way as income, assets, and deductions.
- Prior to the time of the unit offer, the PHA will verify the applicant's eligibility for the local preference based on the applicant's current circumstances.
- If the PHA determines that the applicant does not qualify for the local preference claimed, the PHA will provide written notice to the applicant denying the local preference.

5. Denial of Local Preference

If an applicant claims, but does not qualify for a local preference, the PHA will give the applicant an opportunity to show that they qualify for a local preference.

- a. The applicant must provide appropriate documentation to substantiate their qualification for a local preference.
- b. Applicants who cannot provide the appropriate documentation to the PHA will be notified in writing that they do not qualify for a local preference.
 - 1) The written notice will contain: a brief statement of the reasons for the determination, and a statement that the applicant has the right to meet with the PHA to review the determination.
 - 2) This request must be received by the PHA no later than 10 business days from the postmarked date of the written notice.
- c. If the applicant requests the meeting, the PHA shall designate someone to conduct the meeting who is not the person who made the initial determination or reviewed the determination, or a subordinate of that person.
 - 1) A written summary of the meeting would be retained in the applicant's file.
 - 2) A letter informing the applicant of the final determination as to their local preferences status will be mailed within 10 business days from the meeting.
- d. An applicant may exercise other rights if he or she believes discrimination, based on race, color, national origin, sex, religion, age, disability, or familial status contributed to the PHA's decision to deny the preference.

E. Selection Priorities from the Waiting List

As public housing units become available, the PHA will select applicants from the waiting list in order to begin the eligibility determination and leasing process.

1. The PHA will select applicants from the waiting in accordance to the local preference(s) claimed by the applicant.
2. Selection by Local Preference Aggregated Point/Rank Value
 - a. Applicants with the highest aggregated local preference point/rank value, 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, will be selected first.
 - b. In the event that more than one (1) applicant have the same highest aggregated local preference point/rank value, 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, the applicants will be selected from the waiting list in accordance to the earliest date and time of application.

- c. After all applicants with a local preference point/rank value are selected from the waiting list, the PHA will select applicants from the waiting list who did not claim a local preference, 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, in accordance to the earliest date and time of application.
3. Applicants whose income is greater than 30% of the area median income may be passed on the waiting list pursuant to the income targeting requirements.
4. The PHA will not select families for admission to the public housing program in an order different from the order on the waiting list for the purpose of selecting higher income families for admission to the public housing program over low-income families.
5. Family Characteristics
6. The PHA preference system may provide a preference for admission of families with certain characteristics from the PHA waiting list. However, admission to the program may not be based on:
 - a. Discrimination because members of the family are unwed parents, recipients of public assistance, or children born out of wedlock.
 - b. Discrimination because a family includes children (familial status discrimination).
 - c. Discrimination because of age, race, color, religion, sex, or national origin.
 - d. Discrimination because of disability; or
 - e. Whether a family decides to participate in a family self-sufficiency program.
7. Prohibit applying any information pertaining to attributes or behavior that may be imputed by some to a particular group or category. All criteria applied or information considered in administering this ACOP shall relate solely to the attributes/behavior of the individual members of the family being considered for assistance.
8. Assure that selection by the PHA among otherwise eligible applicants is objective and reasonable.
9. Assure that selection by the PHA among otherwise eligible applicants are consistent with the PHA's responsibilities as a public body.
10. Provide that a family that is on the Section 8 waiting list will not lose its place on the waiting list by applying for admission to the public housing program.
11. Selection for Particular Unit

In selecting a family to occupy a particular unit, the PHA will match characteristics (example: number of bedrooms) of the family with the type of unit available based on preferences, date, and time, such as:

- a. Selection of families to occupy units with special accessibility features for persons with disabilities, the PHA will first offer such units to families which include persons with disabilities who require such accessibility features.
- b. The PHA's occupancy standards (limitation on the minimum and maximum number of household members permitted to live in units of specified sizes).
- c. Provide preference to elderly and/or disabled families for units in a public housing mixed population (formerly designated elderly) developments.
- d. Types of developments available.

12. Limitations 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 a housing unit with two or more bedrooms.

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 public housing 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 public housing program during the PHA's fiscal year exceeds the 75% minimum targeting requirement for the PHA's public housing 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 public housing 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 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.

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. An otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in Section 475(5)(H) of the Social Security Act and is homeless or is at risk of becoming homeless at age 16 or older.
3. 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).
4. 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 (2) or more persons who are at least 62 years of age living together, or one (1) or more persons who are at least 62 years of age living with one (1) or more live-in aides.
5. 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 (2) or more persons, who are at least 50 years of age but below the age of 62, living together; or
 - c. One (1) 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.
6. 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 (2) or more persons with disabilities living together, or one (1) or more persons with disabilities living with one (1) 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.
- 7. 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.
- 8. 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.
- 9. 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.
- 10. Joint Custody of Children

The PHA will recognize families who may include family members under the age 18 who have joint custody arrangements.

 - a. Children who live in the unit at least 50% of the time, for whom the family receives a dependent deduction.

- b. Children who lives in the unit at least 50% of the time for whom the family does not receive a dependent deduction.
- c. Children who lives in the unit less than 50% of the time.

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 is not a member of the assisted family and is not entitled to continued occupancy under the public housing program as a remaining member.
- i. The PHA will not convert a family member to be the live-in aide.
- 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

a. Foster Child

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

b. Foster Adult

- 1) A member of the household who is 18 years of age or older and meets the definition of a foster adult under state law.
- 2) In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental condition and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

c. Although foster children and foster adults are members of the household (and therefore will be considered when determining appropriate unit size and utility allowance), they are not considered members of the family for purposes of determining either annual and adjusted income or net family assets, nor are the assets of foster adults or foster children taken into consideration for purposes of the asset limitations.

d. 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.

e. 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.

As a MTW agency, HUD will verify compliance with the statutory requirement that at least 75% of the household assisted by a MTW agency are very low-income for MTW public housing units through HUD systems. The PHA will provide data for the actual families housed upon admission during the PHA's most recently completed Fiscal Year for its Local, Non-Tradition program households.

- 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.
2. When calculating the family's income including asset income, at the time of admission to the public housing program, the PHA will use anticipated income (current income – i.e., the family's estimated income for the upcoming 12-month period).

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, U.S. nationals, 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, U.S. nationals, or be a noncitizen with eligible immigration status.

2. A mixed family includes family members who are U.S. citizens, U.S. nationals or have eligible immigration status, and family members who do not contend to have eligible immigration status.
 - a. Mixed families, except for families exceeding the income limit or over-income families, receive prorated assistance based on the percentage of family members who qualify for assistance.
 - b. 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.
 - c. 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, U.S. nationals, 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, U.S. nationals, 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. Evidence of Citizenship or Eligible Noncitizen Status

Each family member, regardless of age, must submit evidence of citizenship or eligible noncitizen status.

- a. U.S. citizens and U.S. 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 **verification of birth, U.S. Passport, U.S. 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 April 1, 1980, 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 October 1, 1990) or from an DHS district director granting asylum (application filed before October 1, 1990);
 - (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 October 1, 1990).
- 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.

5. 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:

- a. For each adult, the form must be signed by the adult.
- b. For each child, the form must be signed by an adult residing in the assisted unit who is responsible for the child.

6. 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.

7. Timeframe for Submission of Evidence Eligible Citizenship or Noncitizen Status

The PHA will require evidence of eligible citizenship or noncitizen status at the following times, subject to any extension granted by the PHA.

- a. Applicants: The PHA will ensure that evidence of eligible status is submitted not later than the date the PHA anticipates or has knowledge that verification of other aspects of eligibility for assistance will occur.
- b. Tenants: The PHA will require evidence of eligible status to be submitted at the first regular reexamination after June 19, 1995
- c. Changing participation in a HUD program: Whenever a family applies for admission to a Section 214 covered program, evidence of eligible status is required to be submitted unless the family already has submitted the evidence to the PHA for a Section 214 covered program.
- d. One-time evidence requirement for continuous occupancy. For each family member, the family is required to submit evidence of eligible status only one time during continuously assisted occupancy under any Section 214 covered program.

8. Notification of Requirements of Section 214

The PHA will provide notification of the requirement to submit evidence of citizenship, eligible immigration status, or to elect not to contend have eligible immigration status to all applicants and participant families.

- a. The PHA will provide the notice as follows:
 - 1) Applicant's notice. Notification of the requirements of Section 214 will be given to each applicant at the time of application for assistance.
 - 2) Notice to tenants. Notification of the requirements of Section 214 will be given to each tenant at the time of, and together with, the PHA's notice of regular reexamination of income, but not later than one year following June 19, 1995.

b. Contents of the Notice

The notice will:

- 1) State that financial assistance is contingent upon the submission and verification, as appropriate, of evidence of citizenship or eligible immigration status as required;
- 2) Describe the type of evidence that must be submitted and the time period in which that evidence must be submitted; and
- 3) State that assistance will be prorated, denied, or terminated, as appropriate, upon the PHA's final determination of ineligibility after all appeals have been exhausted or, if appeals are not pursued, at a time to be specified in accordance with HUD requirements.

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.

G. Restrictions on Assistance to Family Based on Assets

The PHA is prohibited from providing public housing assistance to a family, either initially or upon reexamination of a family's income based on the family's net assets.

1. Restriction on Eligibility Based on Net Assets
 - a. The PHA must prohibit a family from receiving public housing assistance if the family's net assets exceed \$100,000.
 - b. The amount will be adjusted annually by HUD for inflation (in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI)).
2. Restriction on Eligibility Based on Owning Real Property Suitable for Occupancy
 - a. The PHA must prohibit a family from receiving public housing assistance if the family has a present ownership interest in, a legal right to reside in, and the effective legal authority to sell (based on state or local laws of the jurisdiction where the property is located), real property that is suitable for occupancy by the family as a residence.
 - b. A present ownership interest would include any title to a home, any ownership of membership shares in a cooperative, and any lease or other right to occupy a home or cooperative as defined by the state or local laws of the jurisdiction where the property is located.
 - c. A present ownership interest does not include the right to purchase title to a residence under a lease-purchase agreement.
 - d. Exceptions to the restriction on owning real property does not apply to:
 - 1) A family that receives assistance for the property under the public housing program for:
 - a) A manufactured home
 - b) A home or under the HCV Homeownership Option.
 - 2) Any property that is jointly owned by a member of the family and at least one non-household member who does not live with the family, if the non-household member resides at the jointly owned property.

- 3) Any person who is a survivor of domestic violence, dating violence, sexual assault, and/or stalking.
- 4) Any family that is offering the property for sale.

e. A Property Suitable for Occupancy

A property will be considered suitable for occupancy unless the family demonstrates that it:

- 1) Does not meet the disability-related needs for all members of the family, including unsuitability due to physical needs, but it does not exclude other non-physical reasons why a property may not be suitable for a family member who is a person with disabilities.

Example: Physical accessibility requirements, disability-related need for additional bedrooms or space, proximity to accessible transportation, etc.

- 2) Is not sufficient for the size of the family;
- 3) Is geographically located so as to be a hardship for the family

Example: The location, distance, or commuting time between the property and the family's place of work or school would be a hardship to the family, as determined by the PHA.

- 4) Is not safe to reside in because of the physical condition of the property; or

Examples: The property's physical condition poses a risk to the family's health and safety and the condition of the property cannot be easily remedied. Environmental factors outside the control of the family are contributing to the unsafe condition or where the alterations necessary to make the physical condition of the property safe are cost prohibitive.

- 5) Is a property that a family may not reside in under the state or local laws of the jurisdiction where the property is located is not a property that is suitable for occupancy by the family as a residence.

Example: An assisted family owns a commercial property that cannot legally be occupied as a residence by the family, such as a convenience store or a retail establishment.

3. Real Property Restrictions VAWA Confidentiality

When a family asks for or about an exception to the real property restrictions because a family member is a survivor of VAWA violence/abuse, the PHA will:

- a. Comply with the confidentiality requirements under VAWA;
- b. Accept a VAWA self-certification from the family member; and
- c. Apply the restrictions on requesting documentation under VAWA.

4. Assets Restrictions Enforcement

The PHA will not enforce the asset limitation on eligibility for assistance at reexamination of income.

5. Delay of Termination of Assistance Based on the Assets Restrictions

If the PHA enforces the asset limitation on eligibility for assistance at reexamination of income, the PHA will delay the termination of assistance based on the assets restrictions for a period of:

- a. Six (6) months, in order to allow the family to become compliant with this requirement.
 - 1) If the family fails to comply with this requirement, within the time allotted, the PHA will terminate the family's assistance.
 - 2) Termination of assistance is subject to the PHA's informal hearing procedures.

H. MTW Work Requirement

NO REQUIREMENT.

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 warrant 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 violence/abuse. In cases of requests for emergency transfers under VAWA, with the written consent of the survivor of VAWA violence/abuse, 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 survivor of a VAWA violence/abuse 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, including exceeding the asset limitations established by HUD (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. 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.
 - c. 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 the public housing program.
 - 3) In justifiable cases, the PHA may take such other action as deemed advisable.
 - 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. If any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with any federally assisted housing program.

- f. The family currently owes rent or other amounts to the PHA, another PHA, or Multifamily program.
 - g. If the family breaches an agreement to repay amounts owed to the PHA, another PHA, or Multifamily program.
 - 1) The PHA, at its discretion, may offer a family the opportunity to enter an agreement to pay amounts owed to a PHA.
 - 2) The PHA may prescribe the terms of the agreement.
 - h. If the family has engaged in or threatened abusive or violent behavior toward PHA personnel.
 - i. The applicant fails to complete the pre-occupancy orientation, if required by the PHA.
 - j. The applicant fails to pay an existing utility balance which results in a denial of service by the utility supplier.
 - k. The applicant fails 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 drop the applicant to the bottom of the waiting list with a new date and time of application.

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 Drug Sjoedin National Sex Offender Public Website (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 two (2) drug or alcohol related criminal offenses within the three (3) year period prior to application for PH assistance.
 - b. The PHA shall consider a reasonable time before admission to the PH 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 preponderance of evidence 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 6 months/180 days 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 preponderance of evidence of a drug-related charge.
- g. The PHA shall determine involvement in criminal activity through the preponderance of evidence 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. 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 survivor of a VAWA violence/abuse 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

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

1. Annual income includes, with respect to the family:
 - a. All amounts, not specifically excluded received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse of the head of household, plus unearned income by or on behalf of each dependent who is under 18 years of age;
 - b. All amounts received by the head of household, spouse, co-head, including the income of a day laborer, independent contractor, and seasonal worker regardless of age, unless otherwise excluded; and
 - c. When the value of net family assets exceeds \$50,000 (adjusted annually for inflation) and the actual returns from a given asset cannot be calculated, imputed returns on the asset based on the current passbook saving rate (a figure that is adjusted annually for inflation), as determined by HUD.

Note: Annual income includes all amounts received, not the amount the family may be legally entitled to receive but which the family does not receive.
 - d. Annual income does not include amounts which are specifically excluded.
2. Annual income is used to determine whether an applicant family is within the HUD income limits and the level of continued benefits for the family.

B. Earned Income

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

C. Unearned Income

Means any annual income that is not earned income.

D. Income Inclusions

Annual income includes but is not limited to:

1. Business Ownership/Self-Employment

Gross income a family member receives through self-employment or operation of a business.

- a. Gross income is all income amounts received into the business, prior to the deduction of business expenses.
- b. Net income from the operation of a business or profession.
 - 1) The net income from self-employment or the operation of a business is considered income.
 - 2) Net income is the gross income amount minus business expenses that allows the business to operate.
 - 3) Except that the following shall be considered income to a family member:
 - 4) Expenditures for business expansion or amortization of capital indebtedness are not deductible when determining the income from a business
 - 5) An allowance for the depreciation of assets used in a business or profession may be deducted, based on a straight-line depreciation, as provided in IRS's regulations.
- c. Any withdrawal of cash or assets from the operation of a business is income except to the extent that such withdrawal is to reimburse the family member for cash or assets that the family has invested in the operation of the business.

2. Include all actual income derived from all net family assets.

3. Public Assistance

a. Public assistance includes:

1) General Assistance

Payments made under a financial or medical assistance program(s) provided by a state, tribe, or local government jurisdiction.

2) Temporary Assistance to Needy Families (TANF)

- a) A benefit designed to meet a family's ongoing basic needs, which includes cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses).
- b) Supportive services such as transportation and childcare are provided to families who are not employed.

- 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.

4. 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.
5. Periodic Payments and Determinable Allowances
- a. The full amount received from periodic amount such as but not limited to Social Security, SSI, Social Security Disability Insurance (SSDI), annuities, life insurance and endowment policies, retirement funds, profit sharing plans, pensions, disability payments, Individual Retirement Accounts (IRAS), Simplified Employee Pensions (SEPS), and comparable benefits under the Railroad Retirement Act. The lump sum payments 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.
6. Alimony and Child Support
- The PHA will include in annual income for alimony and/or child support all amounts received, not the amount the family may be legally entitled to receive but which the family does not receive.
7. Recurring Gifts and Regular Contributions
- The PHA shall count as income any gifts or regular contributions (monetary or not) that are provided to the family on a regular and routine basis from persons outside of the family (e.g., a relative or friend provides a member of the family with cash gifts on a recurring basis).
- a. This may include but is not limited to rent and utility payments paid on behalf of the family and other monetary and or non-monetary contributions provided on a regular basis.

- b. It does not include non-recurring gifts or contributions.
- c. The PHA shall follow the Verification Hierarchy and the PHA's verification procedures to verify income from recurring gifts and regular contributions.
- d. If the party providing the recurring gifts and regular contributions refused to verify the information, the PHA will document the file why third-party verification was not available.

8. Independent Contractor, Day Laborer, and Cyclical or Seasonal Work

Income received as an independent contractor, day laborer, or seasonal worker is not considered nonrecurring income and therefore is included in annual income even if the source, date, or amount of the income varies.

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 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.

9. Lump Sum Payments Counted as Income

Lump-sum payments received due to delayed start of periodic payments (e.g., unemployment, TANF, or child support), not excluded by regulation will be included in annual income.

Any portion of the lump sum that is payment for a period prior to the family's participation in the HCV program will not be counted as annual income but may be included in net family asset.

10. 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. Unearned 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.

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

- a. The amount of earned income of a full-time student will not exceed the amount of the dependent deduction, adjusted annually by HUD for inflation, rounded to the next lowest multiple of \$25.

- b. If annual earned income is less than the dependent deduction, (adjusted annually by HUD for inflation, rounded to the next lowest multiple of \$25), the PHA will include the full amount of the earned income.
- c. All earned income of a full-time student who is the head of household, spouse, co-head will be included in annual income.
- d. Unearned income, (including the determination of student financial assistance), which is not excluded by federal regulations, will be included in annual income.

E. 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. Earned Income of Children (Family Members) Under 18 Years Old

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

2. Earned Income of Dependent Full-Time Students

- a. Earned income of dependent full-time students in excess of the amount of the deduction for a dependent (adjusted annually by HUD for inflation, rounded to the next lowest multiple of \$25).
- b. All earned income of a full-time student who is the head of household, spouse, co-head will be included in annual income.
- c. The full-time student must be a dependent family member for this exclusion to apply.

3. Gross Income a Family Member Receives Through Self-Employment or Operation of a Business

Except that the following shall be considered income to a family member:

- a. Net income from the operation of a business or profession.
 - 1) Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income.
 - 2) An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in IRS regulations; and
- b. Any withdrawal of cash or assets from the operation of a business or profession will be included in income if the withdrawal is a reimbursement of cash or assets invested in the operation by the family.

4. Nonrecurring Income

Nonrecurring income, which is income that will not be repeated in the coming year (12 months following the effective date of the certification) based on information provided by the family.

- a. Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income even if the source, date, or amount of the income varies.
- b. Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from the family's annual income as nonrecurring income.

c. Nonrecurring income includes but is not limited to:

- 1) Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment.

Any permanent employment with the U.S. Census Bureau should be considered in the annual income calculation.

- 2) Direct federal or state payments intended for economic stimulus or recovery.
- 3) Amounts directly received by the family as a result of state refundable tax credits or state tax refunds at the time they are received.
- 4) Amounts directly received by the family as a result of federal refundable tax credits and federal tax refunds at the time they are received (including Earned Income Tax Credit (EITC) refund payment).
- 5) Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries).
- 6) Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization.

The PHA is prohibited from assigning monetary value to non-monetary in-kind donations received by the family.

7) Lump Sum Benefits

- a) Additions to net family assets, including but not limited to lottery or other contest winnings.
- b) Lump sum benefits payable as a death benefit.
- c) Lump sum amounts may count toward family assets.

- 8) Nonrecurring payments made to the family or to a third party on behalf of the family to assist with utilities, eviction prevention, and security deposits to secure housing.

- 9) Payments for participation in research studies depending on the duration.

10) General one-time payments received by or on behalf of the family.

5. Imputed Return on an Asset Equal to or Less Than \$50,000

Any imputed return on an asset when net family assets total \$50,000 or less (adjusted annually by HUD for inflation) and no actual income from the net family assets can be determined.

6. Certain Types of Trust Distributions

The following types of trust distributions are not included in annual income:

- a. For an irrevocable trust or a revocable trust outside the control of the family or household excluded from the definition of net family assets:
 - 1) Distributions of the principal or corpus of the trust; and
 - 2) Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.
- b. For a revocable trust under the control of the family or household, any distributions from the trust; except that any actual income earned by the trust, regardless of whether it is distributed, shall be considered income to the family at the time it is received by the trust.

7. Lump Sum Payments of Deferred Benefits

- a. Deferred periodic amounts from SSI, Social Security, and SSDI 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.

8. 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

9. Income Received from Any Account Under a Retirement Plan

- a. Income received from any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals.
- b. Except that any distribution of periodic payments from such accounts shall be income at the time they are received by the family.

10. Education Savings Accounts

Income and distributions from any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and income earned by government contributions to, and distributions from, "baby bond" accounts created, authorized, or funded by federal, State, or local government.

11. Lump-Sum Additions to Family Assets

Lump-sum additions to family assets, including but not limited to lottery and other contest winnings.

12. Family Self-Sufficiency (FSS) Escrow

Income earned on amounts placed in a family's FSS account.

13. Insurance Payments and Settlement for Personal or Property Losses

- a. Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation.
- b. Periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that are received in lieu of wages for workers' compensation continue to be included in annual income.

14. 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).

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 participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, childcare, etc.) and which are made solely to allow participation in a specific program.

- d. Incremental earnings and benefits resulting to any family member from participation in training programs funded by HUD or in qualifying federal, State, Tribal, 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 the 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.
- 15. Reimbursed Health and Medical Care Expenses
 - a. Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member.
 - b. This exclusion is not limited to elderly and disabled families that qualify for the unreimbursed medical expense deduction.
- 16. Income of Live-In Aides

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

Adoption assistance payments in excess of the amount of the deduction for a dependent.
- 18. Payments to Enable a Family Member with a Disability to Reside in the Family's Assisted Unit
 - a. Payments made by or authorized by a state Medicaid agency (including through a managed care entity) or other state or federal agency to a family to enable a family member who has a disability to reside in the family's assisted unit.
 - b. Authorized payments may include payments to a member of the assisted family through the state Medicaid agency (including through a managed care entity) or other state or federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family's assisted unit.
 - c. The payments are excluded from income as long as the amounts are provided to enable a family member with a disability to remain in the family's assisted unit.
 - d. Both the person providing the care and the person who has the disability must be family members (not household members) and must live in the same assisted household.

- e. The exclusion does not apply to income earned by the family for other caregiving services provided to individuals outside of the assisted household.

19. Civil Action, Malpractice, or Negligence Payments or Settlements

- a. Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled.
- b. Any amount recovered are excluded irrespective of whether the amounts are received periodically or in a lump sum payment.

20. Civil Rights Settlements or Judgements

- a. Civil rights settlements or judgments, including settlements or judgments for back pay.
- b. Even where such payments are not lump-sum payments but instead may have a payment schedule, such payments are excluded.

21. Income of Foster Children and Foster Adults

Income of foster children and foster adults is excluded from the family's calculation of annual income.

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

- a. 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) or state or Tribal kinship or guardianship care payments.
- b. This income exclusion also applies to Kinship Guardian Assistance Payments (Kin-GAP), kinship care payments, and other state-based kinship or guardianship payments that are alternatives to traditional foster care programs.

23. Armed Forces Hostile Fire Pay

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

24. Aid and Attendance to Veterans

Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance.

This income exclusion applies only to veterans in need of regular aid and attendance and not to other beneficiaries of the payments, such as a surviving spouse.

25. 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.

26. Loan Proceeds

- a. Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car).
- b. The loan borrower or co-borrower must be a member of the family for the loan proceeds income exclusion to be applicable.
- c. Loan proceeds may include, but are not limited to, personal loans (with a loan agreement) and student loans, regardless of whether the proceeds are received in the form of a refund to the student.

27. Tribal Claims Relating to Mismanagement of Assets Held in Trust by the U.S.

- a. Payments received by Tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code (IRC) or other federal law.
- b. A payment received by a tribal member from the tribe for distribution of Indian gaming profits is not a per-capita payment within the meaning of the Per Capita Distribution Act and does not qualify for income exclusion.
- c. If a family member who is a tribal member receives the IRS Form 1099-MISC, Miscellaneous Income, from the tribe for reporting Indian gaming profits, then this payment must be counted toward the family's annual income.

28. Housing Gap Payments

- a. Replacement housing "gap" payments made in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another federally subsidized housing unit.
- b. Such replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments.
- c. Replacement housing "gap" payments should cover a minimum of 42 months of tenancy at the new unit.

29. Amounts Specifically Excluded by Any Other Federal Statute

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. HUD will publish a notice in the Federal Register and distributed to PHAs identifying the benefits that qualify for this exclusion.
- b. Updates will be distributed when necessary.
- c. The following is a list of income sources that qualify for that exclusion:
 - 1) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977
 - 2) Payments to volunteers under the Domestic Volunteer Services Act which includes, but is not limited to:
 - a) Retired Senior Volunteer Program (RSVP)
 - b) Foster Grandparents (FGP)
 - c) Senior Companion Program (SCP)
 - d) VISTA
 - e) Peace Corps
 - f) Service Learning Program
 - g) Special Volunteer Programs
 - 3) Small Business Administration programs such as National Volunteer Program to Assist Small Business and Promote Volunteer Service to Persons with Business Experience;
 - 4) Service Corps of Retired Executives (SCORE)
 - 5) Active Corps of Executives (ACE)
 - 6) Payments received under the Alaska Native Claims Settlement Act.
 - 7) Income derived from certain sub-marginal land of the U.S. that is held in trust for certain Indian tribes.
 - 8) Payments or allowances under Department of Health and Human Services Low-Income Home Energy Assistance Program (LIHEAP).
 - 9) Income derived from the disposition of funds of the Grand River Band of the Ottawa Indians.
 - 10) 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.
 - 11) Payments received from programs funded under Title V of the Older Americans Act of 1965 which includes, but is not limited to:
 - a) Senior Community Services Employment Program

- b) National Caucus Center on the Black Aged
 - c) National Urban League
 - d) Association National Pro Personas Mayors
 - e) National Council on Senior Citizens
 - f) Green Thumb
- 12) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any fund established pursuant to the settlement in In Re Agent Orange Liability Litigation.
- 13) Earned Income Tax Credit refund tax payments received on or after January 1, 1991, for program administered under the United States Housing Act of 1937, Title V of the Housing Act of 1949, Section 101 of the Housing and Urban Development Act of 1965, and Sections 221(d)(3) 235, and 236 of the National Housing Act (26 U.S.C. 32(j)).
- 14) Payments received under the Maine Indian Claims Settlement Act of 1980.
- 15) 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.
- 16) 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.
- 17) Payments made under the Emergency Rental Assistance Program pursuant to the Consolidated Appropriations Act, 2021 and the American Rescue Plan Act of 2021.
- 18) Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990.
- 19) 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).
- 20) 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.
- 21) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 reauthorized as the Workforce Innovation and Opportunity Act of 2014.
- 22) 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).

- 23) Payments, funds, or distributions authorized, established or directed by the Seneca Nation Settlement Act of 1990.
- 24) 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 to the definition of income applicable to programs authorized under the Native American Housing Assistance and Self-Determination Act (NAHASDA) and administered by the Office of Native American Programs.
- 25) 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.
- 26) Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002.
- 27) Per capita payments made from the proceeds of Indian Tribal Trust Cases, Exclusion of Income of Payments under Recent Tribal Trust Settlements.

The list of Indian tribes who have entered into Tribal Trust Settlements with the U.S. in 2013 and for whom per-capita Tribal Trust payments are excluded from gross income, includes:

1. Assiniboine and Sioux Tribes of the Fort Peck Reservation 2. Bad River Band of Lake Superior Chippewa Indians 3. Blackfeet Tribe of the Blackfeet Indian Reservation 4. Bois Forte Band of Chippewa 5. Cachil Dehe Band of Wintun Indians of the Colusa Rancheria 6. Chippewa Cree Tribe of the Rocky Boy's Reservation 7. Coeur d'Alene Tribe 8. Confederated Salish and Kootenai Tribes 9. Confederated Tribes of Siletz Indians - 6 - 10. Confederated Tribes of the Colville Reservation 11. Confederated Tribes of the Goshute Reservation 12. Crow Creek Sioux Tribe 13. Eastern Shawnee Tribe of Oklahoma 14. Hualapai Indian Tribe 15. Iowa Tribe of Kansas and Nebraska 16. Kaibab Band of Paiute Indians of Arizona 17. Kickapoo Tribe of Kansas 18. Lac Courte Oreilles Band of Lake Superior Chippewa Indians 19. Lac du Flambeau Band of Lake Superior Chippewa Indians 20. Leech Lake Band of Ojibwe 21. Lower Brule Sioux Tribe 22. Makah Indian Tribe of the Makah Reservation 23. Mescalero Apache Tribe 24. Minnesota Chippewa Tribe 25. Nez Perce Tribe 26. Nooksack Indian Tribe 27. Northern Cheyenne Tribe of Indians 28. Omaha Tribe of Nebraska 29. Passamaquoddy Tribe of Maine 30. Pawnee Nation 31. Prairie Band of Potawatomi Nation 32. Pueblo of Zia 33. Quechan Tribe of the Fort Yuma Reservation 34. Red Cliff Band of Lake Superior Chippewa Indians 35. Rincon Luiseño Band of Indians 36. Rosebud Sioux Tribe 37. Round Valley Indian Tribes 38. Salt River Pima-Maricopa Indian Community 39. Santee Sioux Tribe of Nebraska 40. Sault Ste. Marie Tribe 41. Shoshone-Bannock Tribes of the Fort Hall Reservation 42. Soboba Band of Luiseno Indians 43. Spirit Lake Dakota Nation 44. Spokane Tribe of Indians 45. Standing Rock Sioux Tribe 46. Stillaguamish Tribe of Indians 47. Summit Lake Paiute Tribe 48. Swinomish Indian Tribal Community 49. Te-Moak Tribe of Western Shoshone Indians 50. Tohono O'odham Nation 51. Tulalip Tribes 52. Tule River Indian Tribe 53. Ute Indian Tribe of the Uintah and Ouray Reservation 54. Ute Mountain Ute Tribe 55. Winnebago Tribe of Nebraska 56. Qawalangin Tribe of Unalaska - 7 - 57. Tlingit & Haida Tribes of Alaska 58. Northwestern Band of Shoshone Indians 59. Hoopa Valley Tribe 60. Ak-Chin Indian Community 61. Oglala Sioux Tribe

- 28) Major disaster and emergency assistance received by individuals and families under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organizations will not be considered as income or a resource when

determining eligibility for or benefit levels under federally funded income assistance or resource-tested benefit programs.

F. Treatment of Financial Assistance Received by Students of Higher Education

The treatment of student financial assistance depends on the student/household characteristics and the type of financial assistance received by the student. The student financial assistance rules apply to both full-time and part-time students.

1. There are two (2) categories of student financial aid applicable to the public housing program:

- a. 479B Student Financial Assistance Programs

Section 479B under Title IV of the Higher Education Act (HEA) of 1965, as amended, (as well as Bureau of Indian Affairs Student Financial Assistance) requires that all assistance under HEA, even assistance provided to students in excess of tuition and required fees or charges, be excluded from HUD income calculations;

The types of financial assistance listed below are considered 479B student financial assistance programs. The list is not exhaustive and 479B will be updated as of July 1, 2024.

- 1) Federal Pell Grants;
 - 2) Teach Grants;
 - 3) Federal Work Study Programs;
 - 4) Federal Perkins Loans;
 - 5) Student financial assistance received under the Bureau of Indian Education;
 - 6) Higher Education Tribal Grant;
 - 7) Tribally Controlled Colleges or Universities Grant Program; and
 - 8) Employment training program under section 134 of the Workforce Innovation and Opportunity Act (WIOA).

- b. Other Student Financial Assistance

Other student financial assistance means a grant or scholarship received from:

- 1) The federal government;
 - 2) A state (including U.S. territories), Tribe, or local government;
 - 3) A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);
 - 4) A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
 - 5) An institution of higher education.

- 6) A grant would include:
 - a) A qualified tuition remission, reduction, waiver, or reimbursement (i.e., amounts received as reimbursement for the student's paid costs of tuition, books, and fees, etc.) by the educational institution, such as for an employee of the institution of higher education or an eligible family member of that employee.
 - b) Assistance provided by an employer as part of an employee educational assistance program or tuition reimbursement program.
 - c. Other student financial assistance must be for educational expenses and does not include:
 - 1) Any assistance that is excluded.
 - 2) Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded under Section 479B of the HEA).
 - 3) Amounts received under work study may be excluded if:
 - a) Provided pursuant to Title IV of HEA; or
 - b) To the extent that the work study is being performed by a dependent full-time student.
 - 4) Non-recurring gifts, including non-recurring gifts from family or friends.
Gifts that are recurring and otherwise do not meet the criteria for the income exclusion for gifts would be counted as income, regardless of whether the recipient of the gift is a student.
 - 5) Any amount of the scholarship or grant that either by itself or in combination with the excluded financial assistance under Section 479B of the HEA, exceeds the actual covered costs of the student.
2. Actual Covered Costs
- a. The actual covered costs of the student are the actual costs of:
 - 1) Tuition,
 - 2) Books and supplies (including supplies and equipment to support students with learning disabilities or other disabilities),
 - 3) Room and board, or
 - 4) Other fees required and charged to a student by the education institution, and
 - 5) For a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit (i.e., the student is living in off-campus/non-college owned housing while away at school instead of a dorm or college owned housing).

b. All assistance under Section 479B of the HEA is excluded from income, regardless of whether those amounts exceed the actual covered costs described above.

1) Student financial assistance must be:

- a) Expressly for tuition, books, room and board, or other fees required and charged to a student by the education institution;
- b) Expressly to assist a student with the costs of higher education; or
- c) Expressly to assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the education institution and not residing in an assisted unit.

2) Student financial assistance may be paid directly to the student or to the educational institution on the student's behalf.

3) Student financial assistance paid to the student must be verified by the PHA as student financial assistance.

3. Calculating the Amount of Other Student Financial Assistance

All assistance received under Section 479B of the HEA by students participating in the public housing program is excluded from income. Other student financial assistance received by the student that, either by itself or in combination with HEA assistance, exceeds the actual covered costs is not excluded from income.

a. When determining the amount of other financial assistance in excess of actual covered costs, the financial assistance provided under Section 479B of the HEA will be the first student financial assistance deducted from the actual covered costs.

1) The financial assistance under Section 479B of the HEA is intended to pay the actual covered costs.

2) HUD has determined that financial assistance under Section 479B of the HEA must be the first amount subtracted from actual covered costs before any student financial assistance that HUD is excluding under HUD's discretionary exclusion authority.

b. When the student receives any financial assistance provided under Section 479B of the HEA, the amount of student's financial assistance is determined as follows:

1) If the amount of financial assistance excluded under Section 479B of the HEA exceeds the student's actual covered costs, then all of the amounts received from all financial assistance (other scholarships or grants), the student receives from other sources would be in excess of the actual covered costs and would not be considered student financial assistance that is excluded from income.

2) If the amount of financial assistance excluded under Section 479B of the HEA is less than the student's actual covered costs, then some or all of the amount of

financial assistance (other scholarships and grants), that would be excluded from income is the lower of:

- a) The total amount of student financial assistance (scholarships and grants) the student received that are not excluded under Section 479B of the HEA; or
- b) The amount by which the student's actual covered costs exceeds the financial assistance the student received that is excluded under Section 479B of the HEA.

G. Net Family Assets

The net family assets is the net cash value of all assets owned by the family after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other form of capital investments. Any type of asset not specifically excluded will be included in the calculation of net family assets.

1. All assets are categorized as either real property (e.g., land, a home) or personal property.
2. Any type of asset not specifically excluded will be included in the calculation of net family assets.
3. Real Property Equity

Real property includes land or real estate owned by a member of the family.

- a. 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).
- b. The PHA will calculate the equity in real property using the following formula:
$$\text{Market Value} - \text{Loan (mortgage)} = \text{Equity}$$
- c. The PHA will calculate the cash value of real property using the following formula:
$$\text{Equity} - \text{Expenses to convert to cash} = \text{Cash Value}$$
- d. Expenses to convert the real property to cash value may include but are not limited to costs such as sales commissions, settlement/closing costs, transfer taxes, attorney fees, appraisal fees, monetary liens on the real property, and repair costs, etc., if applicable.

4. Life Insurance Policies

Cash value of life insurance policies.

5. Tax Refunds or Refundable Tax Credits

- a. The anticipated income earned by the assets in which a family has deposited their federal tax refund or refundable tax credits must be included in the family's annual income unless the income is specifically excluded.
 - 1) At the time of an annual or interim reexamination of income, if the federal tax refund was received during the 12 months preceding the effective date of the reexamination, the PHA will subtract from the total value of the account in which

the federal tax refund or refundable tax credits were deposited the amount of the refund that was received by the family.

- 2) When the subtraction results in a negative number, then the balance of the asset is considered \$0.
 - b. If the tax refund or refundable tax credit is deposited into another excluded asset, such as a retirement account or a Coverdell Education Savings Account, then the deposit will have no effect on the balance of the asset (i.e., there is no need for the PHA to subtract the amount of the deposit from the value of the excluded asset).
6. 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.

a. Trust as Net Family Assets

For revocable trusts, the grantor can terminate and/or amend the trust at any time for any reason before his or her death.

- 1) A revocable trust that is under the control of the family or household (e.g., the grantor is a member of the assisted family or household) is included in net family assets, and, therefore, income earned on the trust is included in the family's income from assets.
- 2) If the PHA determines that the revocable trust is included in the calculation of net family assets, the actual income earned by the revocable trust is also included in the family's income.
- 3) If the PHA determines that an irrevocable trust is excluded from net family assets, the PHA will not consider actual income earned by the trust (e.g., interest earned, rental income if property is held in the trust) for so long as the income from the trust is not distributed.
- 4) The PHA will calculate imputed income on the revocable trust if net family assets are more than \$50,000, as adjusted by inflation, and actual income from the trust cannot be calculated (e.g., if the trust is comprised of farmland that is not in use).

b. Trust Distributions and Annual Income

- 1) Revocable trust considered part of net family assets:

If the value of the trust is considered part of the family's net assets, then distributions from the trust are not considered income to the family.

- 2) Revocable or irrevocable trust not considered part of net family assets:

If the value of the trust is not considered part of the family's net assets, then distributions from the trust are treated as follows:

- a) All distributions from the trust's principal are excluded from income.

- b) Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

Trust Type	Is the Trust Considered a Net Family Asset?	Is the Actual Interest Earned by the Trust Considered Family Income?	Are Distributions of Trust Principal Considered Family Income?	Are Distributions of Interest Earned on the Trust Principal Considered Family Income?
Revocable Grantor is not part of the assisted family or household (and the family or household is not otherwise in control of the trust)	No	No	No	Yes, unless the distributions are used to pay for the health and medical expenses for a minor.
Revocable Grantor is part of the assisted family or household (or the trust is otherwise under control of the family or household)	Yes	Yes	No	No
Irrevocable (Typically, Special Needs Trusts or irrevocable.)	No	No	No	Yes, unless the distributions are used to pay for the health and medical expenses for a minor.

7. Assets Jointly Owned

- a. For assets jointly owned by the family and one or more individuals outside of the assisted family, the PHA will include the total value of the asset in the calculation of net family assets, unless the asset is otherwise excluded, or unless the assisted family can demonstrate that the asset is inaccessible to them, or that they cannot dispose of any portion of the asset without the consent of another owner who refuses to comply.
- b. If the family demonstrates that they can only access a portion of an asset, then only that portion's value shall be included in the calculation of net family assets for the family.
- c. Any income from a jointly owned asset must be included in annual income, unless that income is specifically excluded, or unless the family demonstrates that they do not have access to the income from that asset, or that they only have access to a portion of the income from that asset.
- d. If a family member is a beneficiary who is entitled to access the account's funds only upon the death of the account's owner, and may not otherwise withdraw funds from an account, then the account is not an asset to the assisted family, and the family should provide proper documentation demonstrating that they are only a beneficiary on the account.

8. Assets Owned by Business Entity

- a. If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets.
- b. If the family holds the assets in their own name rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets.

9. Assets Disposed of for Less than Fair Market Value

In determining net family assets, the PHA will include the value of any business or family assets disposed of by an applicant or family member 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.

- a. 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 member receives consideration not measurable in dollar terms.
- b. An asset moved to a retirement account held by a family member is not considered to be an asset disposed of for less than fair market value.
- c. The PHA will count as an asset the difference between the cash value and the actual amount received for the asset disposed of for less than market value during the two (2) years preceding the date of application for the PHA or reexamination, if the cumulative fair market value of the asset disposed of exceed the gross amount of the asset by \$2,000.

H. Necessary Personal Property and Non-Necessary Personal Property

The PHA's determination on what is a necessary personal property and what is non-personal personal property is a fact-specific determination, and therefore the PHA will gather enough facts to qualify whether an asset is necessary or non-necessary personal property. Items of personal property that do not qualify as necessary personal property will be classified as non-necessary personal property.

1. Necessary Personal Property

- a. Includes more than merely items that are indispensable to the bare existence of the family.
- b. Necessary personal property are items essential to the family for the maintenance, use, and occupancy of the premises as a home or they are necessary for employment, education, or health and wellness.

- c. Necessary personal property includes but may not be limited to:
 - 1) Personal effects (such as items that are ordinarily worn or utilized by the individual), items that are convenient or useful to a reasonable existence, and items that support and facilitate daily life within the family's home.
 - 2) Items that assist family members with a disability, including any items related to disability-related needs, or that may be required for a reasonable accommodation for a person with a disability.
 - 3) Necessary personal property does not include bank accounts, other financial investments, or luxury items.
2. Non-Necessary Personal Property
 - a. Non-necessary personal property with a combined value that does not exceed \$50,000, as adjusted by inflation, is excluded from net family assets.
 - b. Non-necessary personal property with a combined value greater than \$50,000, as adjusted by inflation, is considered part of net family assets.
3. The following table lists examples of necessary and non-necessary personal property. This is not an exhaustive list.
 - a. Necessary personal property is excluded from net family assets.
 - b. Items of personal property that do not qualify as necessary personal property will be classified as non-necessary personal property.

Examples of Necessary and Non-Necessary Personal Property

Necessary Personal Property	Non-Necessary Personal Property
• Car(s)/vehicle(s) that a family relies on for transportation for personal or business use (e.g., bike, motorcycle, skateboard, scooter) • Furniture, carpets, linens, kitchenware • Common appliances • Common electronics (e.g., radio, television, DVD player, gaming system) • Clothing • Personal effects that are not luxury items (e.g., toys, books) • Wedding and engagement rings • Jewelry used in religious/cultural celebrations and ceremonies • Religious and cultural items • Medical equipment and supplies • Health care-related supplies • Musical instruments used by the family • Personal computers, phones, tablets, and related equipment • Professional tools of trade of the family, for example professional books	• Recreational car/vehicle not needed for day-to-day transportation (campers, motorhomes, travel trailers, all-terrain vehicles (ATVs)) • Bank accounts or other financial investments (e.g., checking account, savings account, stocks/bonds) • Recreational boat/watercraft • Expensive jewelry without religious or cultural value, or which does not hold family significance • Collectibles (e.g., coins/stamps) • Equipment/machinery that is not used to generate income for a business • Items such as gems/precious metals, antique cars, artwork, etc.

Necessary Personal Property	Non-Necessary Personal Property
- Educational materials and equipment used by the family, including equipment to accommodate persons with disabilities - Equipment used for exercising (e.g., treadmill, stationary bike, kayak, paddleboard, ski equipment)	

I. Net Family Assets Do Not Include

Given that there are many categories of funds that would be considered assets and should be included in asset calculations, HUD does not believe that the regulation should specify every form of asset. Instead, any type of asset not specifically excluded should be included in the calculation of net family assets.

Required exclusions from net family assets include the following:

1. The value of necessary items of personal property.
2. The combined value of all non-necessary items of personal property, if the combined total value does not exceed \$50,000 (adjusted annually by HUD for inflation).
3. The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including:
 - a. Individual Retirement Arrangements (IRAs)
 - b. Employer retirement plans (e.g., 401(k), 403(b))
 - c. Retirement plans for self-employed individuals (Keogh)
4. The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located.
 - a. Co-ownership situations (including situations where one (1) owner is a survivor of a VAWA violence/abuse)
 - b. Where one (1) party cannot unilaterally sell the real property
 - c. Property that is tied up in litigation
 - d. Inherited property is in dispute
5. Civil Action, Malpractice, or Negligence Payments

Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family being a person with disabilities.
6. The value of certain education or disability support savings account, including the value of any:
 - a. Coverdell education savings account under Section 530 of the internal Revenue Code of 1986

- b. Qualified tuition program under Section 529 of such Code
- c. Achieving a Better Life Experience (ABLE) account authorized under Section 526A of such Code
 - 1) ABLE accounts are excluded from the definition of net family assets, and therefore income generated from such accounts is not considered when calculating income from assets.
 - 2) Distributions from these accounts are also excluded from income.
- d. Baby bond account created, authorized, or funded by a federal, state, or local government (money held in trust by the government for children until they are adults).
- 7. Interest in Indian trust lands.
- 8. Equity in a manufactured home where the family receives HCV program assistance.
- 9. Equity in property under the Homeownership Option for which the family receives assistance under the HCV program.
- 10. Family Self-Sufficiency accounts.
- 11. Federal tax refunds or refundable tax credits, including EITC, for a period of 12 months after receipt by the family.

Only the amount of federal tax refunds or refundable tax credits the family receives is excluded from net family assets, not the amount the family was supposed to receive.
- 12. Trust Funds
 - a. The full amount of assets held in an irrevocable trust.
 - b. Revocable Trust
 - 1) When a member of the assisted family is the beneficiary of a revocable trust, but the grantor is not a member of the assisted family, the beneficiary does not "own" the revocable trust, and the value of the trust is excluded from net family assets.
 - 2) For the revocable trust to be considered excluded from net family assets, no family or household member may be the account's trustee.
- 13. Term life insurance policies with no cash value
- 14. Assets not controlled by or accessible to the family and which provide no income for the family.

A survivor of VAWA violence/abuse who because of the VAWA violence/abuse no longer has access to the real property and cannot convert it to cash.

J. Actual and Imputed Income from Net Family Assets

When the value of net family assets exceeds \$50,000 (adjusted annually by HUD for inflation) and the actual returns from a given asset cannot be calculated, imputed returns on the asset

based on the current passbook savings rate, as determined by HUD, are include in annual income.

1. Determining the Net Cash Value of an Asset

- a. The PHA must determine the market value of an asset then calculate the cash value by subtracting the reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investments.

- b. Reasonable Costs

Reasonable costs includes but are not limited to costs such as:

- 1) Penalties for premature withdrawal, 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. Assets with Negative Equity

- a. The cash value of real property or other assets with negative equity would be considered \$0 for the purposes of calculating net family assets.
- b. Negative equity in real property or other investments does not prohibit the family from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

3. Actual Income from Assets

Actual income from assets is always included in a family's (including minors) annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded.

- a. Income or returns from assets are generally considered to be interest, dividend payments, and other actual income earned on the asset, and not the increase in market value of the asset.
- b. The increase in market value is relevant to the cash value of the asset for the purpose of determining total net family assets and imputing income.

4. Imputed Income from Assets

Imputed income from assets is no longer determined based on the greater of actual or imputed income from the assets.

- a. The PHA will calculate imputed asset income for specific assets when three conditions are met:
 - 1) The value of net family assets exceeds \$50,000 (adjusted annually by HUD for inflation);

- 2) The specific asset is included in net family assets; and
 - 3) Actual asset income cannot be calculated for the specific asset.
 - b. If the actual income from assets can be computed for some assets but not all assets, the PHA will:
 - 1) Add the actual income from the assets, where actual income can be calculated, then
 - 2) Calculate the imputed income for the assets where actual income could not be calculated.
 - c. After the PHA has calculated both the actual income and imputed income, the PHA will combine both amounts to account for income on net family assets with a combined value of over \$50,000.
 - d. If the family's net family assets does not exceed \$50,000 (adjusted annually by HUD for inflation), imputed income is not calculated.
 - e. If the actual income for an asset, which can equal \$0, can be calculated, imputed income is not calculated for that asset.
 - f. Imputed asset income is never calculated on assets that are excluded from net family assets.
5. Summary Decisions for Determining Income from Assets
- The following scenarios will determine how the PHA determines the income from net family assets.
- a. If net family assets exceed \$50,000 (adjusted annual by HUD for inflation), and the actual income can be calculated on all assets:
 - 1) Annual income will includes only actual income on assets (no imputed income).
 - 2) The PHA will obtain third-party verification.
 - b. If net family assets exceed \$50,000 (adjusted annual by HUD for inflation), and the actual income cannot be calculated on all assets:
 - 1) Annual income will include the total of actual income that can be calculated and imputed income for all remaining net family assets where the actual income cannot be calculated.
 - 2) The PHA will obtain third-party verification.
 - c. If net family assets does not exceed \$50,000 (adjusted annual by HUD for inflation):
 - 1) The annual income includes only the actual income on assets (no imputed income).
 - 2) The PHA may accept the family's self-certification of net family assets.

K. Passbook Rate Determination

Annually HUD will publish the passbook rate based on the Federal Deposit Insurance Corporation (FDIC) National Deposit Rate for savings accounts, which is an average of national savings rates published on a monthly basis.

1. The PHA will use the HUD-published passbook rate when calculating imputed asset income for net family assets that exceed \$50,000 (annually adjusted by HUD for inflation)
 - a. HUD does not authorize the PHA to set its own passbook rate.
 - b. The PHA must use the HUD-published passbook rate.
2. The HUD-published passbook rate will be posted to a dataset on the HUDUser Web site, alongside annual inflationary adjustments.
3. To determine the passbook rate for the next calendar year, HUD will average the most recent three (3) months of FDIC updates to the National Deposit Rate for savings accounts, rounded to the nearest hundredth of 1 percent.
4. In order to ensure updated passbook rates may be used for reexaminations with an effective date of January 1, HUD will calculate the update in July each year, using FDIC data from April, May, and June for publication on HUDUser not later than September 1.

L. Calculation of Annual Income

The PHA must calculate family annual income as follows:

1. Initial Admission and Interim Reexaminations

The PHA will use anticipated income, including asset income, (current income – i.e., the family's estimated income for the upcoming 12-month period) to determine the family's annual income at time of admission to the public housing program or during an interim reexamination.

2. Annual Reexaminations

The PHA must determine the income of the family for the previous 12-month period and use this amount as the family income for annual reexaminations except where the PHA uses a streamlined income.

- a. The previous 12-month period is the is the 12 months prior to the income calculation and not the previous calendar year.
- b. If the PHA determines that the family's previous 12-month's income does not reflect the family's current income, the PHA will adjust the income determination by:
 - 1) Taking into consideration any redetermination of income during the previous 12-month period resulting from an interim reexamination of the family; and
 - 2) Making adjustments to reflect current income if there was a change in income during the previous 12-month period that was not accounted for in the redetermination of income. A change in income may be:

- a) A loss of income
 - b) The addition of a new source of income
 - c) Cost of Living Adjustments (COLA) to Social Security and Social Security Disability Income
 - d) Changing to a different employer in the prior year does not necessarily constitute a change if the income earned from either employer is substantially the same.
- c. Steps in Calculating Annual Income at Annual Reexamination
- 1) Step 1: Determine the annual income for the previous 12-month period
 - a) If there have been no changes to income beyond this calculation, then this is the amount that will be used to determine the family's rental assistance.
 - b) The PHA will review the following information to determine prior-year income:
 - (1) The EIV Income Report (must be generated within 120 days of the effective date of the annual reexamination to be considered current);
 - (2) The income reported on the most recent reexamination on form HUD-50058; and
 - (3) What the family certified to on the PHA's annual reexamination paperwork for prior-year income.
 - 2) Step 2: The PHA will take into consideration any interim reexamination of family income completed since the last annual reexamination.
 - a) If there was an interim reexamination performed, the PHA will use the annual income from the interim reexamination to determine the family's rental assistance, if there are no additional changes.
 - b) If the PHA did not perform an interim reexamination or there have been changes since the last reexamination, move to Step 3.
 - 3) Step 3: If there were changes in annual income not processed by the PHA since the last reexamination, use current income.
 - a) Family reports their income for the prior year and whether there have been permanent changes.
 - b) If there are no reported changes to an income source, the PHA may use documentation of the prior-year income to calculate the annual income used for the current annual reexamination on form HUD-50058. The PHA could use the following documentation and certification from the family:
 - (1) EIV + self-certification (wages, SSI, Social Security, and unemployment).
 - (2) Current Level 4 documents verifying prior-year income that are dated within the required, 120 days of receipt by the PHA, timeframe, such as:

- (a) Year-end statement
 - (b) Paycheck with year-to-date amount
 - (c) Tax forms (Form 1040, W2, 1099, etc.)
 - c) If there are reported changes by the family or if the PHA notes discrepancies between EIV and what the family reports, the PHA will follow the Verification Hierarchy to document and verify income.
3. Use of Other Programs' Determination of Income, "Safe Harbor"
- a. The PHA will use , but is not required to, use income calculation information from other programs or agencies to determine the family's income prior to applying deductions based on timely income determinations made within the previous 12-month period for the purposes of the following means-tested forms of federal public assistance.
 - 1) The Temporary Assistance for Needy Families (TANF) block grant
 - 2) Medicaid
 - 3) The Supplemental Nutrition Assistance Program (SNAP)
 - 4) The Earned Income Tax Credit (EITC)
 - 5) The Low-Income Housing Credit (LIHTC)
 - 6) The Special Supplemental Nutrition Program for Woman, Infants, and Children (WIC)
 - 7) Supplemental Security Income (SSI)
 - 8) Other programs administered by the Secretary
 - 9) Other means-tested forms of federal public assistance for which HUD has established a memorandum of understanding
 - 10) Other Federal benefit determinations made in other forms of means-tested Federal public assistance that the Secretary determines to have comparable reliability and announces through the Federal Register
 - b. Verification of Other Programs' Determination of Income
 - 1) If the PHA uses the annual income determination made by an administrator for allowable forms of federal means-tested public assistance, the PHA must obtain it using the appropriate third-party verification.
 - a) The verification must indicate the tenant's family size and composition and state the amount of the family's annual income.
 - b) The verification must meet all HUD requirements related to the length of time that is permitted before the third-party verification is considered out-of-date and is no longer an eligible source of income verification, including within the

previous 12-month period for purposes of the specified means-tested forms of federal public assistance.

- c) If the family presents multiple verifications from the same or different acceptable programs, the PHA will accept the most recent income determination.

- 2) The PHA will calculate the family's annual income using the methods established in this Chapter if:

- a) The PHA cannot obtain the required third-party verification; or
- b) The family disputes acceptable programs' income determination.

- 4. Income from assets is always anticipated, irrespective of the income reexamination type.
- 5. Accuracy of Family Income Data: De Minimis Errors

A de minimis error is an error where the PHA determination of family income deviates from the correct income determination by no more than \$30 per month in monthly adjusted income (\$360 in annual adjusted income) per family.

- a. The PHA will not be considered out of compliance solely due to de minimis errors in calculating family income but is still obligated to correct errors once the PHA becomes aware of the errors.
- b. HUD may revise the amount of the de minimis error through a rulemaking published in the Federal Register for public comment.
- c. If the PHA becomes aware of the existence of an income calculation error, the PHA is obligated to correct the error(s) retroactive to the effective date of the action the error was made regardless of the dollar amount associated with the error.
- d. The PHA will take any corrective action necessary to **credit** a family if the family has been overcharged their tenant rent as a result of the de minimis error in the income determination.

- 1) The family will not be responsible for retroactive rent for errors made by the PHA in instances where the PHA has miscalculated income resulting in a family being undercharged the tenant rent.

- a) The PHA will notify the family in writing:

- (1) The total amount of the overcharged tenant rent; and
- (2) The effective date of the action of the overcharged tenant rent.

- b) The PHA will repay the overcharged tenant rent to the family by issuing the family a check for the overcharged tenant rent

- 2) The family will be responsible for retroactive rent if the tenant rent was based on false or incomplete information supplied by the applicant or participant family.

M. 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.

N. Earned Income Disallowance (or Disregard) 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. Elimination of EID

The EID will not apply to any family who is not eligible for and already participating in the disallowance as of December 31, 2023. No new families may be added.

- a. Families who were receiving the EID benefit as of December 31, 2023, may continue to receive the full benefit until the remaining timeframe for an individual family's EID expires without any regulatory changes.
- b. Because the EID lasts up to 24 consecutive months, no family will still be receiving the EID benefit after December 31, 2025.

c. Jobs Plus Earned Income Disregard (JPEID)

Families eligible to receive the Jobs Plus program rent incentive, JPEID pursuant to the FY2023 Notice of Funding Opportunity (NOFO) or earlier appropriation distributed through prior Jobs Plus NOFOs, may continue to receive JPEID under the terms of the NOFO.

- 1) This clarification is necessary to ensure that FY22 Jobs Plus grantees, as well as all prior Jobs Plus grantees, can offer JPEID as a rent incentive to individuals living at Jobs Plus target sites.
- 2) The JPEID was established by HUD as an alternative requirement to EID for Jobs Plus grantees.
- 3) This section will lapse on January 1, 2030.

2. 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.

3. EID Maximum Lifetime Benefit

Maximum 24 Straight Month Lifetime Disallowance Period

- a. Once the family member is determined to be eligible for the EID, the 24-calendar month period starts.
- b. 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.
- c. If the family member discontinues the employment that initially qualified the family member for the EID, the 24-calendar month period continues.
- d. During the 24-calendar month period, EID benefits are recalculated based on changes to family member's income and employment.
- e. 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).
- f. At the end of the 24-months, EID ends regardless of how many months were used.

O. 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 and permissive deductions and allowances.

P. 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.
- c. The dependent allowance will be adjusted annually by HUD for inflation, rounded to the next lowest multiple of \$25, and applies at the family's next annual or interim reexamination after the annual adjustment, whichever is sooner.

2. Elderly/Disabled Allowance

- a. \$525 per family for families whose head of household, spouse, or co-head is 62 years or older (elderly families) or who is a person with disabilities (disabled families).
- b. The elderly/disabled allowance of \$525 is effective January 1, 2024, and applies at the family's next annual or interim reexamination, whichever is sooner.
- c. Each elderly or disabled family is limited to one \$525 allowance even if both the head of household and spouse are elderly or persons with disabilities.
- d. The elderly/disabled allowance will be adjusted annually by HUD for inflation, rounded to the next lowest multiple of \$25.

3. Unreimbursed Childcare Expenses

Reasonable unreimbursed childcare expenses, (hereinafter referred to as childcare 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 childcare expense is necessary to enable a family member to be employed (e.g., work, look for work) or further their education (academic or vocational).
 - 1) Childcare expenses to enable a family member to work:
 - a) The childcare expenses to enable a family to work may not exceed the amount of employment (earned income) included in annual income.
 - b) The person enabled to work is the adult member of the family who earns the least amount of income from employment, unless it is obvious that another family member is enabled to work.
 - 2) Childcare expenses 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 expenses 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 expenses 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 expenses.
 - 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.

- 1) If only one custodian is an assisted family, the cost of childcare expenses will be pro-rated based on the percentage paid by each custodial parent.
- 2) 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 will not deduct the child support payments as a childcare expense.
 - h. Attendant care expenses for family members with disabilities over the age of 12 cannot be deducted as a childcare expense but may qualify as a reasonable attendant care expense.
 - 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 childcare need during school breaks and summer vacations for school age children aged 12 and under) and average the amount over 12 months. Should there be a significant variation from the estimated amount, the family may request an interim reexamination adjustment.
4. Health and Medical Care Expense
- The amount, if any, by which 10% of the family's annual income exceeds qualifying expenses.
- a. Qualifying expenses are the sum of the following expenses:
 - 1) Any unreimbursed health and medical care expenses for elderly/disabled families
 - a) Costs incurred for the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body.
 - b) Medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed.
 - 2) Any unreimbursed reasonable disability assistance expenses (DAE).
 - b. When sum of the qualifying expenses are less than 10% of annual income, the family will not receive a health and medical expense deduction.
 - c. Unreimbursed Health and Medical Care Expense Deduction
- The unreimbursed health and medical care 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).
- 1) If the family is eligible for the health and medical care expense deduction, the health and medical care expenses of all family members may be counted.

- 2) Health and medical care 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.
- 3) The health and medical care deduction is not intended to give a family a deduction to previous year's expenses, but to anticipate regular ongoing and anticipated health and medical care expenses during the coming year.
 - a) Past one-time nonrecurring health and medical care expenses that have been paid in full are not applicable when calculating anticipated health and medical care expenses.
 - b) If the family is under a payment plan, the PHA will count the health and medical care expense as anticipated.
 - c) The PHA may address the one-time health and medical care expenses by adding it to the family's total health and medical care expenses either:
 - (1) At the time the health and medical care expense occurs, through an interim reexamination, or
 - (2) At the upcoming annual reexamination.
 - (3) If the PHA added the one-time health and medical care expense at an interim reexamination, it cannot be added to the health and medical care expenses at the annual reexamination.
- 4) The PHA will include the following as a standard health and medical care expense deduction when determining the family's health and medical care expenses deduction:
 - a) The amount of unreimbursed out-of-pocket health and medical care for prescription drugs.
 - b) Any premiums incurred for a Medicare prescription drug plan.
 - c) The PHA will review each expense to determine whether it is eligible in accordance with HUD's definition of health and medical care expenses.
- d. Unreimbursed Reasonable Attendant Care and Auxiliary Apparatus 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.

 - 1) DAE may not be paid to a member of the family nor reimbursed by an outside source.

- 2) DAE Cap
 - a) The DAE may not exceed the combined earned income received by the family members who are 18 years of age or older who were able to work because of the attendant care or auxiliary apparatus.
 - b) The combined earned income received by the family members who are 18 years of age or older will determine the DAE cap.
 - c) If the DAE exceeds the combined earned income received by the family members who are 18 years of age or older who were able to work because of the attendant care or auxiliary apparatus, the DAE will be capped at the combined earned income.
- 3) 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:
 - a) In-home care
 - b) Adult day care
 - c) Nursing
 - d) Housekeeping
 - e) Personal care
 - f) Errand services
 - g) An interpreter for persons who are hearing impaired
 - h) Reader for persons with visual disabilities.
- 4) Auxiliary apparatus, including the cost of maintenance and upkeep, includes but is not limited to:
 - a) Wheelchairs (manual and electric)
 - b) Walkers
 - c) Scooters
 - d) Ramps to provide access to and from the unit
 - e) Devices to allow persons with visual disabilities to read or type
 - f) Modifications or adaptations to or special equipment added to vehicles to permit their use by the family member with a disability
 - g) The veterinarian, grooming, and food costs for a service animal
- 5) 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.

- 6) The PHA must be able to verify that there is a direct link between the DAE claimed by the family and the members of the family (including the family member who is a person with disabilities) enabled to go to work.
 - 7) 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.
 - 8) 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.
- e. Family Eligible for Disability Assistance Expenses and Childcare Expenses
- 1) 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.
 - 2) If both childcare and DAE are needed to enable a family member to work, the PHA will use the same employment income to justify the childcare expense and the DAE.
 - 3) For Disability Assistance Expenses:
The combined earned income received by the family members who are 18 years of age or older who were able to work because of the attendant care or auxiliary apparatus will be used to determine the cap on the DAE.
 - 4) For Childcare Expenses:
 - a) The childcare expenses must be reasonable.
 - b) 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.
 - c) If the childcare expenses are associated with attending school or seeking employment, there is no cap.

5. Permissive/Additional Deductions

The PHA may adopt permissive (additional) deductions from annual income.

- a. Permissive deductions may be used to respond to a wide range community needs including to encourage self-sufficiency and economic mobility or to provide incentives to work.
- b. The PHA may adopt permissible deductions provided the amounts are not already deducted from annual income or reimbursed to the family from other sources.

- c. If the PHA adopts permissive deductions, the PHA must:
 - 1) Have sufficient funding to cover the loss in rental income as that loss is not compensated by an increase in operating subsidy;
 - 2) Grant the permissive deductions to all families that qualify for them; and
 - 3) Apply the permissive deductions consistently.
- d. When establishing permissive deductions, PHAs are still subject to federal nondiscrimination requirements, including the obligation to provide reasonable accommodations that may be necessary for households with family members with disabilities.
- e. Permissive deductions may not materially increase federal expenditures.
- f. If the PHA adopts permissive deductions, the PHA will not be eligible for an increase in Capital Fund and Operating Fund formula grants based on the application of the permissive deductions.
- g. Permissive Deductions and Tenant Rent
 - 1) Permissive deductions do not affect the family's annual income and consequently have no impact on the family's income eligibility for the public housing program.
 - 2) Permissive deductions impact the calculation of the family's adjusted income that is used to determine the TTP, which is then used to calculate the tenant rent in the public housing program.
- h. The PHA has elected not to adopt permissive deductions.

Q. Hardship Exemptions for Unreimbursed Health and Medical Care and DAE

The PHA has established financial hardship exemptions for families affected by the statutory increase in the threshold for the unreimbursed health and medical care expenses and reasonable attendant care and auxiliary apparatus expenses.

- 1. There are two (2) categories of hardship exemptions to the 10% threshold for unreimbursed health and medical care expenses and reasonable attendant care and auxiliary apparatus expenses.
- 2. Category 1: Phased-In Relief: Families Already Receiving a Health and Medical Deduction
Is for families eligible for and receiving the unreimbursed health and medical care expenses and/or reasonable attendant care and auxiliary apparatus expenses deduction in effect prior to February 14, 2023.

a. Eligibility for Relief

To receive the phase-in hardship relief, the family must have been receiving a deduction from annual income of qualified health and medical expenses exceeding 3% of annual income as of January 1, 2024.

b. Form and Duration of Relief

- 1) First Year: The PHA will deduct eligible expenses exceeding 5% of the family's annual income.
- 2) Second Year: The PHA will deduct expenses exceeding 7.5% of the family's annual income.
- 3) Third Year: 24 months after the initial relief, the phase-in hardship exemption expires, the PHA will deduct eligible expenses exceeding 10% of the family's annual income, unless the family requests, before the end of the 24-month transition period and qualifies for a new exemption under Category 2.
- 4) Once the family chooses to obtain relief under Category 2, the family will no longer be eligible to receive Category 1 relief, even if the family has not finished the 24-month period.

c. The PHA will track the 24-month phase-period for each eligible family, even if a family's expenses go below the appropriate phase-in percentage, during the first or second 12-month phase-in period.

d. The phase-in must also continue for families who move to another public housing unit at the same PHA.

3. Category 2: General Financial Hardships: Families Who Can Demonstrate a Financial Hardship

Provides financial relief for an elderly or disabled family or a family that includes a person with disabilities, who were not receiving the deduction from annual income of qualified unreimbursed health and medical care expenses and/or reasonable attendant care and auxiliary apparatus expenses deduction or may not have been receiving housing assistance, that is experiencing a financial hardship due to the change in the threshold.

a. Eligibility for Relief

- 1) The family must demonstrate that the family's applicable health and medical care expenses or reasonable attendant care and auxiliary apparatus expenses increased, or the family's financial hardship is a result of a change in circumstances that would not otherwise trigger an interim reexamination.

- a) Relief is available regardless of whether the family previously received an unreimbursed health and medical care expense deduction, unreimbursed reasonable attendant care, and auxiliary apparatus expense deduction, are

currently receiving phased-in hardship relief, or were previously eligible for either the General Financial Hardship or the Phased-in Relief.

- b) The family may have had qualifying medical care expenses that did not exceed the 3% threshold, but whose health and medical care expenses increased, but did not exceed the new 10% threshold.

2) PHA's definition of change in circumstances includes but is not limited to: a decrease in income, a change in family composition, or change in circumstances as determined by the PHA on a case-by-case basis.

b. Form and Duration of Relief

- 1) The family will receive a deduction for the sum of the eligible expenses exceeding 5% of annual income.
- 2) The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever comes earlier.
- 3) The PHA will extend the relief while the family's hardship condition continues.
 - a) The PHA will extend the relief for one additional 90-day period.
 - b) For any additional general financial hardship request, the PHA will review the hardship condition on a case-by-case basis.

c. Verification of the Financial Hardship

- 1) The PHA will obtain third-party verification of the financial hardship or document in the family file the reason why third-party verification was not available.
 - 2) The PHA will attempt to obtain the third-party verification prior to the end of the 90-day financial hardship period.
- d. The PHA will not conduct an interim reexamination to add, remove, or to extend a hardship exemption, unless another change experienced by the family triggers an interim reexamination under the applicable regulation or in accordance with the PHA's policies on conducting interim reexaminations for adjusted income decreases that are less than 10%.

Instead, the PHA will process and submit a non-interim reexamination transaction.

R. Hardship Exemptions for Childcare Expenses

A family whose eligibility for the childcare expense deduction is ending may request a financial hardship exemption to continue the deduction.

1. Eligibility for Relief

The family must demonstrate that the family is unable to pay the family's rent because of loss of the childcare deduction, and the childcare expense is still necessary even though the family member is no longer employed or furthering education.

2. Form and Duration of Relief

a. The hardship exemption and the resulting alternative adjusted income calculation must remain in place for a period of up to 90 days.

b. The PHA will extend the relief while the family's childcare hardship condition continues.

1) The PHA will extend the relief for one additional 90-day period.

2) For any additional childcare hardship request, the PHA will review the hardship condition on a case-by-case basis.

c. The PHA may terminate the hardship exemption if the PHA determines that the family's financial hardship no longer exist.

3. Childcare Financial Hardships

The PHA has established the following to constitute a financial hardship for the purposes of the childcare expense hardship exemption:

a. A loss of wages

1) Laid-off from employment

2) Reduction in hours

3) Strike

4) Accidents, injuries, or illnesses

5) Pregnancy/maternity or fraternity leave

b. No longer furthering education

1) Withdrawal due to no student financial assistance

2) School breaks

4. Verification of the Family's Inability to Pay Rent

a. The PHA will obtain third-party verification of the family's inability to pay rent or document in the family file the reason why third-party verification was not available.

b. The PHA will attempt to obtain the third-party verification prior to the end of the 90-day financial hardship period.

5. The PHA will recalculate the family's adjusted income and continue the childcare deduction if the family demonstrates to the PHA's satisfaction that the family is unable to pay the family's rent because of loss of the childcare expense deduction, and the childcare expense

is still necessary even though the family member is no longer employed or furthering his or her education.

S. PHA Financial Hardship Policy

The PHA has established a policy on how the PHA defines what constitutes a hardship and how the PHA will determine the family's inability to pay the rent, for purposes of determining eligibility for a hardship exemption.

1. The PHA's definition of a financial hardship for the purpose of providing hardship exemptions for unreimbursed health and medical care expenses, reasonable attendant care and auxiliary apparatus expenses, and unreimbursed childcare expenses includes but is not limited to the following circumstances in which the family:
 - a. Experienced an income (earned or unearned) decrease because of a change in circumstances, including the loss of employment and/or change in household composition.
 - b. Would be evicted as a result of imposing the statutory increase in the threshold for the unreimbursed health and medical care expenses and reasonable attendant care and auxiliary apparatus expenses.
 - c. Requires a reasonable accommodation related to a family member's disability.
 - d. May have had other financial hardship situations as determined by the PHA on a case-by-case basis.
2. The PHA's determination of family's inability to pay the tenant rent.
 - a. The PHA will consider a family's inability to pay the tenant rent when:
 - 1) The family request a financial hardship exemption in writing;
 - b. The PHA may request documentation of the financial hardship to determine if a financial hardship exist.
 - c. If the family requests a financial hardship exemption, the PHA will determine if the family is eligible for the relief.
 - d. If the family is eligible for the relief, the family will receive the respective form and duration of the relief.
 - e. If the PHA determines there is no qualifying financial hardship, the family will not receive the financial hardship exemption.
 - f. Denial of a financial hardship exemption is subject to the PHA's informal hearing process.
3. Family Notification

The PHA will promptly, within 10 calendar days, notify the family in writing of the PHA's determination of the family's request for a hardship exemption.

a. Approval of Hardship Exemption

- 1) The PHA will, within 10 calendar days of the determination, notify the family in writing of the family's approval for the hardship exemption and change in the determination of adjusted income resulting from the hardship exemption.
- 2) The notice will inform the family:
 - a) When the hardship exemption will begin and expire (i.e., the respective time periods or within 90 days or at such time as the PHA determines the exemption is no longer necessary);
 - b) The requirement for the family to report timely if the circumstances that made the family eligible for relief are no longer applicable; and
 - c) The adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption.
- 3) The PHA will provide families at least a 30-days' notice of any increase in the tenant rent.

b. Denial of the Hardship Exemption

1. The PHA will promptly, within 10 calendar days of the determination, notify the family in writing of the denial of either an initial hardship exemption or an additional 90-day extension of the hardship exemption.
2. The notice will specify the reason for the denial.
3. Denial of the hardship exemption is subject to the PHA's informal hearing process.

c. Termination of the Hardship Exemption

- 1) The PHA will notify the family if the hardship exemption is no longer necessary and will be terminated because the circumstances that made the family eligible for the exemption are no longer applicable.
- 2) The notice must:
 - a) State the termination date; and
 - b) Provide a 30-days' notice of increases in tenant, if applicable.

T. HUD's Annually Published Inflation Adjustments

HUD will annually publish the eight inflation-adjusted items no later than September 1, and the updated values will be shared online at the HUDUser Web site. The revised amounts will be effective on January 1 of the following year.

The PHA must use the adjusted levels post to HUDUser for income and asset calculations effective on or after January 1 of the following year.

HUD plans to publish in the Federal Register a notice soliciting the public's comment on HUD's methodology for recalculating inflationary adjusted items.

DRAFT

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 120-day period preceding the reexamination or PHA request date.
4. Income verifications will remain valid for 120 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. Attendance care and auxiliary apparatus 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.
- l. Preferences applicable to placement on and selection from the waiting list based on the selection preferences adopted by the PHA.

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 HUD administrative guidance, the PHA will utilize HUD's EIV System in its entirety, including using all of the required reports, such as the Existing Tenant Search and Income Reports, to verify tenant employment and income information.
2. The PHA will utilize HUD's EIV System to:
 - a. Verify tenant employment and income information at annual reexamination and interim reexaminations of family composition and income; and
 - b. Reduce administrative and subsidy payment errors.
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. 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 1 documented attempt or if ten (10) 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 an Information Needed 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 Information Needed 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. Verification Hierarchy Techniques

1. Level 6/5 (Highest): Upfront Income Verification (UIV), using HUD's Enterprise Income Verification (EIV) System:
 - 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.
 - c. The PHA is encouraged to use other non-HUD UIV tools, such as The Work Number (an automated verification system) cccverify.com, valutverify.com, and state government databases to verify tenant-reported income.

NOTE: NOT AVAILABLE FOR INCOME VERIFICATION OF APPLICANTS

2. Level 4 (High): Written Third Party Verification:

a. Tenant Provided Documents

- 1) The PHA will accept an original or authentic document in the possession of the applicant or tenant generated by a third-party source dated within the 120 days of the date received by the PHA.
- 2) For fixed income sources, a statement dated within the appropriate benefit year is acceptable documentation.
- 3) The PHA may obtain any tenant-provided documents and follow up directly with the third-party source to obtain necessary verification of information, when necessary.

b. Acceptable Level 4 verification includes but are not limited to:

1) Pay stubs

For new income sources or when two (2) pay stubs are not available, the PHA will determine income using Level 3 (a traditional written third-party verification form) verification or the best available information.

- 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

When verification of assets is required, the PHA will obtain a minimum of one (1) statement that reflects the current balance of banking/financial accounts.

- 8) Child support payment stubs/printout
- 9) Unemployment benefit notice
- 10) Welfare benefit letters/printout

- 11) Income tax returns with corresponding official tax forms and schedules attached, including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary or transmittal from online source, etc.).

c. EIV + Self-Certification

1. EIV may be used as Level 4 verification and may be used to calculate income as long as the family agrees with the information in EIV.
2. If EIV Income Report indicates four (4) or more quarters, the PHA will use the last four (4) quarters combined to calculate the annual income.

3. If EIV Income Report indicates less than four (4) quarters, the PHA will average the number of quarters indicated to calculate the annual income.
4. The PHA is required to obtain a minimum of two (2) current and consecutive pay stubs for determining annual income from wages when:
 - a) The PHA does not elect to use EIV + Self-Certification, or
 - b) The income type is not reported in EIV.
5. The EIV Income Report must be generated within 120 days prior to the reexamination effective date.
- d. The PHA may reject documentation/verification provided by the family for the following PHA-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 a forged document (i.e., does not appear to be authentic).
3. Level 3 (Medium): 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.
 - b. 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.).
 - c. The PHA will send a verification request form directly (by mail, fax or email) to the third-party source to obtain information, recording the source, date, and method of the request for information.
 - d. The PHA will ensure to protect the family's personally identifiable information (PII).
 - e. The PHA may skip Level 3 verification before attempting Level 2 verification.
4. Level 2 (Medium): Oral Third-Party Verification:
 - a. The PHA shall attempt to obtain the third-party verification by contacting the individual income/expense source(s) as identified through the UIV technique, or identified by the family, via telephone.

- b. The PHA will use Level 2 verification if the family is unable to provide Level 4 verification within 10 business days or the Level 3 source does not respond to the PHA's mail, fax, or email within 10 business days of the date of the Level 3 verification.
 - 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 10 business 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.
 - f. The PHA may skip Level 2 verification before attempting Level 1 verification if the PHA has attempted Level 3 verification.
5. Level 1 (Low): 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 a notarized sworn statement (with penalty of perjury) and affidavit of the reported income and/or expenses from the family.
 - d. The PHA will document in the family file why third-party verification was not available.
6. 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. 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

F. Verification of Date of Birth

The PHA will verify the date of birth for all household members to reduce the number of identify failures resulting from an incorrect date of birth. The PHA will use the following to verify the date of birth:

1. Birth certificate
2. Certificate of birth
 - a. A certificate of live birth filed with the registrar of the county of birth.
 - b. The certificate of live birth must contain information as per the county where filed such as but not limited to:
 - 1) The child's name
 - 2) Date of birth
 - 3) Place of birth
 - 4) Time of birth, if known
 - 5) The name, signature, and date of the physician or other person (midwife) who certifies that the child was born alive on the date, place, and time stated on the certificate of birth
3. Valid faith-based record for birth (such as a baptism, confirmation, bar mitzvah, or bat mitzvah showing age or date of birth)
4. U.S. Naturalization certification
5. Passport
6. Alien registration card
7. Divorce decree
8. Court ordered documents
9. Federal tax return
10. SSA documentation
11. Pension/retirement information

12. Military discharge paperwork, DD214

G. 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

H. 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, except for families exceeding the income limit or over-income families.
 - 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.

I. 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 SSN

HUD recognizes the difficulty for some applicants, in particularly individuals experiencing homelessness, to comply with the SSN disclosure requirements and to protect and individual's privacy, many federal, state, and local agencies no longer print an individual's SSN on an official documents, HUD has adjusted acceptable documentation of SSN.

- a. The PHA will attempt to obtain one of the following third-party verification of the SSN prior to admission:
 - 1) A valid SSN card issued by the SSA;
 - 2) Original document issued by a federal or state government agency which contains the name and SSN of the individual, along with other identifying information of the individual; or
 - 3) Such other evidence of the SSN as HUD may prescribe in administrative instructions.
- b. If the PHA has exhausted all other attempts to obtain the SSN, the PHA will accept a self-certification and a third-party document with the applicant's name printed on it to satisfy the SSN disclosure requirement.
- c. The PHA will document why other SSN documentation was not available.

2. HUD-SSA Computer Matching of SSN

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. SSN Verification in EIV

- a. If the individual's SSN becomes verified in EIV, then no further verification is required.
- b. If the individual's SSN fails the SSA identity match, the PHA must obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name of the individual and the SSN of the individual, along with other identifying information of the individual.
- c. The assistance must be terminated if they fail to provide the required documentation.

5. 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 provide a written explanation to the reasons(s) why the document is not acceptable.

6. Verification of Social Security/SSI Benefits for Applicants and Participant Families

The PHA will refrain from sending or requesting applicants to go to SSA offices to obtain Social Security/SSI benefit verification or submitting requests to the SSA to verify that a family is not receiving Social Security/SSI benefits.

a. Third-Party Verification of Social Security/SSI Benefits

- 1) It is HUD's position that an SSA benefit verification letter (dated within the last 120 days of the PHA request date for information or within the PHA-tenant interview date) provided by the family or an undisputed EIV Income Report which displays the current Social Security/SSI benefit amount is third-party verification.
- 2) No additional verification is required by the PHA.

b. Third-Party Verification of Social Security/SSI Benefits for Applicants

EIV does not contain Social Security/SSI benefit information of applicants.

- 1) The PHA must request applicants to provide a copy of their Social Security/SSI benefit letter, dated within the last 120 days, for each household member that receives Social Security/SSI benefits.
- 2) Applicants can request the Social Security/SSI benefit letter:
 - a) From the SSA's website, www.ssa.gov, and clicking on the *Get benefit verification letter* link and following the prompts, or
 - b) By using the SSA's automated phone assistance by calling 1-800-772-1213 or by TTY, 1-800-325-0778. This service is available in English and Spanish 24/7.

- c) HUD encourages applicants to use the SSA website rather than the toll-free numbers.
 - d) The applicant should receive the benefit letter within 10 business days of the request.
- 3) The PHA will make a copy of the original Social Security/SSI benefit letter for the family file.
- 4) The PHA will use the gross Social Security/SSI benefit amount reported by the SSA's benefit letter to calculate the annual income.
- c. Third-Party Verification of Social Security/SSI Benefits for Participant Families

Social Security/SSI benefit information for participant household members whose individual identity verification status in EIV is Verified, is available from the EIV system.

 - 1) The PHA will use EIV to verify Social Security/SSI benefits of current participants and household members.
 - 2) The PHA will view the EIV Income Report and confirm with the family that the current listed Social Security/SSI benefit amount is correct.
 - a) If the family agrees with the current EIV-reported amount, the PHA will use the EIV-reported gross Social Security/SSI benefit amount to calculate annual income from Social Security/SSI benefits.
 - b) If the family disputes the EIV-reported Social Security/SSI benefit amount, the PHA will request the family to provide current (dated within the last 120 days) SSA benefit letter.
 - c) If the family's Social Security/SSI benefit letter is not available in EIV or the family is unable to provide the Social Security/SSI benefit letter, the PHA will require the family to request the Social Security/SSI benefit letter via the SSA website or phone number.
 - (1) The PHA will make a copy of the original Social Security/SSI benefit letter for the family file.
 - (2) The PHA will use the gross Social Security/SSI benefit amount reported by the SSA's benefit letter to calculate the annual income.
 - d. The PHA will not use photocopies of Social Security/SSI checks or bank statements as acceptable forms of verification of Social Security/SSI benefits as the dollar amount listed may not be the gross Social Security/SSI benefit amount.

J. 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.

K. Verification Requirements for Excluded Income

There are two (2) categories of excluded income, fully excluded and partially excluded income. Each category has different verification requirements.

1. Fully Excluded Income

Income that is fully excluded means the entire amount qualifies to be excluded from annual income in accordance with the federally mandated income exclusions and any Federal Register notice on mandatory exclusions issued by HUD.

- a. For fully excluded income the PHA is not required to:
 - 1) Verify the income using third-party verification;
 - 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. Report the income in Section 7 of the form HUD-50058. 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

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.

- a. 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 (annually adjusted by HUD for inflation) 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.

L. Verification of Assets and Income from Assets

The PHA will obtain 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. At the time of the income determination or income reexamination, the PHA will accept the family's self-certification of net assets and real property as acceptable documentation.
 - a. Family Self-Certification of Net Assets Equal to or Less than \$50,000 and Ownership of Real Property
 - 1) The PHA will accept the family's self-certification that the family (including minor family members) has total net assets equal to or less than \$50,000 (amount adjusted annually by HUD for inflation).
 - a) The self-certification must state the amount of income the family anticipates to receive from all net assets.
 - b) The actual income declared by the family will be included in the family's income, unless specifically excluded.
 - 2) All adult family members 18 years old or older must sign the family's declaration of total assets.
 - 3) The PHA's annual or interim reexamination documentation, which is signed by all adult family members, can serve as the self-certification.
 - 4) The family's self-certification of total net assets equal to or less than \$50,000 must:
 - a) Show each asset, and
 - b) The amount of income expected from each asset.
 - c) The PHA will clarify, during the self-certification process, which assets are included and which assets will be excluded from net family assets.
 - 5) Third-Party Verification of Net Family Assets
 - a) The PHA will not request third-party verification of assets when the PHA accepts the family's self-certification of net family assets.
 - b) Where the family has self-certified net family assets equal to or less than \$50,000, the PHA will not take additional steps to verify the accuracy of the self-certification at admission and/or reexamination.

- c) The PHA will obtain third-party verification of all family assets every three (3) years.
 - 6) Where the family has net family assets equal to or less than \$50,000, 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.
 - b. Family Self-Certification of Property Ownership

At the time of admission (only for new admissions effective on or after January 1, 2024) and reexamination the PHA will accept the family's self-certification of real property as acceptable documentation.

 - 1) The PHA will accept the family's self-certification that the family does not have present ownership interest in any real property.
 - 2) The self-certification must also include a statement that the family does not have:
 - a) A legal right to reside in the property,
 - b) The effective legal authority to sell the property (based on state or local laws of the jurisdiction where the property is located), and/or
 - c) Real property that is suitable for occupancy by the family as a residence.
 - c. If the PHA's verification of net family assets show transactions from and to the same individuals via money transferring applications such as but not limited to CashApp, Zelle, Venmo, and PayPal, the PHA will question the family about these transactions to ascertain whether the reoccurring transactions should be considered income.
 - d. The PHA may combine the self-certification of net family assets and questions inquiring about the family's present ownership interest in any real property on one form.
2. Net Assets Equal that Exceed \$50,000
- The PHA will verify, by third-party verification, net family assets that exceed \$50,000 (adjusted annually by HUD for inflation).
3. Verification of Federal Tax Refund or Refundable Tax Credits
- a. The PHA is not required to verify the amount of the family's federal tax refund or refundable tax credit(s) if the family's net assets are equal to or below \$50,000 (adjusted annually for inflation), even in years when full verification of assets is required or if the PHA does not accept self-certification of assets.
 - b. The PHA will verify the amount of the family's federal tax refund or refundable tax credits if the family's net assets are greater than \$50,000.

4. 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 \$50,000 asset threshold.
 - c. If the addition of the new family member's assets does not put the family above the \$50,000 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.
5. 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.
6. 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.
7. 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.

M. 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 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 Health and Medical Care Expenses
- a. The PHA will use the most current IRS Publication 502, Medical and Dental Expenses, as 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.

6. Permissible Deductions

The PHA has elected not to adopt permissible deductions.

N. Verification of Local Preferences

Verification of the family's preferences will be conducted at the time of selection from the waiting list. At the time of application, the preference claimed by the applicant is used to place the applicant on the waiting list.

The following methods may be used based upon the PHA's preference policies:

PREFERENCES	ACCEPTABLE FORMS OF VERIFICATION
Residency	• Utility bills in the name of the family; or • Telephone/cable bills; or • Verification from schools where children are enrolled; or • Rental or lease agreements; or • Landlord statements
Working Families	<u>Employment:</u> • Employer verification of employment or offer of employment, Paycheck Stubs with year-to-date earnings. <u>School/Education/Job Training:</u> • Educational institution verification of full-time student/trainee status • Statement from job training site
Persons with Disabilities	• Valid verification of birth • Documentation of disability must confirm only the existence of a disability and not the nature or extent of the disability. Verification of disability may be provided by form or letter, from a physician, psychologist, clinical social worker, or other licensed health care professional.

PREFERENCES	ACCEPTABLE FORMS OF VERIFICATION
	• In addition, verification of disability may also be provided by documentation verifying receipt of Social Security disability payments
Survivors of VAWA violence/abuse	Upon request by the PHA, an individual may provide any one of the following documents as a means of documenting the incident or incidents of domestic violence, dating violence, sexual assault, or stalking: • Form HUD-5382, the Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternative Documentation • A document: 1. 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; 2. Signed by the applicant or tenant; and 3. That specifies, under penalty of perjury, that the professional believes in the occurrence of the incident of domestic violence, dating violence, sexual assault, or stalking 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 under 24 CFR 5.2003; or • A record of a Federal, State, tribal, territorial or local law enforcement agency (may include a police report), court, or administrative agency; or • At the discretion of the PHA, a statement or other evidence provided by the applicant or tenant. The PHA should also accept the individual's verbal statement or other corroborating evidence. The PHA is prohibited from requiring third-party documentation of survivor status, unless: 1) More than one applicant or tenant provides documentation to show they are survivor of domestic violence, dating violence, sexual assault or stalking, and the information in one person's documentation conflicts with the information in another person's documentation; or 2) Submitted documentation contains information that conflicts with existing information already available to the PHA.

PREFERENCES	ACCEPTABLE FORMS OF VERIFICATION
Veteran	Provide copy of their military service record, proof of service, or discharge documents (DD214)
Persons who are elderly	Valid verification of birth

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.

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 calendar days calendar 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), except for families exceeding the income limit or over-income families.

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: PRE-OCCUPANCY ORIENTATION

When the PHA selects applicant families to participate in the public housing program, the families will be required to participate in a pre-occupancy orientation to educate and acquaint them about the public housing program.

A. Scheduling the Pre-Occupancy Orientation

Prior to public housing occupancy, the PHA will give the family a pre-occupancy orientation and an orientation information packet. It is the PHA's discretion to provide a pre-occupancy orientation to families who are transferring from one public housing unit to another.

1. Pre-Occupancy Notice

- a. The head of applicant family will be notified by mail at least 10 business days in advance of the pre-occupancy orientation date and time.
- b. The head of household and all adult household members 18 years of age and older must attend the pre-occupancy orientation.
- c. If the family fails to appear, the family may be rescheduled for the next pre-occupancy orientation.
 - 1) If the family fails to appear a second time, the application will be withdrawn.
 - 2) The family can reapply when the PHA is accepting applications.
- d. As a reasonable accommodation request for persons with disabilities, the PHA will:
 - 1) Provide the notice in an accessible format.
 - 2) Conduct an alternative pre-occupancy orientation, such as a home visit. This alternative pre-occupancy orientation may also be conducted for elderly applicants.

2. The PHA may conduct individual or by group pre-occupancy orientations.

3. The PHA may conduct the pre-occupancy orientation by:

In person, face-to-face appointment

4. If requested by the family, a family representative or social service representative may assist the family with the pre-occupancy orientation process.

B. Pre-Occupancy Orientation Topics

The PHA's pre-occupancy orientation may include, but is not limited to the following topics:

1. PHA policies, (the ACOP and other PHA policies)
2. The public housing program lease and changes to the lease
3. PHA and resident responsibilities

4. Information on federal, state and local equal opportunity laws, and a copy of the housing discrimination complaint form.
5. Enterprise Income Verification (EIV) System
6. Explanation of choice of flat or income-based rents
7. How the PHA determines the tenant rent for the family
8. PHA continued occupancy policies regarding over-income families
9. Proration of tenant rent for mixed families
10. Utility allowance and utility conservation
11. Payment of tenant rent
12. Housekeeping standards
13. Unit transfers
14. If the family includes a person with disabilities, the family may request an accessible unit.
15. Requesting maintenance services
16. Emergency maintenance services
17. Security
18. Resident Advisory Board (RAB)
19. Services provided by the PHA
20. Information whereby if the family is in non-compliance with a PHA repayment agreement that the family may be subject to termination of tenancy or assistance, or both.
21. Violence Against Women Reauthorization Act protections.
22. Requirements for reporting changes between reexaminations.
23. Explanation of reasonable accommodation and how persons with disabilities may request a reasonable accommodation.
24. The grounds on which the PHA may terminate assistance for the family because of the family's actions or failure to act.
25. Grievance procedures, including how to request a grievance.
26. Information about general locations and characteristics of neighborhoods in the PHA's jurisdiction.
27. Procedures for notifying the PHA and/or HUD of public housing program abuses.
28. Advise after resident move-in, the PHA staff will acquaint the family with the operation of heating, cooling, and plumbing equipment in the units.

C. Effective Communication

The PHA will take appropriate steps to ensure effective communication during the pre-occupancy orientation for families that includes persons with disabilities or persons with Limited English Proficiency.

The PHA will ensure that the pre-occupancy orientation materials are in an appropriate alternative format as needed to ensure effective communication such as:

1. Braille materials
2. Audio
3. Large type
4. Sign language
5. Interpreters
6. Accessible electronic communications
7. Transcription services,
8. Assistive listening devices

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CHAPTER 15: 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 persons with disabilities.

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 persons with disabilities 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 16: 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 (2) 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	3
2	2	5
3	3	7
4	5	9
5	7	11

3. 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.
4. 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.
5. Foster children will be counted as family members in determining the bedrooms to be assigned.
6. 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."
7. Exceptions to the minimum standards will be made if they are necessary to provide reasonable accommodation for a person with disabilities.

8. A single head of household shall not be required (but may choose) to share a bedroom with his/her children.
9. Guest and Visitors
 - a. Additional bedrooms are not provided for visitors or guests.
 - b. The family will be allowed to have guests for a period of up to fourteen (14) 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.
10. 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 17: 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.

1. Method of Notification of Unit Offer

- a. The PHA will make the unit offer by telephone or by preferred method of contact 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 give the applicant three (3) days after the date the PHA made the unit offer to accept or refuse the unit offer.

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

1. 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.
2. 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 PHA's local preferences and/or the date and time of application.
3. The PHA will maintain a record of the units offered, including location, date, the circumstances for each offer, and each acceptance or refusal.
4. To the maximum extent possible, the offer will also be made to affect the PHA's policy of economic deconcentration.
5. 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 18: 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 60 consecutive calendar days without written consent from the PHA.
- c. The Executive Director or designee 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 business 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 business days of occurrence, notify the PHA of the absence of the head of household due to imprisonment, hospitalization, admittance into a nursing home, military service, school 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 explaining 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 business 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 business 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 10 business 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 10 business days or less, the sole member shall continue to receive housing assistance.

b. If the sole family member is absent from the unit for 60 calendar 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. 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 15 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 15 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 survivor of a VAWA violence/abuse 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 survivor 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 19: 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. Non-Public Housing Over-Income Families
 - a. If allowed by the PHA to remain in a public housing unit, NPHOI family will not have a choice in rent.
 - b. NPHOI families must pay the alternative non-public housing rent.
4. 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 conduct a full reexamination of family income and composition for the second and third 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.
- d. For a family that chooses the flat rent option, the PHA will conduct a reexamination of family income and composition at least once every three (3) years, except for families a PHA determines exceed the over-income limit. Once a PHA determines that a family has an income exceeding the over-income limit, the PHA must follow the income reexamination and notification 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 requests 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 to pay the utility bill on behalf of 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. 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 eligible immigration status), the amount of tenant rent.

1. To calculate prorated tenant rent, the PHA will follow the steps below:

Step 1. Determine the TTP.

Annual income includes income of all family members, including any family member who has not established eligible immigration status.

Step 2. Subtract the TTP from the PHA-established flat rent applicable to the unit.

The result is the maximum subsidy for which the family could qualify if all members were eligible ("Family Maximum Subsidy").

Step 3. Divide the family maximum subsidy by the number of persons in the family (all persons) to determine the maximum subsidy per each family member who has citizenship or eligible immigration status ("Eligible Family Member").

The subsidy per eligible family member is the "Member Maximum Subsidy."

Step 4. Multiply the Member Maximum Subsidy by the number of family members who have citizenship or eligible immigration status ("Eligible Family Members").

Step 5. The product of Steps 1 through 4 is the amount of subsidy for which the family is eligible ("Eligible Subsidy").

The family's rent is the PHA-established flat rent minus the amount of the Eligible Subsidy.

2. Method of prorating assistance when the mixed family's TTP is greater than the public housing flat rent.

- a. When the mixed family's TTP is greater than the flat rent, the PHA must use the TTP as the mixed family TTP.

- b. The PHA subtracts from the mixed family TTP any established utility allowance, and the sum becomes the mixed family rent.

CHAPTER 20: 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 5th day of the month and is delinquent if not paid by the close of business on the 10th day of the month, unless the falls on 10th day 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 21
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, cashier's checks or personal checks.
3. Personal checks may be presented until or unless more than one Non-Sufficient Funds (NSF) check is presented. An insufficient fund (NSF) fee of \$35 will be assessed against the resident's account. The resident will then be required to make payment using money orders or cashier's checks.

D. Delinquent Charges and Late Fees

If rent is unpaid by the close of business on the 11th of the month, a one-time per month late fee of \$25 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 \$50; 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.

5. For public housing only, the alternative non-public housing rent, as determined in accordance with § 960.102 of this title.

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.
2. As a MTW agency, the PHA has established a minimum rent for the public housing program at \$130.

Elderly/Disabled families are exempt from the minimum rent.

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 10 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 30 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.

CHAPTER 21: 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 PHA may provide for the gradual accumulation of the security deposit paid by a resident on a case-by-case basis, not to exceed \$300. If payments are approved, the PHA requires a minimum of 100% of the security deposit to be paid prior to move-in.
4. The family's security deposit, including any agreement for gradual accumulation of the security deposit, will be listed in the lease. The PHA will 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 22: 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.

- a. The PHA has elected to make prospective utility reimbursement payments.

Prospective 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 utility reimbursement payments prospectively. The prospective utility reimbursement payments will be issued as follows:

January – March utility reimbursement payments will be issued no later than December 31st

April – June utility reimbursement payments will be issued no later than March 31st

July – September utility reimbursement payments will be issued no later than June 30th

October – December utility reimbursement payments will be issued no later than September 30th

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.

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CHAPTER 23: 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 survivors of VAWA violence/abuse.
- 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.

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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 24: REEXAMINATIONS

The PHA must adopt admission and continued occupancy policies concerning conducting annual and interim reexaminations and that the PHA shall conduct the reexaminations in accordance with such policies. The PHA reexamination policies must be in accordance with the PHA Plan. 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 requests a reexamination based on hardship circumstances.
3. The PHA must determine compliance once every 12 months with community service and self-sufficiency requirements for all families who pay an income-based or flat rent, including nonexempt individuals.
4. Non-Public Housing Over-Income Families

The PHA may not conduct an annual reexamination of family income for all non-public housing over-income families.

B. General Redetermination Requirements

The following redetermination requirements apply to all public housing families, except for non-public housing over-income 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 120 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 a.m. and 5:00 p.m. on Monday, Tuesday, Wednesday, Thursday, and Friday
 - 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) 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) 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 three (3) 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 one (1) day second annual reexamination appointment. The second annual reexamination 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. *Streamlined Annual Reexamination Income Determination for Fixed Incomes

The PHA will conduct a streamlined income reexamination for verifying and adjusting fixed income sources over a three-year cycle for any family member with an unadjusted income consisting of 90% or more from fixed income sources.

1. The streamlined annual reexamination for fixed income is available for current public housing families only and may be implemented at the family's next annual reexamination.
2. The streamlined annual reexamination for fixed income is not available for public housing applicants. Upon admission to the program, the PHA will obtain third-party verification of all income sources for all family members.
3. A family member with a fixed income source is defined as a family member whose income includes periodic payments at reasonable predictable levels from one or more of the following sources:
 - a. Social Security, Supplemental Security Income, Supplemental Disability Insurance;
 - b. Federal, State, local, or private pension plans;
 - c. Annuities or other retirement benefit programs, insurance policies, disability or death benefits, or other similar type of periodic receipts; or
 - d. Any other source of income subject to adjustment by a verifiable cost of living adjustment (COLA) or current rate of interest.
4. The PHA must determine whether a source of income is fixed.
 - a. The PHA will compare the amount of the income from the source to the amount generated during the prior year.
 - b. If the amount is the same or if it has changed only as a result of a COLA or due to interest generated on a principal amount that remained otherwise constant, the source is fixed.
 - c. The PHA may also make such a determination by requesting the family to identify which source(s) of income are fixed.
 - d. The PHA will document in the family file how the PHA made its determination that a source of income is fixed.
5. When 90% or more of a family's unadjusted income consist of fixed income, the PHA will apply a COLA or COLAs to the family's fixed income sources, provided that the family certifies both that 90% or more of their unadjusted income is fixed income and the sources of fixed income have not changed from the previous year.
6. When less than 90% of a family's unadjusted income consists of fixed income, the PHA will apply a COLA to each of the family's sources of fixed income individually. The PHA will continue to third-party verify any non-fixed source of income for the family member annually.
7. The COLA or Current Interest Rate

- a. In the initial year in which a streamlined income determination is made, the PHA must apply the COLA to a source of income that has been previously verified.
- b. The PHA will adjust the family's fixed income using a COLA or current interest rate that applies to each specific source of fixed income and is available from a public source or through tenant-provided third-party verification.
- c. If no public verification or tenant-provided verification is available, the PHA must obtain third-party verification of the income amounts in order to calculate the change in the income from the source.

8. Streamlined Annual Reexamination Timeline

Year 1	The PHA will complete a move-in or annual reexamination consistent with the regulations on reexaminations.
Year 2 and 3	The PHA will complete an annual reexamination with the following streamlined income determination for each type of source: • Fixed Income: Apply inflation adjustment factor. The PHA will not collect third-party verification for the fixed income source. • Non-fixed income sources when fixed income is more than 90% of unadjusted income: The PHA will use the previous year's calculation. • Non-fixed income when fixed income is less than 90% of unadjusted income: The PHA will adjust the income using third-party verification. • Assets and Deductions: Completes verification and calculation of assets and deductions
Year 4	The cycle begins again.

E. Family Interim Reporting Requirements

The family may request an interim determination of family income or composition because of any changes since the last determination. The family may request one (1) interim reexamination per year.

1. The family must report within 10 business days of occurrence, the following to the PHA:

- a. Changes in family income (increases or decreases), including but not limited to changes in the source (earned and/or unearned), employer, employment status, etc.
- b. Any changes in the household composition, including additions and removal of household members.
- c. Increases or decreases in allowable deductions/allowances that may affect the adjusted income.

2. The family must report the change in circumstance in writing using the PHA interim report

form. The PHA Interim Report form is available **at the PHA office.**

3. The PHA may receive the the PHA interim report form:

By dropping it off at the PHA office (the family will be provided a receipt containing the day and time the form was dropped off).

F. PHA Interim Requirements

1. The PHA will conduct the interim reexamination within a reasonable time after the family's request.

The PHA will consider reasonable time based on the amount of time it takes the PHA to verify the information, but no longer than 30 days after the change in income was reported by the family.

2. When calculating a family's income, including asset income, during interim reexaminations, the PHA will use anticipated income (current income – i.e., the family's estimated income for the upcoming 12-month period).

3. Decreases in Annual Adjusted Income

Decreases in annual adjusted income includes decreases in earned income, unearned income, and increases in the family's deductions and allowances.

a. The PHA will conduct an interim reexamination of family income if the PHA estimates the family's annual adjusted income will decrease by an amount that is 8% or more of the family's annual adjusted income or a lower amount established by HUD through notice.

b. The PHA will conduct an interim reexamination of family income if the PHA estimates the family's adjusted income will decrease by an amount that is less than 8% or more of the family's annual adjusted income or a lower amount established by HUD through notice.

c. The PHA will not establish a dollar figure threshold amount instead of a percentage threshold.

d. The PHA will round calculate the percentage decrease to the nearest unit (e.g., a calculated decrease of 9.5% may be rounded up to 10%).

e. Mandated Processing of Interim Reexamination and the HUD Established Threshold for Decreases in Family Size due to Death or Permanent Move-Out from the Assisted Unit

HUD is requiring the PHA to apply a 0% threshold and to process an interim reexamination when there is a decrease in family size attributed to the death or permanent move-out from the assisted unit of a family member during the period since the family's last reexamination that results in a decrease in adjusted income of any amount.

- 1) If there is no change/decrease in adjusted income as a result of the decrease in family size, the PHA will process a non-interim transaction instead of an interim reexamination.
 - 2) The 0% threshold for interim reexaminations applies only to decreases in family size that result in a decrease in adjusted income.
 - 3) If the net effect of the changes in annual adjusted income due to a decrease in family size results in an increase in annual adjusted income, the PHA will process the removal of the household member(s) as a non-interim reexamination transaction without making changes to the family's annual adjusted income.
- f. **The PHA has not adopted a retroactive rent decrease policy.**
4. **Increases in Annual Adjusted Income**
- The PHA must conduct an interim reexamination of family income when the PHA becomes aware that the family's adjusted income has changed by an amount that the PHA estimates will result in an increase of 10% or more in annual adjusted income or such other amount established by HUD through notice, except:
- a. **The PHA has adopted a local policy to not consider increases in earned income.**
 - b. **The PHA will include earned income increases in determining whether the 10% threshold is met for increases in adjusted income when the family previously had an interim reexamination performed for a decrease in annual adjusted income (earned, unearned, or combined) since the last annual reexamination; and**
 - c. **The PHA will conduct an interim reexamination if the family reports an increase in income within the three (3) months of their next annual reexamination effective date.**
- Families who delay reporting income increases until the last three (3) months of their certification period may be subject to retroactive rent increases in accordance with the PHA's policies.
- d. **The PHA will not establish a different threshold to conduct interim reexamination for increase in adjusted income.**
 - e. A series of smaller reported increases in adjusted income may cumulatively meet or exceed the 10% increase threshold, at which point the PHA will conduct an interim reexamination.
 - f. When an increase of any size is reported by a family, the PHA will document the reported increase in the tenant file.
5. **Over-Income Public Housing Families**
- Regardless of changes in adjusted annual income, the PHA is required to conduct interim reexaminations at specific intervals of over-income public housing families to determine whether the family continues to exceed the income limit.
- a. This continued evaluation of the family's over-income status requires the PHA to notify

any family that exceeds the over-income limit that they remain over the income limit, even if the family is paying the flat rent.

- b. If the PHA determines the family's income fell below the over-income limit since the initial over-income determination, the over-income determination will reset.
- c. However, if the family has remained over-income for 24 consecutive months, any resulting income determination after the 24 consecutive months will not make the family eligible to remain in the public housing program beyond the period before the PHA enforces its continued occupancy policy for public housing over-income families.

6. Non-Interim Reexaminations

Families may experience changes within the household that do not trigger an interim reexamination but still need to be reported in a non-interim reexamination submission to HUD.

- a. The PHA will submit a separate, new action code on form HUD-50058.
- b. The code will be used for the following transaction types when an interim reexamination is not triggered under the final rule:
 - 1) Adding or removing a hardship exemption for the child-care expense deduction;
 - 2) Updating or removing the phased-in hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction (the phased-in relief will begin at an eligible family's first annual or interim reexamination, whichever is sooner, after January 1, 2024);
 - 3) Adding or removing general hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction;
 - 4) Adding or removing a minimum rent hardship;
 - 5) Adding or removing a non-family member (i.e., live-in aide, foster child, foster adult);
 - 6) Ending a family's EID or excluding 50% (decreased from 100%) of a family member's increase in employment income at the start of the second 12-month EID period.
 - 7) Adding a family member and the increase in adjusted income does not trigger an interim reexamination.
 - 8) Removing a family member and the increase in adjusted income does not trigger an interim reexamination.
 - 9) Adding/updating a family or household member's SSN.
 - 10) Updating a family member's citizenship status from eligible to ineligible or vice versa, resulting in a change to the family's rent and/or utility reimbursement, if applicable (i.e., family begins receiving prorated assistance or previously prorated

assistance becomes full assistance), or updating the prorated rent calculation due to the addition or removal of family members in household with an ineligible noncitizen(s).

INTERIM REEXAMINATION PHA ACTION		
Scenario	PHA Action	Notes
Family reports income increase or decrease	PHA will estimate the amount of the income change	The PHA will include the earned income in determining whether the 8% threshold has been met.
Estimate shows income decrease is 8% or more of adjusted income	PHA will conduct an interim reexamination	
Estimate shows income decrease is less than 8% or more of adjusted income	PHA will not conduct an interim reexamination	If the PHA uses the default 10% threshold, no interim reexamination is required.
Estimate shows an increase in applicable income is more than 10%	PHA will conduct an interim reexamination	The PHA will not conduct an interim reexamination if the increase of income occurred in the last three (3) months before a regular annual reexamination.

G. Interim Household Composition Reporting Requirements

The PHA will conduct an interim reexamination when there is a change (addition or removal) in family composition. The composition of the assisted family, including household members, residing in the unit must be approved by the PHA. No other persons, except those approved by the PHA, may reside in the assisted unit.

1. Addition of Family or Household Members

- a. Adding family members resulting from birth, court awarded custody or adoption does not require PHA approval. **The family must notify the PHA within 10 business days of the addition.**
- b. The family must request PHA approval to add a foster child/adult or live-in aide as a household member.
- c. Addition Persons Aged Under 18 (Minor)

When the family requests to add a minor to the family composition, the following will be required:

- 1) Copy of verification of birth

- 2) Declaration of Citizenship form for the minor.
- 3) Copy of SSN for new household members at least six (6) years of age or is under age six (6) and has an SSA-assigned SSN.
 - a) The family must disclose the SSA-assigned SSN and provide the PHA with the documents at the time of the PHA request, or at the time of processing the interim of family income and/or composition.
 - b) If the family is unable to provide the required documentation of the SSN, the PHA will not add the new household member to the family composition until the family provides the documentation.
 - c) HUD does not authorize the PHA to generate an ALT ID for the affected household member.
 - d) Exception if the minor does not contend to have eligible immigration status and has not been assigned an SSN.
- 4) Copy of SSN for new household member who is under the age of six (6) and does not have an SSA-assigned SSN.
 - a) The family must disclose the SSA-assigned SSN and provide the PHA with the documents within 90 calendar days of the child being added to the household.
 - b) If the family is unable to disclose and provide evidence of the SSN within 90 calendar days, the PHA will grant the family an additional 90-day period to comply with the SSN disclosure and documentation requirement, only if the PHA determines the family was unable to comply with the requirements due to circumstances that could not have reasonably been foreseen and were outside the control of the family.
 - c) The child is to be included as part of the assisted household and is entitled to all the benefits of being a household member during the allotted time for the family to comply with the SSN disclosure and documentation requirements.
 - d) The PHA will generate an ALT ID.
 - e) Upon expiration of the provided time period, if the family has not complied with the SSN disclosure and documentation requirements, the PHA will terminate the entire family's housing assistance.
 - f) An exception to the above occurs when the minor does not contend to have eligible immigration status and has not been assigned an SSN.
- 5) For a parent or another person having custody or guardianship of such a minor the PHA will require one of the following documents:
 - a) Court-order assignment;
 - b) Statement from parent/guardian assigning custody or guardianship;
 - c) Custody Agreement filed in a court of law;

- d) Adoption papers; or
- e) Verification from a social service agency.
- 6) Declaration of any income (earned or unearned) and assets (including income from assets) for the minor.
- d. Addition of Adults 18 Years of Age or Older

When the family requests to add an adult person to the family composition, the following will be required:

 - 1) Copy of verification of birth
 - 2) Copy of a government issued photo identification
 - 3) Declaration of Citizenship form for the adult
 - 4) Copy of SSN for the new household members who has an SSA-assigned SSN.
 - a) The family must disclose the SSA-assigned SSN and provide the PHA with the documents at the time of the PHA request, or at the time of processing the interim of family income and/or composition.
 - b) The PHA must terminate the public housing assistance if the family does not disclose and provide the required documentation.
 - c) However, if the family is otherwise eligible for continued assistance the PHA, at its discretion, may defer the family's termination and provide the family an opportunity to comply with the requirement within a period not to exceed 90 calendar days from the date the PHA determined the family noncompliant with the SSN disclosure and documentation requirement, only if the PHA determines:
 - (1) The failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside the control of the family; and
 - (2) There is a reasonable likelihood that the family will be able to disclose the SSN and provide such documentation of the SSN by the deadline.
 - d) If the family is unable to comply with the requirements by the specified deadline, the PHA will terminate the entire family's tenancy or assistance, or both.
 - e) The PHA must terminate the family's public housing assistance if the family submits falsified SSN documentation.
 - f) An exception to the above if the adult does not contend to have eligible immigration status and has not been assigned an SSN.
 - 5) Declaration of any income (earned or unearned) and assets (including income from assets) for the adult.

- 6) The individual will be required to sign form HUD-9886 (Authorization for Release of Information/Privacy Act Form) and other PHA consent forms.
- 7) The adult is subject to the same screening (criminal background check) and eligibility requirements as the assisted family.
- e. Prior to approving the request to add a family or household member, except additions due to birth, court awarded custody or adoption, the PHA will generate:
 - 1) The EIV Former Tenant and Existing Tenant Reports for all minors and adults to determine if there is a SSA match involving another PHA or Multifamily program.
 - 2) The Debts Owed to PHAs Report to determine if requested adult owes a debt to the PHA, another PHA, or Multifamily program.
- f. Denial of the Request to Add Family or Household Member
 - 1) The PHA will notify the family in writing if there is a determination to deny the request to add a family or household member.
 - 2) The assisted family may request a review of the PHA decision to deny the request.
 - 3) The family may request a grievance for the denial.
2. Removal of Family or Household Members
 - a. The family must promptly, within 10 business days notify the PHA if any family or household member no longer resides in the unit.
 - b. Failure to report the removal of a family or household member timely, may result in the family owing a retroactive rent and/or termination of public housing assistance.

H. Interim Reexamination Appointments

The PHA will maintain an interim reexamination tracking system to document the date interim changes were received and completed.

1. The Scheduling the Interim Reexamination Appointment
 - a. The PHA will schedule an interim reexamination appointment within reasonable hours after reasonable notice.
 - b. Reasonable hours to conduct and interim reexamination appointment are between 9:00 a.m. to 5:00 p.m., on Monday, Tuesday, Wednesday, Thursday and Friday.
 - c. The PHA will provide the family a written interim reexamination appointment notice. The notice will:
 - 1) State the date of the interim reexamination appointment, the location, time, and what information is required to be brought to the appointment.
 - 2) State head of household are required to attend the interim reexamination appointment.
 - 3) The PHA will advise the family if the family includes 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 interim reexamination. The PHA may also conduct the interim reexamination by home visit as an alternate format for elderly families.

d. The interim reexamination appointment may be conducted in the following format:

- 1) In person, face-to-face appointment
- 2) Home visits as a reasonable accommodation for person with disabilities or for elderly families

e. The PHA will provide interim 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 interim 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 interim reexamination appointment up to 10 days prior to the appointment date. The family may contact the PHA by:

- 1) Phone call
- 2) Email

b. The PHA will reschedule one (1) second interim reexamination appointment. The second interim reexamination 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 notice of termination and offer them an informal hearing.
- 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 interim 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 for the family to respond to either interim reexamination notice may result in termination of assistance.

I. Verification of Annual/Interim Reexamination Information

The PHA will use EIV in its entirety to verify family employment and income during mandatory and interim reexaminations of family income and composition. The PHA will review the EIV Income and IVT Reports during mandatory and interim reexaminations of family income and/or composition to reduce family under reporting of income and improper subsidy payments. The PHA will follow the HUD Verification Hierarchy and the PHA's verification procedures.

1. The PHA will obtain and document in the family file third-party verification of the following factors, or will document in the family file why third-party verification was not available:

- a. Reported family annual income;
- b. The value of the family's assets;

For a family with net assets equal to or less than \$50,000, the PHA may accept, for purposes of recertification of income, a family's declaration that it has net assets equal to or less than \$50,000, without the PHA taking additional steps to verify the accuracy of the declaration.

- 1)
 - 1) The declaration must state the amount of income the family expects to receive from such assets; this amount must be included in the family's income.
 - 2) The PHA must obtain third-party verification of all family assets every three (3) years.
 - c. Expenses related to deductions from annual income; and
 - d. Other factors that affect the determination of the family's adjusted income.
 - e. The PHA will maintain the EIV Income Report in the family file along with the form HUD-50058 and other supporting documentation to support income and rent determinations for mandatory and interim reexaminations of family income and composition.
2. Verifications for reexaminations must be an original or authentic document generated by a third-party source dated within the 60-day period preceding the reexamination or PHA request date.
 3. The family will be obligated to supply any information that the PHA or HUD determines is necessary for use in regularly scheduled or interim reexamination of family income and composition. Failure to provide documentation may result in termination of assistance.
 4. The family must submit consent forms for obtaining wage and claim information from federal, state, or local agencies to furnish or release to the PHA such information determined necessary. The family's failure to comply with consent forms will result in termination of assistance.

J. Notification of the Annual/Interim Reexamination Results

The PHA will notify the family of the results of the annual/interim reexamination in writing.

1. Annual Reexamination Notification

- a. The notice will include the following:
 - 1) The amount and effective date of the new tenant rent; and
 - 2) The amount and effective date of the utility reimbursement (if applicable).
- b. For increases in tenant rent at annual reexamination, the PHA will complete annual reexaminations in advance so that the effective date is the first day of the month of the anniversary month following a 30-day notice from the PHA.
- c. Decreases in tenant rent at annual reexamination are effective the first day of the month of the anniversary month.
- d. If the family caused a delay in the reexamination process or failed to report all income and deductions the PHA will complete the annual reexamination using the prior year's income.
 - 1) The PHA will complete an interim reexamination to correct the file, if applicable.
 - 2) If the family owes a retroactive rent, the family will be required to enter into a Repayment Agreement.
 - 3) The family's assistance may be terminated due to a violation of the obligations of the family.
- e. If the TTP increased as a result of the annual reexamination, the PHA will advise the family of their rights to request a grievance hearing.

2. Interim Reexamination Notification

- a. The PHA will conduct or not conduct an interim reexamination in accordance with the PHA's policies regarding decreases and increases in annual adjusted income.
- b. If the interim reexamination results in no change in the tenant rent, the PHA will notify the family of such in writing.
- c. If the interim reexamination results in a change to the tenant rent, the notice will include the following:
 - 1) The amount and effective date of the new tenant rent; and
 - 2) The amount and effective date of the utility reimbursement (if applicable).

K. Effective Date of Interim Reexamination

1. Family Timely Report of Interim Changes

Family timely report of an interim change of family income or composition

- a. If the tenant rent increased as a result of the interim reexamination, the increase will

be effective the first day of the month following a 30-day notice to the family from the PHA.

- b. If the tenant rent decreased as a result of the interim reexamination, the decrease will be effective the first day of the first month after the actual change leading to the interim reexamination of family income.

The PHA will apply timely reports of interim decreases retroactively.

2. Family Untimely Report of Interim Changes

Family untimely report of an interim change of family income or composition

- a. If the family failed to report the interim change timely and the tenant rent increased as result of the interim reexamination, the tenant rent will increase retroactively to the first day of the month following the date of the of the change leading to the interim reexamination of family income.

b. Decreases in Tenant Rent

- 1) If the family failed to report an interim change timely and the tenant rent decreased as a result of the interim reexamination, the effective date of the decrease in tenant rent must be no later than the first rent period following completion of the interim reexamination.

2) Extenuating Circumstances

- a) The PHA will make the effective date of an interim reexamination retroactive to the first of the month following the date of the actual decrease in income as opposed to the first of the month following completion of the reexamination when a family's ability to report a change in income promptly was hampered due to extenuating circumstances, such as a natural disaster, or disruptions to the PHA's management operations.
- b) The PHA will ensure the earliest date that the retroactive decrease is applied is:
 - (1) The later of the first of the month following the date of the change that led to the interim reexamination, or
 - (2) The first of the month following the most recent previous income examination (i.e., most recent interim or annual reexamination or the family's initial examination if that was the family's only income examination before the interim reexamination in question).

c. Retroactive Tenant Rent

The PHA may not apply the retroactive tenant rent decrease prior to the later of the first of the month following:

- 1) The date of the change leading to the interim reexamination of family income; or
- 2) The effective date of the family's most recent previous interim or annual reexamination (or initial examination if that was the family's last examination).

L. 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 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 choose to 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 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;

- a) Existing documentation will be accepted as evidence of disability; however, disabled family members are not automatically exempt from the requirement.
 - b) A family member who is the primary caretaker for someone who is blind or disabled.
- 3) An adult family member engaged in work activities;

The PHA will consider 30 hours per week as the minimum number of hours for a work activity.

- 4) A family member who meets the requirements for being exempted from 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;
 - 5) 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 has not been found by the State or other administering entity to be in noncompliance with such a program; or
 - 6) A member of a non-public housing over-income family.
8. Non-Exempt Residents
- Non-exempt family members must participate in one of the following work activities:
- a. Unsubsidized employment;
 - b. Subsidized private-sector employment;
 - c. Subsidized public-sector employment;
 - d. Work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available;
 - e. On-the-job-training;
 - f. Job-search;
 - g. Community service programs;
 - h. Vocational educational training (not to exceed 12 months with respect to any individual);
 - i. Job-skills training directly related to employment;
 - j. 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

- k. 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.
 - l. Providing childcare services to an individual who is participating in a community service program.
9. Change in exempt status:
- a. 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.
 - b. When an exempt family member becomes non-exempt, it is his/her responsibility to report the change in status to the PHA.
 - c. 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.
10. 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 from 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.
11. 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.

12. 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.
- 13. The PHA will comply with non-discrimination and equal opportunity requirements and affirmatively further fair housing in all the PHA's activities.

CHAPTER 25: 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 4 months month 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.

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CHAPTER 26: 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 tenancy of the OI family
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 a 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 include an estimate (based on current data) of the alternative non-public housing rent for the family's unit.
- e. 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.
- f. 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 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 a 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.

H. Annual Reporting

The PHA will submit annually to HUD, and make publicly available, a report that specifies, as of the end of the year (end of the calendar year or December 31st), the number of families residing in public housing with incomes exceeding the over-income limit and the number of families on the waiting lists for admission to public housing projects and provide any other information regarding over-income families requested by HUD.

1. Data on the Number of OI Families Residing in Public Housing

This report will require no additional action on the part of the PHA. HUD will pull a report of this data as of December 31st each year and make it publicly available. The report will include:

 - a. The number of families residing in public housing with incomes exceeding the over-income limitation, including:
 - 1) The number of families in the 24 consecutive month grace period,
 - 2) Those that are in the period before termination, and
 - 3) Those that are NPHOI families paying the alternative non-public housing rent.

- b. The PHA will report on the number of OI families residing in the PHA's public housing through income data already provided by form HUD-50058, under OMB approval number 2577-0083 and through unit data in the Inventory Management System/PIH Information Center (IMS/PIC) and/or its successor system: the Housing Information Portal (HIP).
- 2. Data on the Number of Families on Waiting Lists for Admission to Public Housing Projects
 - a. The waiting list data will be submitted via the *Public Housing Waiting List Data Collection Tool* in the Operating Fund Web portal.
 - 1) HUD will make the new reporting module available beginning January 1, 2024.
 - 2) All information provided, such as the number of households and the status of the waiting list (open or closed), should be current as of December 31st of the previous calendar year.
 - 3) All submissions will be due by March 31st of each year.
 - 4) HUD will combine this data with the data provided in IMS/PIC and/or HIP and the form HUD-50058 form and publish the Public Housing Over-Income Families and Waiting-Lists Report annually on the HUD website by April 30th of each calendar year.
 - b. The data may be provided by any authorized PHA official but will require the electronic signature of the Executive Director.
 - c. A PHA that maintains both an agency-wide and site-based wait lists, should be mindful not to duplicate households when reporting on the total number of families on the waiting list.

CHAPTER 27: 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 require 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. National Standards for the Physical Inspection of Real Estate (NSPIRE)

The Economic Growth Regulatory Relief and Consumer Protection Act: Implementation of National Standards for the Physical Inspection of Real Estate (NSPIRE) establishes a new approach to defining and assessing housing quality. The purpose of NSPIRE is to strengthen HUD's physical condition standards and improve HUD oversight through the alignment and consolidation of the inspection regulations used to evaluate HUD housing across multiple programs. Implementation of the NSPIRE ensures that families of HUD housing live in safe, habitable dwellings, and the items and components located inside, outside, and within the units of HUD housing are functionally adequate, operable, and free of health and safety hazards.

1. To ensure that all families live in safe, habitable units, NSPIRE defines the inspectable areas as items and components located inside the building, outside the building, and within the units of HUD housing must be functionally adequate, operable, and free of health and safety hazards. NSPIRE standards apply to all HUD housing.

2. Inside

Inside of HUD housing (or “inside areas”) refers to the common areas and building systems that can be generally found within the building interior and are not inside a unit.

- a. Inside Common Areas

Common areas may include, basements, interior or attached garages, enclosed carports, restrooms, closets, utility rooms, mechanical rooms, community rooms, day care rooms, halls, corridors, stairs, shared kitchens, laundry rooms, offices, enclosed porches, enclosed patios, enclosed balconies, and trash collection areas.

- b. Building systems

Includes those components that provide domestic water such as pipes, electricity, elevators, emergency power, fire protection, HVAC, and sanitary services.

- c. The inside area must meet the following affirmative requirements. The inside area must:

- 1) Include at least one battery-operated or hard-wired smoke detector, in proper working condition, on each level of the property. The Secretary may establish additional standards through Federal Register notification.
 - 2) Meet or exceed the carbon monoxide detection standards set by the Secretary through Federal Register notification.
 - 3) For the inside area, any outlet installed within six (6) feet of a water source must be ground-fault circuit interrupter (GFCI) protected.
 - 4) Have a guardrail when there is an elevated walking surface with a drop off of 30 inches or greater measured vertically.
 - 5) Have permanently mounted light fixtures in any kitchen and each bathroom.
 - 6) Not contain unvented space heaters that burn gas, oil, or kerosene.

3. Outside

Outside of HUD housing (or “outside areas”) refers to the building site, building exterior components, and any building systems located outside of the building or unit.

- a. Outside Components

May include fencing, retaining walls, grounds, lighting, mailboxes, project signs, parking lots, detached garage or carport, driveways, play areas and equipment, refuse disposal, roads, storm drainage, non-dwelling buildings, and walkways.

- b. Components found on the exterior of the building are considered outside areas
May include doors, attached porches, attached patios, balconies, car ports, fire escapes, foundations, lighting, roofs, walls, and windows.
- c. The outside area must meet the following affirmative requirements:
 - 1) Outlets within six (6) feet of a water source must be GFCI protected; and
 - 2) Must have a guardrail when there is an elevated walking surface with a drop off of 30 inches or greater measured vertically.

4. Units

A unit (or "dwelling unit") of HUD housing refers to the interior components of an individual unit.

a. Components of a Unit

The interior of a unit may include the balcony, bathroom, call-for-aid (if applicable), carbon monoxide devices, ceiling, doors, electrical systems, enclosed patio, floors, HVAC (where individual units are provided), kitchen, lighting, outlets, smoke detectors, stairs, switches, walls, water heater, and windows.

b. The unit must also meet the following affirmative requirements. The unit must:

- 1) Have hot and cold running water in both the bathroom and kitchen, including an adequate source of safe drinking water in the bathroom and kitchen.
- 2) Include its own bathroom or sanitary facility that is in proper operating condition and usable in privacy. It must contain a sink, a bathtub or shower, and an interior flushable toilet.

3) Smoke Detectors

- a) The unit must include at least one battery-operated or hard-wired smoke detector, in proper working condition, in the following locations:
 - (1) On each level of the unit;
 - (2) Inside each bedroom;
 - (3) Within 21 feet of any door to a bedroom measured along a path of travel; and
 - (4) Where a smoke detector installed outside a bedroom is separated from an adjacent living area by a door, a smoke detector must also be installed on the living area side of the door.
- b) If the unit is occupied by any hearing-impaired person, the smoke detectors must have an alarm system designed for hearing-impaired persons.
- c) The Secretary may establish additional standards through Federal Register notification.

- d) Following the specifications of National Fire Protection Association Standard (NFPA) 72 satisfies these requirements.
 - 4) The unit must have a living room and a kitchen area with a sink, cooking appliance, refrigerator, food preparation area, and food storage area.
 - 5) The unit must have at least one bedroom or living/sleeping room for each two (2) persons.
 - 6) The unit must meet or exceed the carbon monoxide detection standards set by HUD through Federal Register notification.
 - 7) The unit must have two (2) working outlets or one (1) working outlet and a permanent light within all habitable rooms.
 - 8) Outlets within six (6) feet of a water source must be GFCI protected.
 - 9) For climate zones designated by the Secretary through notice, the unit must have a permanently installed heating source. No unit may contain unvented space heaters that burn gas, oil, or kerosene.
 - 10) The unit must have a guardrail when there is an elevated walking surface with a drop off of 30 inches or greater measured vertically.
 - 11) The unit must have a permanently mounted light fixture in the kitchen and each bathroom.
5. Health and Safety Concerns
- The inside, outside and unit must be free of health and safety hazards that pose a danger to families.
- a. Types of Health and Safety Concerns
- Include, but are not limited to carbon monoxide, electrical hazards, extreme temperature, flammable materials or other fire hazards, garbage and debris, handrail hazards, infestation, lead-based paint, mold, and structural soundness.
- b. Lead-Based Paint.
- HUD housing must comply with all requirements related to the evaluation and control of lead-based paint hazards and have available proper documentation of such. The Lead-based Paint Poisoning Prevention Act, the Residential Lead-based Paint Hazard Reduction Act of 1992, and all applicable regulations apply.
6. Compliance with State and Local Codes
- The standards for the condition of HUD housing in this section do not supersede state and local housing codes (such as fire, mechanical, plumbing, carbon monoxide, property maintenance, or residential code requirements).
- a. All HUD housing other than units assisted under the HCV program must comply with state or local housing codes in order to comply with this paragraph.

- b. State and local code compliance is not part of the determination of whether a unit passes the standards for the condition of HUD housing under this section for the HCV program, except in accordance with the HCV variant inspection standards.

7. Use of an Alternative Inspection or Additional Standard for the HCV Program

The PHA is not subject to the standards set by this section when the PHA is relying on an alternative inspection in accordance with the use of alternative inspections regulations.

8. Special Housing Types

Special housing types require standards unique to special types of housing. Unless modified by program-specific regulations, NSPIRE Standards will apply for these special housing types.

D. Inspection Requirements

The inspection requirement for HUD housing generally requires the inside, outside and unit to be inspected, in accordance with Section G of this Chapter. The inspection requirement for the PH program only applies to units occupied or to be occupied by PH families, and common areas and exterior areas which either service or are associated with such units.

1. Entities Conducting Inspections

- a. Under the public housing program the PHA is responsible for inspecting HUD housing under that program, unless another entity is assigned the inspection by the program regulations governing the housing, regulatory agreements or contracts.
- b. A PHA-owned unit receiving assistance must be inspected by an independent entity.
- c. The PHA, who is responsible for conducting an inspection of HUD housing to determine compliance, must inspect and score such HUD housing in accordance with the standards and procedures for identifying safe, habitable housing set out by the Secretary and published in the Federal Register.
- d. The PHA, conducting the inspection will identify each deficiency as "Life Threatening", "Severe," "Moderate", or "Low."

2. Public Housing Variant Inspection Standards

HUD may grant approval for inspection criteria variations for the following purposes:

- a. Variations which apply standards contained in local housing codes or other codes adopted by the PHA;
- b. Variations because of local climate or geographic conditions.
- c. The acceptability criteria variation may only be approved by HUD if the variation(s):
 - 1) Meets or exceeds the performance requirements, or
 - 2) Significantly expands affordable housing opportunities for families assisted under the PH program.

- d. HUD will not approve the variation if HUD believes that the variation is likely to adversely affect the health or safety of participant families or severely restricts their housing choice.

The PHA has not adopted any additional variation standards or local codes in addition to the NSPIRE Standards.

E. REAC Inspections

When conducting an inspection, REAC inspectors will inspect areas within the regulatory definitions for covered properties.

1. While the NSPIRE definitions of inspectable areas establish all potential areas that may be inspected, REAC may narrow locations in the applicable NSPIRE Standard or inspector protocols.
 - a. Within the NSPIRE Standards, REAC will include the specific areas to be inspected, along with the components and the types of deficiencies that may be recorded for the inspectable items.
 - b. NSPIRE inspections will focus on areas where residents live, areas residents can enter, and components or systems that could impact resident safety and health.
2. REAC inspectors will inspect areas and associated items or components that are listed in the regulations as affirmative requirements and those included within the NSPIRE Standards posted in the Federal Register.
3. REAC inspectors should not cite tenant-owned items or articles that are not considered components of the unit or inside or outside of HUD housing.
 - a. For example, a tenant owned picture with broken glass would not be cited for sharp edges, as that is a resident's personal property and not part of the unit or its components.
 - b. However, REAC inspectors may make an exception and cite certain tenant-owned items in the following examples for:
 - 1) Tenant-owned items that affect the performance of a fire safety system or otherwise puts the building at risk;
 - 2) Tenant-owned appliances and associated electrical and venting components, where that appliance is considered the primary item to meet the affirmative requirements; and
 - 3) Tenant-owned items, like an unvented fuel-burning appliance that is in violation of the affirmative requirements.
4. REAC will not inspect areas of the property that are not considered housing or part of the housing project, such as, commercial, or market-rate space used for nonresidential purposes, and sidewalks, fencing, roads and parking lots not owned or maintained by the property will not be inspected.

F. 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 hand-rails 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 business 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.

G. 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.
6. 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 28: 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 survivors 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 Notification of Overpayment. This notice will contain the following:

- a. A description of the violation and the date(s);
- b. Any amounts owed to the PHA;
- c. **A 30 business 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 \$10,000 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 10 calendar days after the tenant conference.
2. All notices will advise the family of their right to an informal hearing.

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CHAPTER 29: 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. Other unreported or underreported changes
 - f. 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;
The lump sum 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.
 - b. Monthly installments; or
 - c. A combination of a lump sum payment and monthly installments.
2. 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 1st day of the month and shall be considered delinquent on the 15th day of the month.
 - 1) If the 1st day of the month falls on a Saturday or Sunday, the retroactive payment will be due the following Monday.

- 2) If the 1st day of the month falls on a holiday (federal, state, or local), the retroactive payment will be due the 15th day of the month. If the 15th 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:
 - 1) Money order
 - 2) Cashier check
3. 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 one (1) 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 survivors of VAWA violence/abuse.
 - 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) Survivors of harassment
 - 6) Survivors 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 30: RECORDS MANAGEMENT

Effective records management is necessary to safeguard family information and ensure the PHA's authority to obtain, use, and dispose of such information is in accordance and consistent with applicable laws and regulations.

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 10 calendar 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 10 calendar days after the period allowed to request an informal hearing has expired or no later than 10 calendar 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 10 calendar days after the period allowed to request an informal hearing has expired or no later than 10 calendar 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 10 calendar 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 survivor of VAWA violence/abuse 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 VAWA violence/abuse 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 31: 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).
3. The PHA has included the following additional prohibited tobacco products and restricted areas:

Other PHA Prohibited Tobacco Products:

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 survivor 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 survivor 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 survivor 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 the 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 1st to 5th 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.

APPENDIX A: HUD VERIFICATION HIERARCHY AND TECHNIQUES

HUD VERIFICATION HIERARCHY AND TECHNIQUES		
Level	Verification Technique	Ranking/Order of Acceptability
6	Upfront Income Verification (UIV) , using HUD's Enterprise Income Verification (EIV) System	Highest PHAs must pull the EIV Income Report for each family at every annual reexamination. EIV may be used as the sole verification of Social Security income. EIV income information may be used to calculate other types of annual income when family agrees (see Level 4 for more information).
5	Upfront Income Verification (UIV) using non-HUD system (e.g., The Work Number, web-based state benefits systems, etc.).	Highest
4	Written Third-Party Verification from the source, also known as "tenant-provided verification;" or EIV + Self-Certification PHAs can choose either option when both are available to verify income. PHAs must use written, third-party verification when the income type is not available in EIV (e.g., self-employment, Go Fund Me accounts, general public assistance, Veterans Administration benefits, etc.)	High Written, third-party verification is used when tenant disputes EIV-reported employment and income information. The EIV Income Report may be used to verify and calculate income if the family self-certifies that the amount is accurate and representative of current income. The family must be provided with the information from EIV.
3	Written Third-Party Verification Form	Medium Use if Level 5 or Level 4 verification is not available or is rejected by the PHA and when the applicant or tenant is unable to provide acceptable documentation. May substitute Level 2 for written, third-party verification form, only completing one of the two forms of verification before moving to self-certification.

HUD VERIFICATION HIERARCHY AND TECHNIQUES		
Level	Verification Technique	Ranking/Order of Acceptability
2	Oral Third-Party Verification	Medium
1	Self-Certification	Low Use as a last resort when unable to obtain any type of third-party verification or if specifically permitted, such as to determine actual income from assets when the family certifies that net family assets do not exceed \$50,000.

APPENDIX B: INCOME INCLUSIONS AND EXCLUSIONS CHART

INCOME INCLUSIONS AND EXCLUSIONS CHART			
INCOME CODE	DESCRIPTION	INCLUDE	INCOME EXCLUSIONS
WAGES			
Own Business	Net income from a professional or business operation [24 CFR 5.609 (b)(28)(i)].	Withdrawals of cash or assets from the professional or business operation [24 CFR 5.609(b)(28)(ii)]. Do not deduct for expenditures for business expansion [24 CFR 5.609 (b)(28)(i)]. Do not deduct for amortization of capital indebtedness in determining net income [24 CFR 5.609(b)(28)(i)].	Withdrawals of cash or assets from the professional or business operation, if the withdrawal is a reimbursement for cash or assets invested in the operation by the family [24 CFR 5.609(b)(28)(ii)]. Allowance for depreciation of assets used in a business may be deducted, based on straight line depreciation, as provided in Internal Revenue Service (IRS) regulations [24 CFR 5.609(b)(28)(i)].
Federal Wage	Compensation received from federal government employment, which includes federal government agencies and instrumentalities.	Wages from federal government employment.	Income from employment of children under 18 years old [24 CFR 5.609(b)(3)]. Earnings in excess of the amount of the deduction for a dependent for each full-time student 18 years old or older (excluding the head of household and spouse) [24 CFR 5.609(b)(14)]. Amounts earned by temporary Census employees; terms of employment may not exceed 180 days for the purposes of the exclusion [24 CFR 5.609(b)(24)(i)].
PHA Wage	Compensation earned through work performed for the Public Housing Agency (PHA).	Wages paid to any family member from the PHA.	Income from employment of children under 18 years old [24 CFR 5.609(b)(3)]. Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by the resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development [24 CFR 5.609(b)(12)(iii)]. Earnings in excess of the amount of the deduction for a dependent for each full-time student 18 years old or older (excluding the head of household and spouse) [24 CFR 5.609(b)(14)].
Military Pay	All regular pay, special pay and allowances of a member of the Armed Forces (including the Coast Guard, National Guard, and Reserve units).	The full amount of the head of household's or spouse's military pay, not just the amount sent home, regardless of whether the head of household or spouse or co-head is on the lease. Subsistent allowances. Uniform allowances. Other allowances.	Income from employment of children under 18 years old [24 CFR 5.609(b)(3)]. The special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11)]. Earnings in excess of the amount of the deduction for a dependent for each full-time student 18 years old or older (excluding the head of household and spouse) [24 CFR 5.609(b)(14)]. Other pay specifically excluded by law.
WAGES			
Other Wage	Wages and salary received from private or public sources (other than military pay and federal wages). Also include income in lieu of earnings in this category.	Overtime pay. Commissions. Fees. Tips. Bonuses. Other compensation for personal services. Severance pay. Termination pay.	Income from employment of children under 18 years old [24 CFR 5.609(b)(3)]. Income of a live-in aide, foster child, or foster adult, as defined in 24 CFR 5.403 and 5.603 [24 CFR 5.609(b)(8)]. Earnings and benefits from employment training programs funded by HUD [24 CFR 5.609(b)(12)(iv)]. Reimbursement for out-of-pocket expenses while attending a public assisted training program [24 CFR 5.609(b)(12)(ii)]. Incremental earnings and benefits from participation in qualifying Federal, State, Tribal, or local employment training programs and training of

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INCOME INCLUSIONS AND EXCLUSIONS CHART			
INCOME CODE	DESCRIPTION	INCLUDE	INCOME EXCLUSIONS
			a family member as resident management staff [24 CFR 5.609(b)(12)(iv)]. Earnings in excess of the amount of the deduction for a dependent for each full-time student 18 years old or older (excluding the head of household and spouse) [24 CFR 5.609(b)(14)]. See generally 79 Fed. Reg. 28,938 (May 20, 2014) and updated Federal Register Notice to be published June 2023 on federally mandated exclusions [24 CFR 5.609(b)(22)]. Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002 [Public Law 107-110, 42 U.S.C. 604(h)(4)].
WELFARE			
General Assistance	Payments made under a financial or medical assistance program(s) provided by a state, tribe, or local government jurisdiction.	Payments provided by a state, tribe or local government for medical or financial assistance	Amounts paid by or authorized by a State Medicaid agency (including through a managed care entity) or other State or Federal agency to a family to enable a family member who has a disability to reside in the family's assisted unit [24 CFR 5.609(b)(19)]. The value of allotment provided to an eligible household under the Food Stamp Act of 1977 (7 USC 2017b), [24 CFR 5.609(b)(22)]. Incremental earnings and benefits from participation in qualifying Federal, State, Tribal and local employment training programs [24 CFR 5.609(b)(12)(iv)]. Any amount received under the Richard B. School Lunch Act U.S.C.1760(e) and the Children Nutrition Act of 1966 (42 U.S.C. 17809(b)) including reduced priced lunches and food under the Special Supplemental Food Program for Women, Infants and Children (WIC).
Annual Imputed Welfare Income	The annual income not received by a family because of a welfare benefit reduction but is included in the family's annual income for determining rent.	The dollar amount by which the family's welfare benefits were reduced by a TANF agency because of fraud or noncompliance [24 CFR 5.615].	The amount by which the family's welfare benefits were reduced, if the family was not an assisted resident at the time of sanction [24 CFR 5.615(c)(5)].
TANF Assistance	Temporary Assistance to Needy Families (TANF) is a benefit designed to meet a family's ongoing basic needs. Not all states refer to this income as TANF. A state may have a different name (other than TANF) for this type of income. See 45 CFR 260.31 for additional information on TANF assistance and exclusions.	TANF assistance is funded from federal or state dollars. The term assistance includes cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses) Payments to individual recipients by a TANF agency, or other agency on its behalf. Benefits based on participation in work experience or community service (or any other work activity in 45 CFR 261.30). Supportive services such as transportation and childcare provided to families who are <i>not</i> employed.	Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member [24 CFR 5.609(b)(6)]. For purposes of the FSS program only, see 24 CFR 984.103 for the definition of "welfare assistance."

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INCOME INCLUSIONS AND EXCLUSIONS CHART			
INCOME CODE	DESCRIPTION	INCLUDE	INCOME EXCLUSIONS
SS/SSI/PENSIONS			
Pension	A periodic distribution paid for retirement benefits.	Pensions. Annuities. Retirement or profit- sharing plans. Individual Retirement Accounts (IRAS). Simplified Employee Pensions (SEPS). Life insurance and endowment policies.	Lump-sum benefits payable as a death benefit [24 CFR 5.609(b)(24)(vii) and (26)].
SS/SSI/PENSIONS			
SSI	The Supplemental Security Income (SSI) program provides cash assistance to family members who have limited income and resources, are 65 or older, blind, or disabled. Family members under 18 can also receive SSI if they have an impairment that prohibits an adult family member from working.	Periodic amounts received from the SSI program. State supplements to SSI.	Deferred periodic amounts from SSI benefits that the family member received in a lump sum amount or in prospective monthly amounts [24 CFR 5.609(b)(16)]. 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) [24 CFR 5.609(b)(12)(i)].
Social Security	Benefits from the Social Security Administration.	Child's benefits. Divorced wife's insurance benefits. A widow(er) entitled to mother's or father's insurance benefits. Parent's, brother's, or sister's benefits. Retirement insurance benefits. Spouse's benefits. Surviving divorced spouse's benefits. Widow(er)'s benefits. Spouse's benefits. Comparable benefits under the Railroad Retirement Act.	Deferred periodic amounts from Social Security benefits that the family member received in a lump sum amount or in prospective monthly amounts [24 CFR 5.609(b)(16)].
SSDI	The Social Security Disability Insurance program.	Disabled workers' benefits. Disabled widow(er)'s benefits.	Deferred periodic amounts from Social Security benefits that the family member received in a lump sum amount or in prospective monthly amounts [24 CFR 5.609(b)(16)].
OTHER INCOME SOURCES			
Child Support	Financial or medical assistance that a parent provides voluntarily or by court order for upkeep and general well-being of their child(ren).	Payments from a parent for child rearing. Regular contributions toward support from a public or private welfare agency.	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 (42 U.S.C. 9858q);
Health and Medical Care Reimbursement	Any income received to reimburse medical expenses.		Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member [24 CFR 5.609(b)(6)].
OTHER INCOME SOURCES			

INCOME INCLUSIONS AND EXCLUSIONS CHART			
INCOME CODE	DESCRIPTION	INCLUDE	INCOME EXCLUSIONS
Indian Trust/ Per Capita	Judgment funds awarded by the Indian Claims Commission, the Court of Claims, or funds held in trust for an Indian tribe by the Secretary of the Interior.	Amounts over the first \$2,000 of per capita shares received from judgment funds.	Certain payments received under the Alaska Native Claims Settlement Act (43 USC 1626(c)), [24 CFR 5.609(b)(22)]. Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 USC 459(e)), [24 CFR 5.609(b)(22)]. Income derived from the disposition of funds of the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat 2503-04), [24 CFR 5.609(b)(22)]. The first \$2,000 of per capita shares from judgment funds awarded by Indian Claims Commission or the US Court of Claims, the interests of individual Indians in trust or restricted lands, including the first \$2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-08), [24 CFR 5.609(b)(22)]. Payments received under the Maine Indian Claims Settlement Act of 1980 (25 USC 1721), [24 CFR 5.609(b)(22)]. Payments received by the Indian Claims Commission to the Confederate Tribes and Bands of the Yakima Indian Nation or the Apache Tribe of the Mescalero Reservation (Pub. L. 95-433), [24 CFR 5.609(b)(22)]. Payments, funds or distributions authorized, established or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b)), [24 CFR 5.609(b)(22)]. 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 (Public Law 111-269; (25 U.S.C. 4103(9)) to the definition of income applicable to programs authorized under NAHASDA and administered by the Office of Native American Programs [24 CFR 5.609(b)(22)]. A lump sum or a periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the case entitled <u>Elouise Cobell et al. v. Ken Salazar et al.</u>, 816 F.Supp.2d 10 (Oct. 5, 2011 D.D.C.), as provided in the Claims Resolution Act of 2010 (Public Law 111-291), [24 CFR 5.609(b)(22)].
OTHER INCOME SOURCES			
Other Non-Wage Sources	Any other income source not otherwise specified.		Payments received for the care of foster children (including kinship payments for residents) or foster adults, or State or Tribal kinship or guardianship care payments [24 CFR 5.609(b)(4)]. Any assistance that 479B of the Higher Education Act of 1965, as amended (20 U.S.C. 1087uu) requires be excluded from family income [24 CFR 5.609(b)(9)]. (For Section 8 heads of households, spouses, and co-heads, the appropriations dictate. See PIH supplemental HOTMA notice.) Student financial assistance for tuition, books, and supplies, room and board, and other fees required

INCOME INCLUSIONS AND EXCLUSIONS CHART			
INCOME CODE	DESCRIPTION	INCLUDE	INCOME EXCLUSIONS
			and charged to a student by an institution of higher education and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit [24 CFR 5.609(b)(9)]. (For Section 8 heads of households, spouses, and co-heads, the appropriations dictate. See PIH supplemental HOTMA notice.) Income and distributions from any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and income earned by government contributions to, and distributions from, "baby bond" accounts created, authorized, or funded by Federal, State, or local government [24 CFR 5.609(b)(10)]. 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 [24 CFR 5.609(b)(13)]. Adoption assistance payments for a child in excess of the amount of the deduction for a dependent [24 CFR 5.609(b)(15)]. Refunds or rebates under state or local law for property taxes paid on dwelling unit [24 CFR 5.609(b)(18)]. Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(b) apply [24 CFR 5.609(b)(22)].
OTHER INCOME SOURCES			
			Major disaster and emergency assistance received by individuals and families under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Pub. L. 93-288, as amended) comparable disaster assistance provided by States, local governments, and disaster assistance organizations shall not be considered as income or a resource when determining eligibility for or benefit levels under federally funded income assistance or resource-tested benefit programs (42 U.S.C. 5155(d)), [24 CFR 5.609(b)(22)]. Payments or allowances under DHHS' low-income home energy assistance program (LIHEAP) (42 USC 8624(f)), [24 CFR 5.609(b)(22)]. Payments received from programs funded under Title V of the Older Americans Act of 1965 (42 USC 3056(f)), [24 CFR 5.609(b)(22)]. Deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts [24 CFR 5.609(b)(16)]. Payments related to aid and attendance under 38 USC 1521 to veterans in need of regular aid and attendance [24 CFR 5.609(b)(17)]. Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any fund

INCOME INCLUSIONS AND EXCLUSIONS CHART			
INCOME CODE	DESCRIPTION	INCLUDE	INCOME EXCLUSIONS
			established pursuant to the settlement in the Agent Orange product liability litigation (M.L.D. No.381), [24 CFR 5.609(b)(22)]. Earned Income Tax Credit refund tax payments received on or after on or after January 1,1991, for programs administered under the United States Housing Act of 1937, title V of the Housing Act of 1949, section 101 of the Housing and Urban Development Act of 1965, and sections 221(d)(3) 235, and 236 of the National Housing Act (26 U.S.C. 32(j)), [24 CFR 5.609(b)(22)]. Any allowance paid under the provisions of 38U.S.C. 8133(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 USC 1811-16), and children of certain Korean and Thailand service veterans born with spina bifida (38 U.S.C. 1821-22), [24 CFR 5.609(b)(22)].
OTHER INCOME SOURCES			
			Any amount of crime victim compensation that the applicant (under the Victims Crime Act) receives through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims Crime Act because of the commission of a crime against the applicant (34 U.S.C. 20102(c)), [24 CFR 5.609(b)(22)]. Allowances, earnings, and payments to individuals participating in programs under the Workforce Investment Act of 1998 reauthorized as the Workforce Innovation and Opportunity Act of 2014 (Public Law 113-128 section 181(a)(2)), (29 U.S.C. 3241(a)(2)), [24 CFR 5.609(b)(22)]. Payments made under the Emergency Rental Assistance Program pursuant to the Consolidated Appropriations Act, 2021 (Public Law 116-260), and the American Rescue Plan Act of 2021 (Public Law 117-2) (24 CFR 5.609(b)(22)). Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d)), [24 CFR 5.609(b)(22)]. Distributions of the principal or corpus of a trust, or distributions of income from a trust when the distributions are used to pay the costs of health and medical care expenses for a minor, for irrevocable trusts or revocable trusts outside the control of the family or household that are excluded from net family assets under 24 CFR 5.603(b) [24 CFR 5.609(b)(2)]. Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation [24 CFR 5.609(b)(5)]. Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled [24 CFR 5.609(b)(7)]. Loan proceeds received by the family or a third party [24 CFR 5.609(b)(20)].

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INCOME INCLUSIONS AND EXCLUSIONS CHART			
INCOME CODE	DESCRIPTION	INCLUDE	INCOME EXCLUSIONS
			Payments received by Tribal members as a result of claims relating to the as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other Federal law [24 CFR 5.609(b)(21)].
OTHER INCOME SOURCES			
			Replacement housing "gap" payments made in accordance with 49 CFR part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another Federally subsidized housing unit. Such replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments [24 CFR 5.609(b)(23)]. Civil rights settlements or judgments, including settlements or judgments for back pay [24 CFR 5.609(b)(25)].
Unemployment Benefits	Periodic payments in lieu of earnings.	All payments in place of earnings, such as unemployment compensation, unless some other income exclusion is applicable.	See income exclusions at 5.609(b) to determine if any are applicable. See generally 79 Federal Register 28,938 (May 20, 2014) and updated Federal Register Notice to be published June 2023 on federally mandated exclusions [24 CFR 5.609(b)(22)] to determine if any are applicable.
Safe Harbor Determination	When the PHA uses a safe harbor determination of family income, drawing on the total income as indicated by an approved Federal means-tested form of public assistance.	The entire family income provided by the annual income determination made by administrators of means-tested forms of Federal public assistance may be provided on one line.	

APPENDIX C: HUD INFLATIONARY ADJUSTMENT ITEMS

HUD will annually publish the eight inflation-adjusted items in the table below no later than September 1, and the updated values will be shared online at the HUDUser Web site. The publication will apply to both MFH and PIH programs. The revised amounts will be effective on January 1 of the following year.

Adjusted Item	Regulatory Reference	Amount Effective January 1, 2024 (subject to annual adjustment)	Rounding Methodology
Eligibility restriction on net family assets	24 CFR 5.618(a)(1)(i)	\$100,000	Nearest dollar
Threshold above which imputed returns must be calculated on net family assets	24 CFR 5.609(a)(2) and (b)(1)	\$50,000	Nearest dollar
Threshold above which the total value of non-necessary personal property is included in net family assets	24 CFR 5.603(b) Net family assets	\$50,000	Nearest dollar
The amount of net assets for which the PHA may accept self-certification by the family	24 CFR 5.618(b)(1) 24 CFR 5.659(e) 24 CFR 960.259(c)(2)	\$50,000	Nearest dollar
Mandatory deduction for elderly and disabled families	24 CFR 5.611(a)(2)	\$525	Next lowest multiple of \$25
Mandatory deduction for a dependent	24 CFR 5.611(a)(1)	\$480	Next lowest multiple of \$25
Income exclusion for earned income of dependent full-time students	24 CFR 5.609(b)(14)	\$480	Next lowest multiple of \$25
Income exclusion for adoption assistance payments	24 CFR 5.609(b)(15)	\$480	Next lowest multiple of \$25

List of Charges in Addition to Tenant Rent

DRAFT

APPENDIX D: UTILITY ALLOWANCES OR CONSUMPTION ALLOWANCES

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APPENDIX E: 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
COLTON/BONNEI FL011000001	57	56	0	0	0
DAKOTA PARK FL011000002	20	20	0	0	0
Washington Oaks/The Manor FL011000003	108	108	0	0	0
Cottages at Williamstown FL011000005	48	0	0	48	0
Twin Lake Estates Phase I	10	0	0	10	0

APPENDIX F: PHA INCOME LIMITS

DRAFT

APPENDIX G: TABLE OF FLAT RENTS

Development:

Unit Size	Flat Rent
1	1193
2	1201
3	1470
4	1976
5	2469

APPENDIX H: SECURITY DEPOSITS

Number of Bedrooms	Amount of Security Deposit
1	300
2	300
3	300

Security Deposit Requirements	Set Amount
Pet deposit	500

APPENDIX I: TERMINATION AND EVICTION POLICY

As a landlord, **Housing Authority of the City Of Lakeland** (hereinafter referred to as PHA) has certain rights and responsibilities concerning termination of dwelling leases and eviction of residents who violate lease terms or are determined to be undesirable for other reasons.

A. Rights and Responsibilities

1. The PHA may terminate or refuse to renew a lease for serious or repeated violations of material terms of the lease by residents including, but not limited to, the following:

The regulation at 24 CFR (Code of Federal Regulations) 966.4(f)(12), requires under Section 6(1) that every lease signed by a resident of a public housing unit must contain a provision which authorizes the PHA to consider certain "criminal activity engaged in by the resident, members of their household, another person under the control of the resident, or their guests", including drug-related, *on or off* the PHA's premises to be "cause for termination of tenancy".

This lease provision authorizes termination of the lease and eviction of all members of the household. Thus, any criminal activity that threatens the health, safety or right to peaceful enjoyment of the PHA's public housing premises by other residents may be cause for such termination. (See CFR 966.4(e)(2) Grounds for Termination).

It is the policy of the PHA to terminate tenancy of any household where a member or guest engages in such criminal, drug-related or alcohol related activity.

The PHA retains the discretion to determine on a case-by-case basis whether or not the entire household or only the offending member(s) should be evicted for such criminal activity.

2. The PHA has a "zero tolerance" policy with respect to violations of lease terms regarding violent criminal activity.

The following are some examples of said activities:

- a. Displaying a deadly weapon in connection with a verbal or nonverbal threat of bodily harm.
- b. Inflicting any injury upon another person through the intentional, reckless, careless, or negligent use of a deadly weapon.
- c. Damaging any property through the intentional, reckless, careless, or negligent use of a deadly weapon.

B. Consideration of Favorable Factors

In the event of the receipt of unfavorable information with respect to a tenant and or lease violations that could cause termination of tenancy, the PHA will give consideration to the time, nature, and extent of the applicant's conduct. The PHA will also consider factors that might indicate a reasonable probability of favorable future conduct, such as:

1. Evidence of successful completion of an appropriate rehabilitation program for drug alcohol-related problems (requiring certification from a health professional, or State certified program). The resident may be required to provide evidence of otherwise being rehabilitated successfully (i.e., on-going 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 tenant 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 tenant to exclude the offending household member in order to remain in 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 tenant family's participation in or willingness to participate in social services or other appropriate counseling programs, and the availability of such programs.

C. Domestic Violence

1. The PHA may terminate or refuse to renew a lease to any household member who is a perpetrator of domestic violence, dating violence, sexual assault, or stalking, collectively referred to as VAWA violence/abuse.
2. The PHA retains the discretion to determine on a case-by-case basis whether or not the entire household or only the offending member(s) should be evicted for such criminal activity.
3. An incident or incidents of actual or threatened VAWA violence/abuse will not be construed as a serious or repeated violation of the lease by the survivor or threatened survivor of that violence and shall not be good cause for terminating the assistance, tenancy, or occupancy rights of the survivor of such violence.
4. Criminal activity directly relating to a VAWA violence/abuse, engaged in by a member of a tenant's household or any guest or other person under the tenant's control shall not be cause for termination of assistance, tenancy, or occupancy rights if the tenant or an affiliated individual of the tenant is the survivor or threatened survivor of that VAWA violence/abuse. This does not limit the authority of the PHA to:
 - a. Terminate public housing assistance to individuals who engage in criminal acts of physical violence against family members or others.

- b. Terminate public housing assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the public housing agency does not subject an individual who is or has been a survivor of VAWA violence/abuse to a more demanding standard than other tenants in determining whether to terminate.
- c. Terminate public housing assistance to a tenant if the public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property or PHA if that tenant is not evicted or terminated from assistance.
- d. Upon relocation of the household member who is the survivor of VAWA violence/abuse, the PHA shall terminate the assistance of the remaining family if the perpetrator of the VAWA violence/abuse remains in the household.

D. Termination by Family

1. A resident may terminate their lease at any time but must provide the PHA 30 days' notice in writing and should include a forwarding address for the PHA to return the resident's security deposit after the resident vacates the premises.
2. A notice of termination by the PHA or a resident may be given on any day of the month.

E. The PHA must provide residents a notice of termination as follows:

1. Thirty (30) days in advance, in cases of failure to pay rent;
2. Three (3) days in advance, in cases of creation or maintenance of a threat to the health and safety of other residents, or PHA employees, or a reasonable time in excess of three (3) days considering the seriousness of the situation.
3. Thirty (30) days in advance in all other cases.
4. The notice shall state the specific reasons for termination and inform the residents they have a right to reply, examine relevant PHA documents, copy relevant documents at their expense, and request a grievance hearing. The lease termination notice shall:
 - a. State that the resident is entitled to a grievance hearing on the termination.
 - b. Specify the judicial eviction procedure to be used by the PHA for eviction of the resident, and state that HUD has determined that this eviction procedure provides the opportunity for a hearing that contains the basic elements of due process as defined in HUD regulations.
 - c. State whether the eviction is for a criminal activity or for a drug-related criminal activity, or a pattern of alcohol abuse which threatens the health, safety or right to peaceful enjoyment of the premises by other residents or PHA employees.
5. HUD has issued a due process determination that the law of the state of Florida requires that the resident be given the opportunity for a hearing in court which provides the basic elements of due process (as defined in the Definition section of these policies) before

eviction from a dwelling unit. Therefore, the PHA has elected to determine that this grievance procedure shall not be applicable to any termination of tenancy or eviction that involves:

- a. Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or employees of the PHA; or
 - b. Any violent or drug-related criminal activity on or off such premises; or
 - c. Any activity that resulted in felony conviction of a household member.
6. Any criminal activity is cause for termination of tenancy even in the absence of conviction or arrest.
 7. Any repeated pattern of alcohol abuse which threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or PHA employees.
 8. The PHA's eviction notices to residents must be in writing, hand delivered or sent by certified mail, with a return receipt requested.
 9. Notices under this grievance procedure shall be deemed delivered:
 - a. Upon personal service thereof to the complainant or an adult member (18 years of age or older) of the complainant's household;
 - b. Upon the date receipted for or refused by the addressee, in the case of certified or registered U.S. Mail; or
 - c. On the second day after the deposit thereof for mailing, postage prepaid, with the U.S. Postal Service, if mailed by first class mail other than certified or registered mail, unless the resident can prove that delivery of the notice, in fact, occurred at some other time.
 10. If a resident is visually impaired, any notice delivered to such resident shall be in an accessible format.
 11. The PHA will notify the local post office of residents evicted for criminal activity so that evicted persons will not return to the housing development to pick up their mail.

F. Future Eligibility for Assistance.

The PHA has established standards that prohibit and deny readmission of a previous resident and/or household member to the PHA's public housing program for certain drug, criminal and/or unfavorable family behaviors.

1. The PHA will prohibit and deny readmission to the PHA's public housing program for:
 - a. Persons evicted from federally assisted housing for drug-related criminal activity for five (5) years from the date of the eviction.
 - b. Person engaging in illegal use of a drug.

- c. Persons convicted of methamphetamine production for manufacture or production methamphetamine on the premises of federally assisted housing (permanently prohibited admission).
 - d. Persons subject to sex offender registration requirement.
 - e. Persons that abuse or show a pattern of abuse of alcohol.
2. The PHA may prohibit and deny readmission to the PHA's public housing program for:
 - a. An applicant's past performance in meeting financial obligations, especially rent and/or utility payments.
 - b. An applicant's previous lease violations, including the failure to comply with community service and self-sufficiency requirements.
 - c. An applicant who left owing a debt to the PHA or any other PHA.
 - d. A record of disturbance of neighbors, destruction of property, or living or housekeeping habits at any prior PHA public housing development which may have adversely affected the health, safety, or welfare of other tenants.
 - e. A history of criminal activity involving crimes of physical violence to persons or property and other criminal acts which would have adversely affected the health, safety, or welfare of other tenants.
 3. The eligibility determination for readmission will be based on the circumstances of the applicant family at the time the family reapplies.
 4. The PHA may require an applicant to exclude a household member in order to be readmitted to the public housing program where that household member has participated in or been culpable for any actions described above.
 5. In the event of unfavorable information with respect of an applicant, consideration shall be given to the time, nature, and extent of the applicant's conduct, including seriousness of the offense.

APPENDIX J: GRIEVANCE PROCEDURES

The grievance procedure is an administrative remedy, prescribed by HUD to the **Housing Authority of the City Of Lakeland** (hereinafter referred to as PHA), to ensure adequate due process regarding adverse actions against public housing resident.

A. Purpose and Scope

The purpose of the grievance procedures is to assure that the residents are afforded an opportunity for a hearing, if the resident disputes within a reasonable time, any PHA action or failure to act, involving the resident's lease, or PHA regulations which adversely affect the individual resident's right's, duties, welfare, or status, including, but not limited to:

- Community Service and Self-Sufficiency Requirements.
 - Minimum rent hardship exemptions.
 - Income changes resulting from welfare program requirements.
 - Improper disclosure or inappropriate use of information obtained by the PHA through criminal records, sex offender registration records, drug abuse treatment facility records and domestic violence records.
1. The grievance procedure shall be applicable to all individual grievances as defined herein.
 2. The PHA will furnish a copy of the grievance procedure to each tenant and to resident organizations.

B. Governing Law

The law governing this grievance procedure is Section 6 (K) of the U.S. Housing Act of 1937 (42 U.S.C. sec. 1437d(k)) and subpart B of 24 CFR part 966 (24 CFR secs. 966.50-966.57).

C. Definitions

The following definitions of terms shall be applicable to this grievance procedure:

1. **Grievance**: Any dispute which a resident may have with respect to an action or a failure to act by the PHA in accordance with the individual resident's lease or PHA regulations, which adversely affects the individual resident's rights, duties, welfare or status.
2. **Complainant**: Any resident whose grievance is presented to the PHA or at the project management office in accordance with the requirements set forth in this procedure.
3. **Elements of Due Process**: An eviction action or termination of tenancy in a state or local court in which the following procedural safeguards are required:
 - a. Adequate notice to the resident of the grounds for terminating the tenancy and for eviction;
 - b. Right of the resident to be represented by counsel;

- c. 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; and
- d. A decision on the merits.
- 4. *Expedited Grievance: The procedure established by the PHA for any grievance concerning a termination of tenancy or eviction that involves:*
 - a. 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
 - b. Any drug-related or violent criminal activity on or off PHA premises.
- 5. *Hearing Officer or 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.
- 6. *Resident organization:* An organization of residents, which includes any resident management corporation.
- 7. *Resident:* The adult person (or persons) other than a live-in aid:
 - a. Who resides in the unit and who executed the lease with the PHA as lessee of the dwelling unit, or, if no such persons reside in the unit;
 - b. The person who resides in the unit, and who is the remaining head of the household of the resident family residing in the dwelling unit.

D. Incorporation in Lease

This grievance procedure shall be included in, or incorporated by reference in, all leases between the residents and the PHA.

E. Exceptions

These procedures are applicable to all individual grievances, as defined in Section C of this Policy, between the resident and the PHA with the following exceptions:

- 1. The PHA's grievance procedures are not applicable to disputes between residents not involving the PHA, or to class grievances.
- 2. The grievance procedures are not intended as a forum for initiating or negotiating policy changes between a group or groups of residents and the PHA's Board of Commissioners; and
- 3. Due Process Determination
 - a. A determination by HUD that law of the jurisdiction requires that the resident must be given the opportunity for a hearing in court which provides the basic elements of due process before eviction from the unit. If HUD has issued a due process determination,

the PHA may exclude from the PHA's administrative grievance procedure any grievance concerning a termination of tenancy or eviction that involves:

- 1) Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or employees of PHA; or
 - 2) Any violent or drug-related criminal activity on or off such premises; or
 - 3) Any criminal activity that resulted in felony conviction of a household member.
- b. HUD will publish in the Federal Register a notice listing the judicial eviction procedures for which HUD has issued a due process determination.
 - c. HUD will make available for public inspection and copying a copy of the legal analysis on which the determinations are based.
 - d. If HUD has issued a due process determination, the PHA may evict the occupants of the unit through the judicial eviction procedures which are the subject of the determination.
 - e. In this case, the PHA is not required to provide the opportunity for a grievance hearing under the PHA's administrative grievance procedure.
4. Improper use of or disclosure of information obtained by the PHA through criminal records, sex offender registration records, and drug abuse treatment facility records, may be the subject of a grievance by a complainant of the PHA.

F. Grievance Process

Grievances shall be personally presented, either orally or in writing, to the PHA's central office, or to the office of the development in which the complainant resides.

Except as stated above, the PHA's procedures shall afford each resident an opportunity for a hearing on a grievance, in accordance with the requirements, standards, and criteria contained in these procedures, with such modifications as are required by state law.

1. Informal Settlement of Grievance

The primary objective of this process is to informally discuss and settle the grievance at the lowest level and as quickly as possible without a hearing.

- a. The PHA will review the grievance to:
 - 1) Ensure that the grievance can be appropriately addressed during the grievance process.
 - 2) Ensure the grievance is referred to the appropriate department or office responsible for the matter being grieved.
 - 3) Ensure the PHA is correctly handling disputes that differ from PHA operations, such as allegations of discrimination or harassment.

- 4) Inform the complainant may attend with a representative at their discretion and expense.
- b. The PHA will prepare a summary of such discussion within 10 business days.
- c. A copy of the summary of such discussion will be given to the resident and one shall be retained in the PHA's resident file. The summary of discussion will specify:
 - 1) The names of the participants,
 - 2) Date(s) of the meeting(s),
 - 3) The nature of the proposed disposition of the complainant and the specific reasons therefore,
 - 4) The rights of the complainant to a grievance hearing, and
 - 5) The procedures by which a grievance hearing may be obtained if the complainant is not satisfied with the outcome of the informal discussion.
- d. The PHA shall specifically include notice to the complainant of the following:
 - 1) The time limit to request a grievance hearing;
 - 2) The grievance hearing will be heard by a hearing officer and the procedures for selecting the hearing officer;
 - 3) What specifically must be included in the complainant's request for a grievance hearing;
 - 4) If the complainant fails to request a hearing within the required time period 10 business days after receiving the summary, the PHA's decision rendered at the Informal Settlement conference becomes final. However, the complainant does not waive the right to contest the PHA's action in an appropriate judicial proceeding;
 - 5) The complainant's rights to be represented by counsel or other representative at the grievance hearing; and
 - 6) The complainant requesting a hearing has a right to examine any PHA documents relevant to the hearing, including records and regulations. The complainant shall be allowed to obtain a copy from the PHA of any such documentation at the complainant's expense.
2. Procedures to Obtain a Grievance Hearing

A grievance hearing must be held before a hearing officer.

 - a. Request for a Grievance Hearing:
 - 1) The complainant shall submit a written or oral request for a hearing to the PHA, or to the development office, within 10 calendar days after receipt of the written summary of the Informal Settlement conference.
 - 2) The written request shall specify:

- a) The reasons for the grievance;
 - b) The action or relief sought;
 - c) The complainant's statement setting forth the times at which the complainant will be available for a hearing during the next 10 calendar days;
 - d) Complainant's preference, if any, concerning whether the grievance should be heard by a hearing officer.
- a. If the complainant fails to request a hearing within 10 business days after receiving the written summary of the Informal Settlement conference, the PHA's decision rendered at the Informal Settlement conference becomes final and the PHA is not thereafter obligated to offer the complainant a hearing.
 - b. Should the complainant fail to request a hearing, such failure shall not constitute a waiver by the complainant of his/her right thereafter to contest the PHA's action in disposing of the complaint in an appropriate judicial proceeding.

G. Expedited Grievance Procedures

In states without due process determinations, the PHA has established an expedited grievance procedure for any grievance concerning a termination of tenancy or eviction that involves:

1. Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the PHA's premises by other residents or employees of the PHA; or
2. Any drug-related or violent criminal activity on or off such premises.
3. Any criminal activity that resulted in felony conviction of a household member.

Note: In the case of a grievance under the expedited grievance procedure, Informal Settlement of Grievance is not applicable.

4. Request for a Grievance Hearing:
 - a. The complainant shall submit a written request for a hearing to the PHA or to the development office within 10 calendar days of the written notice of lease termination.
 - b. The written request shall specify:
 - 1) The reasons for the grievance;
 - 2) The action or relief sought.
 - c. The PHA will not consider grievances received after this timeframe.
 - 1) The PHA's decision becomes final and the PHA is not thereafter obligated to offer the complainant another request for a grievance.
 - 2) Should the complainant fail to request an expedited grievance or fail to request the expedited grievance timely, such failure shall not constitute a waiver by the

complainant of his/her right thereafter to contest the PHA's action in disposing of the complaint in an appropriate judicial proceeding.

5. **Scheduling, Conducting and the Decision of the Hearing for Expedited Grievance**

a. The hearing officer will give scheduling priority to expedited grievances and will promptly schedule a hearing within 5 calendar days of receiving the request for a hearing.

a. The hearing officer shall conduct the expedited hearing in accordance with these Grievance Procedures.

b. The hearing officer shall prepare a written decision, together with the reasons therefore, within 10 calendar days after the hearing.

H. Selection of Hearing Officer

1. Grievances shall be presented before hearing officer.

The hearing officer shall be an impartial, disinterested person selected by the PHA. The hearing officer shall not be:

- a. The person who made or approved the decision,
- b. A subordinate of the person who made or approved the decision, or
- c. A member of the PHA Board of Commissioners.

I. Hearing Process

All grievances shall be personally presented, either orally or in writing, pursuant to the informal procedure prescribed in the paragraph on Informal Settlement of Grievance as a condition precedent to a hearing under this section.

1. **Scheduling Hearings**

- a. The hearing officer shall promptly schedule the hearing, for a time and place reasonably convenient to both the complainant and the PHA, upon the complainant's compliance with the above requirements.
- b. A written notification specifying the time, place, and the procedures governing the hearing shall be delivered to the complainant and the appropriate PHA official.
- c. The hearing may be conducted in person or through electronic communications such as teleconference or web meetings.

2. **Failure to Appear**

- a. If the complainant or the PHA fails to appear at a scheduled hearing, the hearing officer may make a determination to postpone the hearing, for a period not to exceed 10 business days or may make a determination that the party has waived his or her right to a hearing.

- b. The hearing officer will notify both the complainant and the PHA of the determination.
- c. A determination that the complainant has waived his or her right to a hearing shall not constitute a waiver of any right the complainant may have to contest the PHA's disposition of the grievance in an appropriate judicial proceeding.

3. Conducting the Hearing

The hearing shall be conducted informally by the hearing officer.

- a. At the hearing, the complainant must first make a showing of an entitlement to the relief sought.
- b. The PHA must sustain the burden of justifying the PHA's action or failure to act against which the complaint is directed.
- c. The complainant shall be afforded a fair hearing providing the basic safeguards of due process, which include the following:
 - 1) The opportunity to examine documents before the grievance hearing, and to copy, at the complainant's expense, all documents, records, and regulations of the PHA that are relevant to the hearing at the expense of the complainant.
 - 2) Any requested document not made available to the complainant may not be relied on by the PHA at the grievance hearing.
- d. The right to be represented by counsel or another person chosen as the complainant's representative and to have such person make statements on the complainant's behalf.
- e. The right to a private hearing, unless the complainant requests a public hearing.
- f. The right to present evidence and arguments in support of the complainant's complaint, to controvert evidence relied on by the PHA or development management, and to confront and cross examine all witnesses on whose testimony or information the PHA or development management relies.
- g. Oral or documentary evidence pertinent to the facts and issues raised by the complainant may be received without regard to admissibility under the rules of evidence applicable to judicial proceedings.
- h. The hearing officer shall require the PHA, the complainant, legal counsel, and other participants or spectators to conduct themselves in an orderly fashion. Failure to comply with the directions of the hearing officer to obtain order may result in exclusion from the proceedings, or in a decision adverse to the interests of the disorderly party, and granting or denial of the relief sought, as appropriate.
- i. A decision based solely and exclusively upon the facts presented at the grievance hearing.

J. Transcript

1. The complainant or the PHA may arrange, in advance and at the expense of the party making the arrangement, for a transcript of the hearing.
2. Any interested party may purchase a copy of such a transcript.

K. Decision of the Hearing Officer

The Hearing Officer will prepare a written decision, with the reasons therefore, within a reasonable time after the hearing (usually within 10 business days).

1. A copy of the decision shall be sent to the complainant and the PHA.
2. The PHA will retain a copy of the decision in the complainant's folder.
3. The PHA will maintain a log of all hearing officer decisions and make it available upon request of the hearing officer, a prospective complainant, or a prospective complainant's representative. At a minimum, the log must include:
 - a. The date of the hearing decision,
 - b. The general reason for the grievance hearing (failure to pay rent, CSSR noncompliance, etc.), and
 - c. Whether the decision was in the favor of the complainant or the PHA
4. The decision of the hearing officer will be binding on the PHA, which shall take all actions, or refrain from any actions, necessary to carry out the decision, unless the Board of Commissioners determines, within 10 calendar days, and promptly notifies the complainant of its determination, that:
 - a. The grievance does not concern PHA action or failure to act in accordance with or involving the complainant's lease or PHA regulations, which adversely affect the complainant's rights, duties, welfare, or status; and
 - b. The decision of the hearing officer is contrary to applicable federal, state, or local law, HUD regulations, or requirements of the ACC between HUD and the PHA.
5. A decision by the hearing officer or Board of Commissioners in favor of the PHA's action or failure to act, or a decision that denies the relief requested in whole or in part, does not waive the complainant's rights to a subsequent trial or judicial review.

L. Notification

Any notice to the complainant will be in writing.

1. PHA Notices

Notices under this grievance procedure shall be deemed delivered:

- a. Upon delivery to the complainant or to an adult member (18 years of age or older) of the complainant's household; or

- b. Sent by prepaid first-class mail properly addressed to the complainant.

2. Concurrent Notice

Notices to the PHA shall be in writing, delivered to the project office or the PHA central office or sent by prepaid first-class mail properly addressed.

- a. If a complainant has filed a request for grievance hearing in a case involving the PHA's notice of termination of tenancy, the complainant should be aware that the state law notice to vacate and the notice of termination of tenancy required under federal law can run concurrently.
- b. If the hearing officer upholds the PHA's action to terminate the tenancy, the PHA may commence an eviction action in court by the later of:
 - 1) The expiration of the date for termination of tenancy and vacation of premises stated in the delivered termination notice, or
 - 2) The delivery of the report of decision of the hearing officer to complainant.

M. Accommodation to Persons with Disabilities

1. The PHA will provide reasonable accommodation for persons with disabilities throughout the grievance process.
2. This includes, but is not limited to, accommodating individuals with disabilities by accepting grievances at alternate sites or by mail, having PHA staff reduce an oral request for a grievance to writing for a tenant with a disability who cannot write due to the disability, and providing accommodations in the grievance hearing itself by providing qualified sign language interpreters, readers, accessible locations, or attendants.

N. Effective Communications

The PHA will take appropriate steps to ensure effective communication during the grievance process for families that includes persons with disabilities or persons with Limited English Proficiency.

1. If the complainant is visually impaired, any notice to the complainant which is required must be in an accessible format.
2. Limited English Proficiency

The PHA will comply with HUD's "Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons" issued on January 22, 2007.

O. Modifications

This grievance procedure may not be amended or modified except by approval of a majority of the Board of Commissioners of the PHA, present at a regular meeting or a special meeting called for such purposes.

1. The PHA must provide at least 30 days' advance notice to residents and resident organizations of any changes proposed to be made to this grievance procedure, setting forth the proposed changes and providing an opportunity to present written comments.
2. The PHA shall consider any comments submitted before final adoption of any amendments.

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APPENDIX K: TRANSFERS AND TRANSFER WAITING LIST

Transfer means the movement of the family from one unit to another. Depending on the circumstances in each particular case, the PHA may require a family to move, permit a family to move, or physically help a family to move. This policy is incorporated into the Admissions and Continued Occupancy policy by reference. The **Housing Authority of the City Of Lakeland** (hereinafter referred to as PHA) policies and procedures for transferring families from one unit to another are as follows.

A. Nondiscrimination

The PHA will not discriminate against any person during the determination for or during any stage of the transfer process.

B. Types of Transfers

This policy sets forth several categories of transfers. Priority for transfer and the order in which families are transferred shall be subject to the hierarchy by category set forth below.

1. Emergency Transfers Due to Physical Hazards:

- a. This type of transfer shall take priority over new admissions.
- b. Emergency transfers are mandatory when the unit or building conditions pose an immediate threat to resident life, health, or safety, as determined by PHA. Examples include but are not limited to:
 - 1) Fire damage
 - 2) A gas leaks
 - 3) No heat in the building during the winter
 - 4) No water
 - 5) Serious water leaks
 - 6) Toxic contamination
 - 7) Storm and wind damage
 - 8) Any condition requiring an emergency work order, as defined under PHAS, would qualify the family for an emergency transfer if the PHA were unable to make repairs in less than 24 hours.
- c. Alternative Accommodations
 - 1) In emergency situations when no other appropriate public housing units are available, the PHA may provide families with an HCV or cover the cost of hotel accommodations until repairs are made or a transfer the family an alternative housing is completed.

- 2) If alternative accommodations are available and the PHA cannot make the necessary repairs within a reasonable amount of time, the PHA is required to provide the family with alternative housing.
 - 3) The family is entitled to alternative accommodations even if the tenant, household member(s), guest, or other person(s) is responsible for the damage that caused the hazard or if a family is in the process of being evicted.
2. Emergency Transfers Due to Other Causes
 - a. This type of transfer shall take priority over new admissions.
 - b. The PHA may allow an emergency transfer to be made due to, but not limited to the following causes:
 - 1) To remove residents who are witnesses to crimes and may face reprisals.
 - 2) To provide options to residents who are victims of hate crimes or extreme harassment.
 - 3) Permit repair of unit defects hazardous to life, health, or safety, including lead hazard reduction work (above a specified scale and duration that disturbs lead-based paint or controls lead-based paint hazards).
 - 4) Alleviate verified medical problems of a serious, but not life-threatening nature.
 - 5) To protect members of the household who are survivors of domestic violence, dating violence, sexual assault, or stalking.
 - 6) Protect members of the household from attack by the criminal element in a particular property or neighborhood, based on threat assessment by a law enforcement agency.
3. Demolition, Disposition, Revitalization, or Rehabilitation Transfers
 - a. This type of transfer shall take priority over new admissions.
 - b. The PHA will provide transfers or alternative housing to families when necessary to demolish, sell, or choose to do major revitalization or rehabilitation to distressed public housing units, building or sites.
4. Occupancy Standards Transfers
 - a. This type of transfer shall take priority over new admissions.
 - b. Occupancy standards relate to the appropriate size and type of unit based on the household composition.
 - c. The PHA will ensure that the size and type of unit in which the household is living is appropriate for the household's size and needs.
 - d. If the PHA becomes aware of, or when the family reports changes in the household composition, the PHA will make a determination whether the unit is still the appropriate size or type.

- 1) If the PHA determines the household is not living in an appropriately sized or type of unit, the PHA will provide the family a written notice and place the family on the transfer list and move the household when an appropriately sized or type of unit becomes available.
 - 2) As per the lease, if the PHA determines that the size or type of the unit is no longer appropriate to household's needs, the family agrees to transfer and accept a new lease for a different unit appropriately sized or type upon written notice from the PHA.
- e. The PHA will comply with all state or local laws regarding occupancy standards and will consider the waiting list demand for unit sizes.
5. Court Ordered
 - a. This type of transfer shall take priority over new admissions.
 - b. The PHA will transfer families within and between developments in compliance with federal, state, and local court orders with respect to nondiscrimination laws and Executive Orders.
6. Capital Fund Program
 - a. This type of transfer shall take priority over new admissions.
 - b. The PHA will transfer families within developments and between developments as may be necessary to complete the program.
 - 1) The PHA is required to transfer a family only once during the modernization program, one-way to another unit of appropriate size, in accordance with the PHA's occupancy standards.
 - 2) The family does not have an automatic right to return to the unit from which they were transferred.
7. Reasonable Accommodations Transfer:
 - a. This type of transfer shall take priority over new admissions.
 - b. The PHA may authorize a resident's request for a transfer to a different or accessible unit as a reasonable accommodation for a family member with disabilities. The resident may request this transfer for a variety of reasons, including but not limited to:
 - 1) The family's need for a ground floor unit because of mobility issues.
 - 2) The family's need for a unit with certain physical (accessible) features that are not available in the current unit, and which cannot be retrofitted without undue financial and administrative burden to the PHA.
 - 3) The need for an additional room for large health-related equipment.
 - 4) The need for an additional sleeping room for a live-in aide.
 - 5) The need to be closer to medical facilities.

- 6) The PHA will not force a family that includes a family member with disabilities to transfer to another unit with physical (accessible) features.
8. Transfers under VAWA
 - a. This type of transfer shall take priority over new admissions and all other transfers except emergency transfers due to physical hazards.
 - b. Tenants who are survivors of domestic violence, dating violence, sexual assault or stalking (collectively VAWA violence/abuse) can request an internal or external emergency transfer from their current unit to a safe unit as determined by the tenant.
 - c. In addition to the transfers under VAWA, the PHA has adopted an VAWA Emergency Transfer Plan (ETP).
 - 1) The PHA's ETP allows tenants to make an internal emergency transfer under VAWA when a safe unit is immediately available.
 - 2) The ETP also describes policies for assisting tenants when a safe unit is not immediately available.
 - 3) The ETP policies ensure that requests for internal emergency transfers under VAWA receive, at a minimum, any applicable additional priority that the PHA may already provide to other types of emergency transfer requests.
 - 4) The ETP also describes reasonable efforts the PHA will take to assist a tenant who wishes to make an external emergency transfer when a safe unit is not immediately available.
 - d. The PHA may request in writing that the survivors provide documentation of an occurrence of a VAWA violence/abuse. However, no other documentation may be required to qualify the tenant for an emergency transfer.
9. Incentive Transfers
 - a. This type of transfer shall take priority over new admissions.
 - b. Transfers offered to new or rehabilitated units, on a nondiscriminatory basis, to residents with good rental histories.
 - 1) The PHA will occupy recently modernized and scattered site units through incentive transfers.
 - a) No applicants shall be admitted directly to scattered site units.
 - b) Depending on the PHA's vacant unit status, modernized units will be filled with incentive transfers, new applicants, or a combination of both.
 - c) The PHA reserves the right to fill modernization units in a manner that has the least impact on vacant units.
 - 2) Incentive transfers may be requested by the family or recommended by the PHA.

- 3) The PHA will consider incentive transfers to families with excellent residency histories and who meet the following conditions.
 - a) Must have lived in a PHA development for at least three (3) years.
 - b) On-time (no late payments) tenant rent payments for the past two (2) years.
 - c) No repayment agreement or unpaid balance at any time in the past two (2) years.
 - d) Good housekeeping record.
 - e) No reports or history of disturbances that resulted in lease violations or violence toward other residents, PHA staff, and/or PHA contractors as indicated by notices of lease violation in the family file.
 - c. Incentive transfers are voluntary on the part of the family.
 - d. No exceptions will be granted to the PHA's transfer eligibility requirements for incentive transfers.
 - e. The PHA's failure to process or recommend an incentive transfer is subject to the grievance procedure.
10. Resident-Initiated Transfers
- a. The PHA does not allow resident initiative transfers.
 - b. This type of transfer occurs when the family requests a unit transfer for their own convenience (e.g., better access to community services, proximity to school or employment, to be closer to relative, certain neighborhood, etc.).
 - c. The family must submit a written request, with the reason, for a transfer to a different unit.
 - d. The PHA will determine whether the request will be approved and will notify the family within 30 days if the family was approved for the transfer.
 - 1) If approved, the PHA will place the family's name to the transfer waiting list.
 - 2) The PHA will provide the family with additional information as to when, where, and how the family will be transferred.
11. Split Family Transfers
- a. This type of transfer will not take priority over new admissions.
 - b. The PHA has the option to allow large families with two (2) adult members to split into two (2) separate households and transfer to two (2) different units.
 - c. The PHA may offer a family a split transfer if the family's household composition changes and the family now require a larger unit than available in any PHA unit size.

- d. Requirements for a family to qualify for a split family transfer include:
 - 1) The persons who would be the original and new family head of household must both be listed on the most recent lease;
 - 2) The family must be overcrowded in accordance to the PHA's occupancy standards; and
 - 3) The reason for the split family transfer is the addition of children through birth, adoption, or court-awarded custody.
- e. Split family transfers are considered a type of occupancy standards transfer.

C. Mandatory and Optional Transfers

- 1. The family must comply with the following mandatory transfers:
 - a. Emergency Transfers Due to Physical Hazards
 - b. Emergency Transfers Due to Other Causes
 - c. Demolition/Disposition/Revitalization/Rehabilitation
 - d. Occupancy Standards Transfers
 - e. Court Ordered Transfers
 - f. Capital Funds Program Transfers
- 2. The family may choose to request and/or accept the following optional transfers:
 - a. Reasonable Accommodation Transfers
 - b. VAWA Emergency Transfers
 - c. Incentive Transfers
 - d. Resident Initiated Transfers
 - e. Split Family Transfers
- 3. Families who dispute mandatory transfers may utilize their option to request a grievance to resolve such disputes.

D. Transfer Priorities

The PHA has prioritized the transfers according to the standards in the lease. The PHA has placed transfers into three (3) categories to make the priorities clear and manageable.

- 1. Category 1 Administrative Transfers:

These transfers will take priority over new admissions.

 - a. Emergency Transfers Due to Physical Hazards
 - b. VAWA Emergency Transfers
 - c. Emergency Transfers Due to Other Causes

- d. Demolition/Disposition/Revitalization/Rehabilitation
 - e. Court Ordered Transfers
 - f. Capital Funds Program Transfers
2. Category 2 Administrative Transfers:
- These transfers will take priority over new admissions.
- a. Occupancy Standards Transfers
 - b. Reasonable Accommodation Transfers
 - c. Incentive Transfers
3. Category 3 Administrative Transfers:
- These transfers will not take priority over new admissions.
- a. Resident Initiated Transfers
 - b. Split Family Transfers
 - c. May be made to: avoid concentration of the most economically and socially deprived families, correct occupancy standard, or address situations that interfere with peaceful enjoyment of the premises.

E. Eligibility for Transfers

The PHA is permitted to establish eligibility requirements for optional and resident-requested transfers. The transfer eligibility requirements are not applicable for mandatory transfers involving emergency situations, reasonable accommodations, VAWA emergencies, and demolition, disposition, revitalization, or rehabilitation.

1. The PHA has established the following eligibility requirements for optional and resident-requested transfers:
 - a. The tenant and household member(s) must not have engaged in criminal activity that threatens the health and safety of residents and staff;
 - b. The family does not owe back rent or other charges, or does not have a pattern of late payments;
 - 1) If back rent or other charges are owed, the PHA will not approve a transfer until a payment plan is established; or
 - 2) If the family has breached a prior payment plan and owes back rent or other charges, the back rent or other charges must be paid in full prior to the PHA's approval of the transfer.
 - c. The family must meet reasonable housekeeping standards and have no housekeeping lease violations;

The PHA will not approve a transfer for a family with housekeeping standards violations until the family passes a follow-up housekeeping standards inspection.

- d. The family does not have a history of damaging property; and
 - e. The family has the ability to get the utilities turned on in the name of the head of household (applicable only to properties with tenant-paid utilities).
2. The PHA may make exceptions to the transfer eligibility requirements for emergency transfers or when it is to the PHA's advantage to make the transfer.
3. The exception to the transfer eligibility requirements will be made by the central transfer administrator taking into account the recommendations by the Property Manager.
4. The PHA will make the final determination to whether to approve or deny a family's optional transfer request.

F. Processing Transfers

The PHA will establish and maintain a centralized transfer waiting list. Property Managers are responsible for submitting requests for transfers including necessary documentation, to the central transfer administrator.

1. The central transfer administrator will sort requests for transfer into the appropriate categories.
 - a. Admissions will be made in the following order:
 - 1) First: Emergency transfers; then
 - 2) Category 1 Administrative Transfers; then
 - 3) Category 2 Administrative Transfers; then
 - 4) Applicants, and then
 - 5) Category 3 Administrative Transfers.
 - b. Within each category, transfer applications will be sorted by the date the completed file (including any verification needed) is received from the manager.
2. Category 2 transfers to correct occupancy standards may be recommended at the time of reexamination or interim redetermination. This is the only method used to determine over/under-housed status.
3. Residents in a Category 2 over/under housed status will be advised in their 30 day "Notice of Result of Reexamination" that a transfer is recommended, and that the family has been placed on the transfer list.
4. Interviewers will record transfer recommendations in duplicate for each manager affected by the transfer.
5. When a head of a household, originally housed in a bedroom by him/herself, has or adopts a child, the family will not be approved for a Category 2 transfer until the child is two (2) years of age.

- a. Exceptions: spouse or partner returns to the unit, marriage takes place, or the family decides to remain in the unit and the unit is large enough (using the maximum-persons-per-unit standard) to accommodate the number of persons now in the household.
 - b. Other than for births, adoption, or court-awarded custody of a child that occur during tenancy, PHA's prior approval of additions to the household is required.
6. Split-family transfers to resolve under-housing may be processed as Category 2 administrative transfers.
 - a. Families that split into two "new" households will be transferred to two different units or a portion of the "old" household may be transferred to a single unit depending on family circumstances and unit availability.
 - b. Options for split-family transfers will be considered in order to minimize the impact on vacant units.
7. Category 3 transfers will only be processed after all other transfers have been processed.

G. Cost of Transfers

1. The PHA will pay the reasonable cost of transfers that are:
 - a. Initiated by the PHA due to demolition, disposition, revitalization, or rehabilitation
 - b. Required because of building system failure, conditions that pose a physical hazard, or other emergency condition the PHA is unable to repair in a timely manner.
 - c. Required as a reasonable accommodation for residents with disabilities.
2. The family will bear the cost for transfers due to:
 - a. Occupancy transfers for change in family composition;
 - b. Moving to a non-accessible unit (when accessibility features are not required by the family);
 - c. Incentive transfers; and
 - d. All resident-initiated transfers.
3. However, where there is a hardship, the Property Manager may recommend that families be reimbursed their out-of-pocket expenses.
4. Reasonable cost for transfers may include:
 - a. Cost of packing, moving and unloading; and
 - b. Cost of disconnecting and reconnecting any existing resident-paid utility services (i.e., telephone and cable television).

H. Notice of Transfer

Families that are to be transferred will be given a 30-day notice, said time period to commence at the approximate time of delivery of the Notice of Transfer. The notices shall be:

1. Hand-delivered, and
2. Mailed, both prepaid first-class mail and certified mail.

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APPENDIX L: HOUSEKEEPING STANDARDS POLICY

Properties owned by the **Housing Authority of the City Of Lakeland** (hereinafter referred to as PHA) will be maintained pursuant to HUD standards, the ACOP, and lease. In an effort to improve the livability and conditions of units owned and managed by the PHA, the PHA has developed uniform housekeeping standards for all resident families.

A. Applicability

The PHA's housekeeping standards will be applied fairly and uniformly to all resident families.

B. PHA Responsibilities

The PHA will inspect each unit at least annually, to determine compliance with the standards.

1. Upon completion of an inspection the PHA will notify the resident in writing if he/she fails to comply with the standards.
2. The PHA will advise the resident of the specific correction(s) required to establish compliance and indicate that housekeeping standards training is available.
3. Within a reasonable period of time, the PHA will schedule a second inspection.
4. Failure of a second inspection will constitute a violation of the lease terms.

C. Resident Responsibility

The resident is required to abide by the housekeeping standards set forth below. Failure to abide by the housekeeping standards is a violation of the lease terms and can result in eviction.

D. Interior Standards

1. General:
 - a. Walls: Should be clean, free of dirt, grease, holes, cobwebs, and fingerprints.
 - b. Floors: Should be clean, clear, and free of hazards.
 - c. Ceilings: Should be clean and free of cobwebs.
 - d. Light Fixtures: Should be free of any dust build-up; light covers in place and not broken.
 - e. Windows: Should be clean and not nailed shut. Shades should be intact.
 - f. Woodwork: Should be clean, free of dust, gouges, or scratches.
 - g. Doors: Should be clean, free of grease and fingerprints. Doorstops should be present. Locks should work.
 - h. Heating units and water heater closet: Should be accessible (no locks, no clutter) dusted and not used for storage.
 - i. Infestation: No evidence of rodents or insect infestation; bait stations and traps clean.

- j. Electric Hazards: No electrical cords running loosely across floors; no overloads, no hazards.
 - k. Trash: Shall be disposed of properly and not left in the unit.
 - l. Evidence of Pet: Litter box, cage, and/or fish tank clean and odor free; no evidence of urine or damage caused by pet.
2. Kitchen:
- a. Stove: Should be clean and free of food and grease.
 - b. Refrigerator: Should be clean. Freezer door should close properly, and freezer have no more than one inch of ice. No stickers (decals) on refrigerators.
 - c. Cabinets: Should be clean and neat. Cabinet surfaces and countertops should be free of grease and spilled food. Cabinets should not be overloaded. Storage under the sink should be limited to small or lightweight items to permit access for repairs. Do not store heavy pots and pans under the sink.
 - d. Exhaust Fan: Should be free of grease and dust.
 - e. Sink: Should be clean, free of grease and garbage. Dirty dishes should be washed and put away in a timely manner.
 - f. Food storage areas: Should be neat and clean without spilled food.
 - g. Trash/garbage: Should be stored in a covered container until removed to the disposal area.
 - h. Floor: Should be clean and dry.
3. Bathroom(s):
- a. Toilet and tank: Should be clean and odor free.
 - b. Tub and shower: Should be clean and free of excessive mildew and mold. Where applicable, shower curtains should be in place, and of adequate length.
 - c. Lavatory/countertop: Should be clean.
 - d. Exhaust fans: Should be free of dust.
 - e. Floor: Should be clean and dry.
4. Storage Areas:
- a. Linen closet: Should be neat and clean.
 - b. Other closets: Should be neat and clean. No flammable materials should be stored in the unit.
 - c. Other storage areas: Should be clean, neat, and free of hazards.

E. Exterior Standards

The following standards apply to family and scattered site developments only; some standards apply only when the area noted is for the exclusive use of the resident:

1. Yards/grassy area: should be free of debris, trash, indoor furniture, and abandoned cars.
2. Exterior walls: Should be free of graffiti, clean, free of dirt, grease, holes, and cobwebs.
3. Porches (front and rear): should be clean and free of hazards. Any items stored on the porch shall not impede access to the unit.
4. Steps (front and rear): Should be clean, and free of hazards.
5. Sidewalks: Should be clean and free of hazards.
6. Storm/screen doors: Should be clean; glass intact; no damage.
7. Parking area: Should be free of abandoned cars. There should be no car repair in the lots.
8. Hallway/stairwell: Should be swept clean and free of debris; free of any tripping hazards.
9. Laundry Area: Should be swept clean; no soiled laundry piled up; lint removed from dryer; dryer vented to the outside.
10. Utility room/storage area: Should be free of trash; no vehicle parts stored; no flammable materials.
11. Discarded food/grease: No evidence of grease or food disposed of outside of unit; no feeding dishes for animals outside of unit.
12. Other: Laundry and yard tools should not be left out overnight.

F. Housekeeping Standards Training

Housekeeping standards training will be available at no cost to any resident family requesting or needing assistance in complying with the housekeeping standards.

1. Participation in housekeeping standards training is voluntary. If the resident family options not to participate in housekeeping standards training, the resident family is still responsible to be in full compliance with the housekeeping standards.
2. The PHA will not conduct any inspections for housekeeping standards until the resident family has completed the housekeeping standards training or has provided their written decision to opt out of the housekeeping training.
3. After participation in the housekeeping standards training or if the resident family decides not to participate in housekeeping standards training, if the resident family is found to be in noncompliance with any housekeeping standards on any two (2) housekeeping standards inspections, regardless of when the violations occurred, the noncompliance with the housekeeping standards will constitute a violation of the lease terms and the resident family may be evicted.

GLOSSARY

Acronyms Used in the Public Housing Programs	
Acronym	Definition
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

Acronyms Used in the Public Housing Programs	
Acronym	Definition
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
NOFA	Non-Public Housing Over-Income Family
OI	Over-Income
OIG	HUD Office of the Inspector General
OMB	U.S. Office of Management and Budget
PASS	Plan to Achieve Self-Support

Acronyms Used in the Public Housing Programs	
Acronym	Definition
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 15, 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 reaches 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 affect accessibility for persons with mobility impairments.

Actual Income from Assets

If the cash value of the family total net assets is \$50,000 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 means annual income (as determined under § 5.609) of the members of the family residing or intending to reside in the dwelling unit, after making the following deductions:

- Mandatory deductions.
 - \$480 for each dependent, which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25;
 - \$525 for any elderly family or disabled family, which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25;
 - The sum of the following, to the extent the sum exceeds ten percent of annual income:

- Unreimbursed health and medical care 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 a disability, to the extent necessary to enable any member of the family (including the member who is a person with a disability) to be employed. This deduction may not exceed the combined 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.
 - Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.
- Additional deductions: For public housing, a PHA may adopt additional deductions from annual income.

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

Includes, with respect to the family:

- All amounts, not specifically excluded, received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse of the head of household, plus unearned income by or on behalf of each dependent who is under 18 years of age, and
- When the value of net family assets exceeds \$50,000 (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and the actual returns from a given asset cannot be calculated, imputed returns on the asset based on the current passbook savings rate, as determined by HUD.

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.

Community Service Exempt Individual

An adult who:

- Is 62 years or older;
- Is a blind or disabled individual, as defined under Section 216(i)(1) or Section 1614 of the Social Security Act (42 U.S.C. 416(i)(1); 1382c), and who certifies that because of this disability she or he is unable to comply with the service provisions of this subpart, or
 - Is a primary caretaker of such individual;
- Is engaged in work activities;
- Meets the requirements for being exempted from 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;
- Is a member of a family receiving assistance, benefits or services under a State program funded under part A of title IV of the Social Security Act (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, and has not been found by the State or other administering entity to be in noncompliance with such a program; or

- Is a member of a non-public housing over-income family.

Complainant

Any resident whose grievance is presented to the PHA or at the project management office.

Computer Matching

The agreement 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 survivor, and
- Where the existence of such a relationship shall be determined based on 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.

Day Laborer

An individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future.

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 (which excludes 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 survivor, by a person with whom the survivor shares a child in common, by a person who is cohabitating with or has cohabitated with the survivor as a spouse or intimate partner, by a person similarly situated to a spouse of the survivor under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth survivor 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 survivor" includes a person who is or has been in a social relationship of a romantic or intimate nature with the survivor, 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 from wages, tips, salaries, other employee compensation, and net income from self-employment.

Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare, social security, and governmental subsidies for certain benefits), or any cash or in-kind benefits.

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

Includes, but is not limited to, the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

- A single person, who may be:
 - An elderly person, displaced person, disabled person, near-elderly person, or any other single person;
 - An otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)), and is homeless or is at risk of becoming homeless at age 16 or older; 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 the home because of placement in foster care is considered a member of the family);
 - An elderly family;
 - A near-elderly family;
 - A disabled family;
 - A displaced family; 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 units 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.

Foster Adult

A member of the household who is 18 years of age or older and meets the definition of a foster adult under State law. In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental condition and is placed with

the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

Foster Child

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

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.

Health and Medical care Expenses

Health and medical care expenses are any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body.

Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed.

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)

- The owner or manager of the housing facility;
- The owner or manager of the common and public use areas of a housing facility, when the dwelling units are individually owned;
- 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.

Independent Contractor

An individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code Federal income tax requirements and whose earnings are consequently subject to the Self-Employment Tax.

In general, an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done.

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.

Institution of Higher Education

An institution of higher education as defined in 20 U.S.C. 1001 and 1002.

Interim Reexaminations

A family may request an interim reexamination of family income or composition because of any changes since the last determination.

The PHA must conduct any interim reexamination within a reasonable period of time after the family request or when the family's adjusted income decreases by 10% or more (or lower threshold per HUD or PHA policy) for when a family's adjusted income increases by 10% or more; however, the PHA may not consider any increase in the earned income of the family when estimating or calculating whether the family's adjusted income has increased, unless the family has previously received an interim reduction during the certification period.

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.

The limitation on major life activity cannot be insubstantial. It must be significant.

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 member of the family, other than the head of family or spouse, who is under 18 years of age.

Mixed Family

A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

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 were formerly 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 family assets is the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment.

Noncitizen

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, uncleanness 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 and Determination

Annually HUD will publish the passbook rate based on the Federal Deposit Insurance Corporation (FDIC) National Deposit Rate for savings accounts, which is an average of national savings rates published on a monthly basis.

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.
- **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.

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.

Real Property

Has the same meaning as that provided under the law of the state in which the property is located.

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.

Seasonal Worker

An individual who is hired into a short-term position and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry.

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 survivor lacks capacity to consent.

Sex-Offender

HUD determines a sex-offender to be someone who is required to be registered in a state life-time 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:

- At expiration of a lifetime or other time limit on the payment of welfare benefits;
- 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;
- 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;
- For public housing only, the alternative non-public housing rent.

Unearned Income

Any annual income, as calculated under 24 CFR 5.609, that is not earned income.

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).

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U.S. 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, or persons who have obtained a U.S. Certificate of Naturalization.

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 Violence/Abuse

Collectively domestic violence, dating violence, sexual assault, or stalking.

Verification Techniques and Ranking:

- Level 6: Highest
Upfront Income Verification (UIV), using HUD's Enterprise Income Verification (EIV system)
- Level 5: Highest
Upfront Income Verification (UIV), using non-EIV (e.g., The Work Number, web-based state benefits systems, etc.)
- Level 4: High
Written, third-party verification from the source, also known as "tenant-provided verification;" EIV + Self-Certification; PHAs can choose either option when both are available to verify income. PHAs must use written, third-party verification when the income type is not available in EIV (e.g., self-employment, Go Fund Me accounts, general public assistance, Veterans Administration benefits, etc.) Party Verification.
- Level 3: Medium
Written Third-Party Verification Form
- Level 2: Medium
Oral Third-Party Verification
- Level 1: Low
Self-Certification (not third-party verification)

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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