



# Public Housing Authority Commission Regular Meeting

April 1, 2024, 6:00 p.m.

Chandler City Council Chambers  
88 E. Chicago St., Chandler, AZ

## Commission Members

Chair Kevin Hartke  
Vice Chair OD Harris  
Commissioner Angel Encinas  
Commissioner Christine Ellis  
Commissioner Mark Stewart  
Commissioner Matt Orlando  
Commissioner Jane Poston  
Commissioner Lisa Loring



Pursuant to Resolution No. 4464 of the City of Chandler and to A.R.S. 38-431.02, notice is hereby given to the members of the general public that the PUBLIC HOUSING AUTHORITY COMMISSION will hold a Regular Meeting open to the public on Monday, April 1, 2024, at 6:00 p.m., in the Chandler City Council Chambers, 88 E. Chicago Street, Chandler, Arizona. One or more members of the Commission may attend this meeting by telephone.

Persons with a disability may request a reasonable accommodation such as a sign language interpreter by contacting the City Clerk's office at (480) 782-2181. Requests should be made as early as possible to allow time to arrange accommodation.

Agendas are available in the Office of the City Clerk, 175 S. Arizona Avenue.

## Agenda

Call to Order/Roll Call

Unscheduled Public Appearances

Consent Agenda

1. **Approval of Minutes**

Move the Public Housing Authority Commission approve the Public Housing Authority Commission regular meeting minutes of January 22, 2024.

2. **Resolution No. HO178 Approving the Submission of the City of Chandler 2024 Annual Plan and Capital Fund for the Fiscal Year Beginning July 1, 2024, and Certifying Compliance with Related Regulations**

Move the Public Housing Authority Commission pass and adopt Resolution No. HO178 approving the submission of the City of Chandler Housing and Redevelopment 2024 Annual Plan and Capital Fund for the Fiscal Year beginning July 1, 2024, and certifying compliance with related regulations.

Adjourn





**Public Housing Authority Commission Memorandum      Neighborhood  
Resources      Memo No. HD24-03**

**Date:** April 01, 2024  
**To:** Public Housing Authority Commission  
**Thru:** Joshua H. Wright, City Manager  
Tadd Wille, Assistant City Manager  
Leah Powell, Neighborhood Resources Director  
**From:** Amy Jacobson, Housing and Redevelopment Senior Manager  
**Subject:** Resolution No. HO178 Approving the Submission of the City of Chandler Housing and Redevelopment 2024 Annual Plan and Capital Fund for The Fiscal Year Beginning July 1, 2024, and Certifying Compliance With the Related Regulations

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**Proposed Motion:**

Move the Public Housing Authority Commission pass and adopt Resolution No. HO178 approving the submission of the City of Chandler Housing and Redevelopment 2024 Annual Plan and Capital Fund for the Fiscal Year beginning July 1, 2024, and certifying compliance with related regulations.

**Background:**

The City of Chandler Housing and Redevelopment Division (the Public Housing Agency/PHA) administers 303 units of Low Rent Public Housing and 495 Housing Choice Vouchers (also known as Section 8). The Public Housing Agency (PHA) is required to submit the PHA Annual Plan to the U.S. Department of Housing and Urban Development (HUD) by April 12, 2024, for its housing programs. The Annual Plan is a comprehensive guide to PHA policies, programs, operations, and strategies for meeting local housing needs and goals. Each year, staff reviews policies and revises supporting documents, as needed.

**Discussion:**



This item facilitates the submittal to HUD of the 2024 Annual Plan and Capital Fund. The process allows for community input from program participants and the general public. The 45-day comment period ran from January 19, 2024, through March 5, 2024, and a public hearing was conducted on February 7, 2024.

Resident Advisory Board (RAB) meetings were held on December 14, 2023, and January 19, 2024, where the 2024 Annual Plan and Capital Fund documents and policies were presented and discussed.

**The Housing Choice Voucher Administrative Plan and Public Housing Admissions and Continued Occupancy Policy (ACOP) were revised to incorporate policy changes. A summary of updates is outlined below:**

*Unit Inspections*

Maintaining properties to the standard of safe, sanitary, and in good repair by complying with the National Standards for the Physical Inspection of Real Estate; Inspection Standards (NSPIRE).

*Housing Opportunity Through Modernization Act of 2016 (HOTMA)*

On July 29, 2016, the HOTMA Act of 2016 was signed into law. HOTMA made numerous changes to statutes governing HUD programs, including sections of the United States Housing Act of 1937. Title 1 of HOTMA contains 14 different sections that impact the public housing and Section 8 programs. The final Rule implementing broad changes to income and assets in Sections 102 and 104 of HOTMA, and for PHAs that administer the public housing program over-income provisions in Section 103, was officially published in the Federal Register on February 14, 2023. On September 29, 2023, HUD issued notice PIH 2023-27, which provided guidance to PHAs on the implementation of the program changes described in the Final Rule.

*Eligibility - Restriction on Assistance based on Assets [24 CFR 5.618]*

The applicant family must meet net asset and property ownership restriction requirements. There are two circumstances under which a family is ineligible for the program based on asset ownership. First, assistance may not be provided to any family if the family's net assets exceed \$100,000. Second, the family has real property that is suitable for occupancy by the family as a residence.

*Prohibition Against Denial of Assistance to Victims of Domestic Violence, Dating Violence, Sexual Assault, Stalking, and Human Trafficking*

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

Although the VAWA 2022 statute does not specifically include human trafficking

in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror HUD's recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.

### *Reasonable Accommodations*

For continued approval, the family must submit a new written request subject to PHA verification every year or every other year during the annual reexamination process. If the knowledgeable professional indicates on PHA verification that it is a lifetime impairment and a reasonable accommodation is essential for the care and well-being of the elderly, near elderly, or disabled family member, no further written request needs to be submitted.

### *Earned Income Disallowance (EID) [24 CFR 960.255; Streamlining Final Rule (SFR) Federal Register 3/8/16; Notice PIH 2023-27]*

HOTMA removed the statutory authority for the EID. The EID is available only to families that are eligible for and participating in the program as of December 31, 2023, or before; no new families may be added on or after January 1, 2024. If a family is receiving the EID prior to or on the effective date of December 31, 2023, they are entitled to the full amount of the benefit for a full 24-month period. The policies below are applicable only to such families. No family will still be receiving the EID after December 31, 2025. The EID will sunset on January 1, 2026, and the PHA policies below will no longer be applicable as of that date or when the last qualifying family exhausts their exclusion period, whichever is sooner.

### *Family Consent to Release of Information (Form HUD-9886) [24 CFR 5.230(b)(1), (b)(2), (c)(4), and (c)(5); Notice PIH 2023-27]*

All adult applicants and tenants must sign form HUD-9886, Authorization for Release of Information. All adult family members (and the head and spouse/co-head regardless of age) are required to sign Form HUD-9886 at admission. Participants prior to January 1, 2024, signed and submitted Form HUD-9886 at each annual reexamination. HOTMA eliminated this requirement and instead required the Form HUD-9886 be signed only once. On or after January 1, 2024 (regardless of the PHA's HOTMA compliance date), current program participants must sign and submit a new Form HUD-9886 at their next interim or annual reexamination. This form will only be signed once.

### *Utility Allowances*

The utility allowance is the amount that a housing authority determines necessary to cover the resident's reasonable utility costs. The utility allowance schedules are

reviewed annually for both housing programs and are recommended for adjustment when a cumulative change of 10% or more occurs. Prior to beginning this update, a consultant was hired to do a comparison of the existing utility rates and charges and Housing's current utility rate schedules in the Housing Choice Voucher and Public Housing Programs. A revised utility allowance for 2024 will be established for both programs effective July 1, 2024.

## **Housing Choice Voucher Administrative Plan**

### *Special Programs – Veterans Affairs Supportive Housing (VASH)*

#### *Using Income Limits for Eligibility [24 CFR §982.201]*

Income limits are used for eligibility only at admission. Income eligibility is determined by comparing the annual income of an applicant to the applicable income limit for their family size. In order to be income-eligible, an applicant family must be at or below 80% AMI.

#### *Checking and Savings Accounts*

For regular checking accounts and savings accounts, cash value has the same meaning as market value. If a checking account does not bear interest, the anticipated income from the account is zero. In determining the value of a checking account, the PHA will use the average monthly balance for the last two current months.

## **Public Housing Admissions and Continued Occupancy Policy (ACOP)**

### *Maintenance Policy*

#### *Key Information and Charges (Section 5.0)*

The cost for additional keys increased from \$3.00 to \$6.75.

## **Financial Implications:**

HUD funds the costs associated with the Public Housing and Housing Choice Voucher Programs.

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## **Attachments**

A- Resolution No. HO178

B-Streamlined Annual Plan (HUD-50075-HP)

E-Anti-Displacement Policy

F-Assistance Animal Policy

G-Bed Bug Policy

H-Capital Fund

I-Community Service Policy  
J-Community Space Policy  
K-Definition of Significant Amendment  
L-Grievance Policy  
M-Landscaping Policy  
N-Lease Agreement  
O-Maintenance Policy  
P-Pet Policy  
Q-Strategic Plan and Progress on Prior Plan  
R-Public Housing House Rules  
S-Radon Policy  
T-Resident Advisory Board and Public Comments  
U-Security Deposits  
V-Smoke-Free Policy  
W-Utility Allowance Schedules  
X-VAWA Addendum  
Y-VAWA Emergency Transfer Policy  
Z-VAWA Policy  
aa-Vehicle Policies  
ab-PHA Board Resolution-52574  
ab-Public Housing Portfolio  
ac-Certification of Compliance-50077-ST-HCV-HP  
ac-Certification of Consolidated Plan Compliance-50077-SL  
ac-Certification of Lobbying Activities-SFLLL  
ac-Certification of Payments to Influence Federal Transactions  
C- Administrative Plan  
D-ACOP

**RESOLUTION NO. HO178**

A RESOLUTION OF THE PUBLIC HOUSING AUTHORITY COMMISSION OF THE CITY OF CHANDLER, ARIZONA, APPROVING THE SUBMISSION OF THE CITY OF CHANDLER HOUSING AND REDEVELOPMENT 2024 ANNUAL PLAN AND CAPITAL FUND FOR THE FISCAL YEAR BEGINNING JULY 1, 2024, AND CERTIFYING COMPLIANCE WITH THE RELATED REGULATIONS.

WHEREAS, pursuant to Section 511 of the Quality Housing and Work Responsibility Act of 1998 and 1999 Fiscal Year HUD Appropriations Act, all Public Housing Authorities must adopt and submit to the United States Department of Housing and Urban Development (HUD), an Annual and Five-Year Plan (Agency Plan) affecting the overall operations, management, and mission of the federally funded Housing Programs; and

WHEREAS, the City of Chandler Housing and Redevelopment Division has developed the attached Agency Plan for submittal to HUD; and

WHEREAS, the Agency Plan developed incorporates the attached Public Housing and Housing Choice Voucher Program policies and lease forms utilized to implement the City of Chandler Housing Program; and

WHEREAS, the City of Chandler has chosen to incorporate the Capital Fund process into the Annual Plan approval process and authorizes the submission of the 2024 Capital Fund Plan, and supporting certifications; and

WHEREAS, the Public Housing Authority Commission of the City of Chandler is the entity charged with approving the Agency Plan and authorizing the submittal of that plan to HUD for approval.

NOW, THEREFORE, BE IT RESOLVED by the Public Housing Authority Commission of the City of Chandler as follows:

Section 1. That the Agency Plan, in the forms attached hereto, as well as the documents incorporated therein, is hereby approved.

Section 2. That the City of Chandler Housing and Redevelopment Division be directed to submit the Agency Plan and Capital Plan approved herein to HUD.

Section 3. That the staff of the City of Chandler Housing and Redevelopment Division be directed to perform all acts necessary to give effect to this Resolution, including, without limitation, providing any required certification of compliance with applicable regulations.

Section 4. That the 2024 Capital Fund, Form HUD-52840A, Form HUD-50075.1, Form HUD-50075.2 attached hereto are hereby approved and adopted as presented.

PASSED AND ADOPTED by the Public Housing Authority Commission of the City of Chandler, Arizona, this \_\_\_\_ day of \_\_\_\_\_, 2024.

ATTEST:

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
KEVIN HARTKE, CHAIRMAN

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Resolution No. HO178 was duly passed and adopted by the Public Housing Authority Commission of the City of Chandler, Arizona, at a regular meeting held on \_\_\_\_ day of \_\_\_\_\_, 2024 and that a quorum was present thereat.

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY





<b>Annual PHA Plan</b> <i>(Standard PHAs and Troubled PHAs)</i>	U.S. Department of Housing and Urban Development Office of Public and Indian Housing	OMB No. 2577-0226 Expires: 03/31/2024
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**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, including changes to these policies, and informs 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- income, very low- income, and extremely low- income families.

**Applicability.** The Form HUD-50075-ST is to be completed annually by **STANDARD PHAs or TROUBLED PHAs**. PHAs that meet the definition of a High Performer PHA, Small PHA, HCV-Only PHA or Qualified PHA do not need to submit this form.

**Definitions.**

- (1) **High-Performer PHA** – A PHA that owns or manages more than 550 combined public housing units and housing choice vouchers, and was designated as a high performer on both the most recent Public Housing Assessment System (PHAS) and Section Eight Management Assessment Program (SEMAP) assessments if administering both programs, or PHAS if only administering public housing.
- (2) **Small PHA** - A PHA that is not designated as PHAS or SEMAP troubled, that owns or manages less than 250 public housing units and any number of vouchers where the total combined units exceed 550.
- (3) **Housing Choice Voucher (HCV) Only PHA** - A PHA that administers more than 550 HCVs, was not designated as troubled in its most recent SEMAP assessment and does not own or manage public housing.
- (4) **Standard PHA** - A PHA that owns or manages 250 or more public housing units and any number of vouchers where the total combined units exceed 550, and that was designated as a standard performer in the most recent PHAS or SEMAP assessments.
- (5) **Troubled PHA** - A PHA that achieves an overall PHAS or SEMAP score of less than 60 percent.
- (6) **Qualified PHA** - A PHA with 550 or fewer public housing dwelling units and/or housing choice vouchers combined and is not PHAS or SEMAP troubled.

A.	PHA Information.																														
A.1	<div> <div> PHA Name: <u>CITY OF CHANDLER HOUSING AND REDEVELOPMENT DIVISION</u> PHA Code: <u>AZ028</u> </div> <div> PHA Type: <input checked="" type="checkbox"/> Standard PHA   <input type="checkbox"/> Troubled PHA </div> <div> PHA Plan for Fiscal Year Beginning: (MM/YYYY): <u>07/01/2024</u> </div> <div> PHA Inventory (Based on Annual Contributions Contract (ACC) units at time of FY beginning, above) </div> <div> Number of Public Housing (PH) Units <u>303</u>   Number of Housing Choice Vouchers (HCVs) <u>495</u>   Total Combined Units/Vouchers <u>798</u> </div> <div> PHA Plan Submission Type: <input checked="" type="checkbox"/> Annual Submission   <input type="checkbox"/> Revised Annual Submission </div> </div> <p> <b>Availability of Information.</b> PHAs must have the elements listed below readily available to the public. A PHA must identify the specific location(s) where the proposed PHA Plan, PHA Plan Elements, and all information relevant to the public hearing and proposed PHA Plan are available for inspection by the public. At a minimum, PHAs must post PHA Plans, including updates, at each Asset Management Project (AMP) and main office or central office of the PHA. PHAs are strongly encouraged to post complete PHA Plans on their official website. PHAs are also encouraged to provide each resident council a copy of their PHA Plans. </p> <p> <b>In addition to the items listed on this form, PHA elements listed below are readily available to the public. The City of Chandler PHA Annual Plan and Capital Fund is available on our website at <a href="http://chandleraz.gov/affordablehousing">chandleraz.gov/affordablehousing</a> and at the City of Chandler Housing and Redevelopment office location located at 235 South Arizona Ave, Chandler, AZ 85225. The public may contact our office at 480-782-3200 or email request to <a href="mailto:chandlerhousing@chandleraz.gov">chandlerhousing@chandleraz.gov</a>.</b> </p> <div> <input type="checkbox"/> <b>PHA Consortia:</b> (Check box if submitting a Joint PHA Plan and complete table below) </div>																														
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<b>B.</b>	<b>Plan Elements</b>																																																								
<b>B.1</b>	<p><b>Revision of Existing PHA Plan Elements.</b></p> <p>(a) Have the following PHA Plan elements been revised by the PHA?</p> <p>Y    N</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Statement of Housing Needs and Strategy for Addressing Housing Needs</p> <p><input checked="" type="checkbox"/> <input type="checkbox"/> Deconcentration and Other Policies that Govern Eligibility, Selection, and Admissions.</p> <p><input checked="" type="checkbox"/> <input type="checkbox"/> Financial Resources.</p> <p><input checked="" type="checkbox"/> <input type="checkbox"/> Rent Determination.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Operation and Management.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Grievance Procedures.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Homeownership Programs.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Community Service and Self-Sufficiency Programs.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Safety and Crime Prevention.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Pet Policy.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Asset Management.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Substantial Deviation.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Significant Amendment/Modification</p> <p>(b) If the PHA answered yes for any element, describe the revisions for each revised element(s): See Attachments C-Administrative Plan, Attachment D-ACOP and public housing policy in Attachments E—Z. Below is updates to the Financial Resources:</p> <table border="1"> <thead> <tr> <th colspan="3">FINANCIAL RESOURCES</th> </tr> <tr> <th>Source</th> <th>Planned \$</th> <th>Planned Use</th> </tr> </thead> <tbody> <tr> <td colspan="3"><b>1. Federal Grants (FY 2024 grants):</b></td> </tr> <tr> <td>a) Public Housing Operating Fund</td> <td>\$ 1,322,000.00</td> <td>Public Housing Operations</td> </tr> <tr> <td>b) Public Housing Capital Fund</td> <td>\$ 950,000.00</td> <td>Public Housing Capital Improvements</td> </tr> <tr> <td>c) Annual Contributions for Section 8 Tenant-Based Assistance</td> <td>\$ 10,083,000.00</td> <td>HCV Rental payments and admin</td> </tr> <tr> <td>d) Annual Contributions for EHV Tenant-Based Assistance</td> <td>\$ 500,000.00</td> <td>EHV Rental payments and admin</td> </tr> <tr> <td>.....e).Community Development Block Grant</td> <td>\$ 72,500</td> <td>Housing Youth</td> </tr> <tr> <td>f) Family Self Sufficiency</td> <td>\$ 198,123.00</td> <td>FSS Coordinators Salary</td> </tr> <tr> <td></td> <td>\$ 148,652.00</td> <td>VASH</td> </tr> <tr> <td></td> <td>\$ 360,000.00</td> <td>TBRA-HOME</td> </tr> <tr> <td colspan="3"><b>2. Prior year Federal Grants (unobligated funds only):</b></td> </tr> <tr> <td>Capital Fund</td> <td>\$ 929,244.00</td> <td>Public Housing Capital Improvements</td> </tr> <tr> <td><b>3. Public Housing Dwelling Rental Income:</b></td> <td>\$ 1,635,000</td> <td></td> </tr> <tr> <td><b>4. Non-Federal Sources:</b></td> <td>\$ 15,402,000</td> <td>Affordable Housing &amp; RAD</td> </tr> <tr> <td>City General Fund</td> <td>\$ 431,000</td> <td>Public Housing Operations</td> </tr> <tr> <td><b>Total Resources</b></td> <td><b>\$ 31,959,019</b></td> <td>HCV, RAD and Public Housing Operations</td> </tr> </tbody> </table> <p>(c) The PHA must submit its Deconcentration Policy for Field Office review.</p> <p>The Deconcentration Policy is incorporated in the Housing Choice Voucher Plan and Admissions and Continued Occupancy Plan (ACOP).</p>						FINANCIAL RESOURCES			Source	Planned \$	Planned Use	<b>1. Federal Grants (FY 2024 grants):</b>			a) Public Housing Operating Fund	\$ 1,322,000.00	Public Housing Operations	b) Public Housing Capital Fund	\$ 950,000.00	Public Housing Capital Improvements	c) Annual Contributions for Section 8 Tenant-Based Assistance	\$ 10,083,000.00	HCV Rental payments and admin	d) Annual Contributions for EHV Tenant-Based Assistance	\$ 500,000.00	EHV Rental payments and admin	.....e).Community Development Block Grant	\$ 72,500	Housing Youth	f) Family Self Sufficiency	\$ 198,123.00	FSS Coordinators Salary		\$ 148,652.00	VASH		\$ 360,000.00	TBRA-HOME	<b>2. Prior year Federal Grants (unobligated funds only):</b>			Capital Fund	\$ 929,244.00	Public Housing Capital Improvements	<b>3. Public Housing Dwelling Rental Income:</b>	\$ 1,635,000		<b>4. Non-Federal Sources:</b>	\$ 15,402,000	Affordable Housing & RAD	City General Fund	\$ 431,000	Public Housing Operations	<b>Total Resources</b>	<b>\$ 31,959,019</b>	HCV, RAD and Public Housing Operations
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<b>B.2</b>	<p><b>New Activities.</b></p> <p>(a) Does the PHA intend to undertake any new activities related to the following in the PHA's current Fiscal Year?</p> <p>Y   N</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Hope VI or Choice Neighborhoods.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Mixed Finance Modernization or Development.</p> <p><input checked="" type="checkbox"/> <input type="checkbox"/> Demolition and/or Disposition.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Designated Housing for Elderly and/or Disabled Families.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Conversion of Public Housing to Tenant-Based Assistance.</p> <p><input checked="" type="checkbox"/> <input type="checkbox"/> Conversion of Public Housing to Project-Based Rental Assistance or Project-Based Vouchers under RAD.</p> <p><input checked="" type="checkbox"/> <input type="checkbox"/> Occupancy by Over-Income Families.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Occupancy by Police Officers.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Non-Smoking Policies.</p> <p><input checked="" type="checkbox"/> <input type="checkbox"/> Project-Based Vouchers.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Units with Approved Vacancies for Modernization.</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Other Capital Grant Programs (i.e., Capital Fund Community Facilities Grants or Emergency Safety and Security Grants).</p> <p>(b) If any of these activities are planned for the current Fiscal Year, describe the activities. For new demolition activities, describe any public housing development or portion thereof, owned by the PHA for which the PHA has applied or will apply for demolition and/or disposition approval under section 18 of the 1937 Act under the separate demolition/disposition approval process. If using Project-Based Vouchers (PBVs), provide the projected number of project-based units and general locations, and describe how project basing would be consistent with the PHA Plan.</p> <p><b>The City of Chandler Housing and Redevelopment Division (COCHRD) is proposing a partial conversion of AMP 1 (refer to Attachment ab – Public Housing Portfolio) during this fiscal year which involves transferring assistance of 78 public housing units from two (2) public housing sites (210 N McQueen and 73 S Hamilton) onto a new vacant property owned by the PHA located on McQueen and Chandler Blvd. Villas on McQueen project will be a new construction of a total of 157 units with a mix of 1, 2, 3, 4 and 5 bedroom units, community space and park areas. There will be the 78 Project Based Vouchers (32 RAD and 46 Section 18) and 79 LIHTC units at or below 60% AMI. The proposed project will serve families, seniors, and veterans. The PHA received Board approval July 14, 2022. COCHRD applied for RAD February 8, 2023, received CHAP March 28, 2023 and RCC signed March 14, 2024. Anticipated closing is May/June 2024.</b></p> <p><b>In addition, the issued RFQ and RFP to redevelop Sites 2 and 3 through RAD or Section 18 (demo/disposition). Furthermore, COCHRD continues to work with HUD TA provider, pursue RAD training and update local HUD staff on progress.</b></p> <p><b>Occupancy by Over-Income Families policy has been included in the Admissions and Continued Occupancy Plan (ACOP).</b></p>
<b>B.3</b>	<p><b>Progress Report.</b></p> <p>Provide a description of the PHA's progress in meeting its Mission and Goals described in the PHA 5-Year and Annual Plan.</p> <p><b>The Progress Report is included in Strategic Plan.</b></p>
<b>B.4</b>	<p><b>Capital Improvements.</b> Include a reference here to the most recent HUD-approved 5-Year Action Plan in EPIC and the date that it was approved.</p> <p><b>See the most recent Capital Fund 5-year Action Plan (HUD Form 50075.2) in EPIC approved by HUD. The Capital Fund Program 5-year action plan describes the capital improvements necessary to ensure the long-term physical and social viability of COCHRD Public Housing Projects.</b></p>
<b>B.5</b>	<p><b>Most Recent Fiscal Year Audit.</b></p> <p>(a) Were there any findings in the most recent FY Audit?</p> <p>Y   N</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/></p> <p>(b) If yes, please describe:</p>
<b>C. Other Document and/or Certification Requirements.</b>	
<b>C.1</b>	<p><b>Resident Advisory Board (RAB) Comments.</b></p> <p>(a) Did the RAB(s) have comments to the PHA Plan?</p> <p>Y   N</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/></p>

	<p>(b) If yes, comments must be submitted by the PHA as an attachment to the PHA Plan. PHAs must also include a narrative describing their analysis of the RAB recommendations and the decisions made on these recommendations.</p> <p><b>The public comment period began January 19, 2024, and ended March 5, 2024. The PHA did not receive any comments, however, if there had been comments, they would have been reviewed and included in this plan.</b></p>	
<b>C.2</b>	<p><b>Certification by State or Local Officials.</b></p> <p><a href="#">Form HUD 50077-SL</a>, <i>Certification by State or Local Officials of PHA Plans Consistency with the Consolidated Plan</i>, must be submitted by the PHA as an electronic attachment to the PHA Plan. <b>See attached Certifications.</b></p>	
<b>C.3</b>	<p><b>Civil Rights Certification/ Certification Listing Policies and Programs that the PHA has Revised since Submission of its Last Annual Plan.</b></p> <p>Form HUD-50077-ST-HCV-HP, <i>PHA Certifications of Compliance with PHA Plan, Civil Rights, and Related Laws and Regulations Including PHA Plan Elements that Have Changed</i>, must be submitted by the PHA as an electronic attachment to the PHA Plan.</p> <p><b>See attached Certifications.</b></p>	
<b>C.4</b>	<p><b>Challenged Elements.</b> If any element of the PHA Plan is challenged, a PHA must include such information as an attachment with a description of any challenges to Plan elements, the source of the challenge, and the PHA's response to the public.</p> <p>(a) Did the public challenge any elements of the Plan?</p> <p>Y    N  <input type="checkbox"/>   <input checked="" type="checkbox"/></p> <p>If yes, include Challenged Elements.</p>	
<b>C.5</b>	<p><b>Troubled PHA.</b></p> <p>(a) Does the PHA have any current Memorandum of Agreement, Performance Improvement Plan, or Recovery Plan in place?  Y    N    N/A  <input type="checkbox"/>   <input type="checkbox"/>   <input checked="" type="checkbox"/></p> <p>(b) If yes, please describe:  <b>NOT APPLICABLE</b></p>	
<b>D.</b>	<b>Affirmatively Furthering Fair Housing (AFFH).</b>	
<b>D.1</b>	<p><b>Affirmatively Furthering Fair Housing (AFFH).</b></p> <p><b>Provide a statement of the PHA's strategies and actions to achieve fair housing goals outlined in an accepted Assessment of Fair Housing (AFH) consistent with 24 CFR § 5.154(d)(5). Use the chart provided below. (PHAs should add as many goals as necessary to overcome fair housing issues and contributing factors.) Until such time as the PHA is required to submit an AFH, the PHA is not obligated to complete this chart. The PHA will fulfill, nevertheless, the requirements at 24 CFR § 903.7(o) enacted prior to August 17, 2015. See Instructions for further detail on completing this item.</b></p> <table border="1" style="width: 100%;"> <tr> <td><b>Fair Housing Goal:</b></td> </tr> </table>	<b>Fair Housing Goal:</b>
<b>Fair Housing Goal:</b>		

**Describe fair housing strategies and actions to achieve the goal**

Federal laws require PHAs to treat all applicants and tenant families equally, providing the same quality of service, regardless of family characteristics and background. Federal law prohibits discrimination in housing based on race, color, religion, sex, national origin, age, familial status, and disability.

- COCHRD will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment.
- COCHRD's Fair Housing policies and practices are included in Chapter 2 of the Administrative Plan and ACOP. All COCHRD staff are provided information given instructions on COCHRD's policies and practices.
- COCHRD staff regularly attend Fair Housing training.
- The City of Chandler has implemented a Fair Housing Program and has an on-site Fair Housing Officer who provides information and assistance to persons wishing to make a fair housing complaint, or who may have questions about fair housing laws.

**Fair Housing Goal:**

**Describe fair housing strategies and actions to achieve the goal**

COCHRD will assist applicants and tenant families who feel they have experienced discrimination by:

- Providing assistance in completing the HUD discrimination form.
- Providing introduction in the City of Chandler Fair Housing Officer.
- Providing other resources to assist in resolving the discrimination issue.
- Conducting an investigation of the discrimination complaint. The investigation may include sending those alleged to have violated the rule and/or policy a written notice informing them of the complaint and seeking to resolve the issue. Within 10 business days following the conclusion of the PHA's investigation, COCHRD will provide the complainant and those alleged to have violated the rule with findings and either a proposed corrective action plan or an explanation of why correction action is not warranted.
- COCHRD will maintain a record of all complaints, investigations, notices, and corrective actions related to the discrimination complaints.

**Fair Housing Goal:**

**Describe fair housing strategies and actions to achieve the goal**

COCHRD will provide access for persons with disabilities, persons needing language assistance and other request made to allow access:

- To meet the needs of persons with hearing impairments, TTD/TTY (text telephone display/teletype communication will be available. COCHRD participants in the RELAY Service.
- To meet the needs of persons with vision impairments, large-print and audio versions of key program documents will be made available upon request. When visual aids are used in public meeting or presentations, or in meetings with PHA staff, one-on-one assistance will be provided upon requests.
- Additional examples of alternative forms of communication are sign language interpretation or having materials explained orally by staff.
- COCHRD has identified ways to provide for population with Limited English Proficiency (LEP) in order to enable those persons to have access to both written documentation and verbal conversations. COCHRD will offer interpretation services free of charge, upon request to LEP persons. COCHRD will utilize a verbal language line for all languages, written translation of documents for all languages upon request and within a reasonable turn-around timeframe, and staff translators for Spanish-speaking persons will provide interpretation services on-site.
- All reasonable accommodation requests are reviewed and go through the same process to allow accessibility for persons with disabilities and the elderly (62+ years of age).

# Annual PHA Plan for Standard and Troubled PHAs

## A. PHA Information. All PHAs must complete this section. (24 CFR §903.4)

**A.1** Include the full **PHA Name**, **PHA Code**, **PHA Type**, **PHA Fiscal Year Beginning** (MM/YYYY), **PHA Inventory**, **Number of Public Housing Units and or Housing Choice Vouchers (HCVs)**, **PHA Plan Submission Type**, and the **Availability of Information**, specific location(s) of all information relevant to the public hearing and proposed PHA Plan. (24 CFR §903.23(4)(e))

**PHA Consortia:** Check box if submitting a Joint PHA Plan and complete the table. (24 CFR §943.128(a))

## B. Plan Elements. All PHAs must complete this section.

### B.1 Revision of Existing PHA Plan Elements. PHAs must:

Identify specifically which plan elements listed below that have been revised by the PHA. To specify which elements have been revised, mark the “yes” box. If an element has not been revised, mark “no.” (24 CFR §903.7)

☐ **Statement of Housing Needs and Strategy for Addressing Housing Needs.** Provide a statement addressing the housing needs of low-income, very low-income and extremely low-income families and a brief description of the PHA’s strategy for addressing the housing needs of families who reside in the jurisdiction served by the PHA and other families who are on the public housing and Section 8 tenant-based assistance waiting lists. The statement must identify the housing needs of (i) families with incomes below 30 percent of area median income (extremely low-income); (ii) elderly families (iii) households with individuals with disabilities, and households of various races and ethnic groups residing in the jurisdiction or on the public housing and Section 8 tenant-based assistance waiting lists based on information provided by the applicable Consolidated Plan, information provided by HUD, and other generally available data. The statement of housing needs shall be based on information provided by the applicable Consolidated Plan, information provided by HUD, and generally available data. The identification of housing needs must address issues of affordability, supply, quality, accessibility, size of units, and location. Once the PHA has submitted an Assessment of Fair Housing (AFH), which includes an assessment of disproportionate housing needs in accordance with 24 CFR §5.154(d)(2)(iv), information on households with individuals with disabilities and households of various races and ethnic groups residing in the jurisdiction or on the waiting lists no longer needs to be included in the Statement of Housing Needs and Strategy for Addressing Housing Needs. (24 CFR §903.7(a)).

The identification of housing needs must address issues of affordability, supply, quality, accessibility, size of units, and location. (24 CFR §903.7(a)(2)(i)) Provide a description of the ways in which the PHA intends, to the maximum extent practicable, to address those housing needs in the upcoming year and the PHA’s reasons for choosing its strategy. (24 CFR §903.7(a)(2)(ii))

☐ **Deconcentration and Other Policies that Govern Eligibility, Selection, and Admissions.** PHAs must submit a Deconcentration Policy for Field Office review. For additional guidance on what a PHA must do to deconcentrate poverty in its development and comply with fair housing requirements, see 24 CFR 903.2. (24 CFR §903.23(b)) Describe the PHA’s admissions policy for deconcentration of poverty and income mixing of lower-income families in public housing. The Deconcentration Policy must describe the PHA’s policy for bringing higher income tenants into lower income developments and lower income tenants into higher income developments. The deconcentration requirements apply to general occupancy and family public housing developments. Refer to 24 CFR §903.2(b)(2) for developments not subject to deconcentration of poverty and income mixing requirements. (24 CFR §903.7(b)) Describe the PHA’s procedures for maintain waiting lists for admission to public housing and address any site-based waiting lists. (24 CFR §903.7(b)). A statement of the PHA’s policies that govern resident or tenant eligibility, selection and admission including admission preferences for both public housing and HCV. (24 CFR §903.7(b)) Describe the unit assignment policies for public housing. (24 CFR §903.7(b))

☐ **Financial Resources.** A statement of financial resources, including a listing by general categories, of the PHA’s anticipated resources, such as PHA operating, capital and other anticipated Federal resources available to the PHA, as well as tenant rents and other income available to support public housing or tenant-based assistance. The statement also should include the non-Federal sources of funds supporting each Federal program, and state the planned use for the resources. (24 CFR §903.7(c))

☐ **Rent Determination.** A statement of the policies of the PHA governing rents charged for public housing and HCV dwelling units, including applicable public housing flat rents, minimum rents, voucher family rent contributions, and payment standard policies. (24 CFR §903.7(d))

☐ **Operation and Management.** A statement of the rules, standards, and policies of the PHA governing maintenance and management of housing owned, assisted, or operated by the public housing agency (which shall include measures necessary for the prevention or eradication of pest infestation, including cockroaches), and management of the PHA and programs of the PHA. (24 CFR §903.7(e))

☐ **Grievance Procedures.** A description of the grievance and informal hearing and review procedures that the PHA makes available to its residents and applicants. (24 CFR §903.7(f))

☐ **Homeownership Programs.** A description of any Section 5h, Section 32, Section 8y, or HOPE I public housing or Housing Choice Voucher (HCV) homeownership programs (including project number and unit count) administered by the agency or for which the PHA has applied or will apply for approval. (24 CFR §903.7(k))

☐ **Community Service and Self Sufficiency Programs.** Describe how the PHA will comply with the requirements of (24 CFR §903.7(l)). Provide a description of: 1) Any programs relating to services and amenities provided or offered to assisted families; and 2) Any policies or programs of the PHA for the enhancement of the economic and social self-sufficiency of assisted families, including programs subject to Section 3 of the Housing and Urban Development Act of 1968 (24 CFR Part 135) and FSS. (24 CFR §903.7(l))

☐ **Safety and Crime Prevention (VAWA).** Describe the PHA’s plan for safety and crime prevention to ensure the safety of the public housing residents. The statement must provide development-by-development or jurisdiction wide-basis: (i) A description of the need for measures to ensure the safety of public housing residents; (ii) A description of any crime prevention activities conducted or to be conducted by the PHA; and (iii) A description of the coordination between the PHA and the appropriate police precincts for carrying out crime prevention measures and activities. (24 CFR §903.7(m)) A description of: 1) Any activities, services, or programs provided or offered by an agency, either directly or in partnership with other service providers, to



child or adult victims of domestic violence, dating violence, sexual assault, or stalking; **2)** Any activities, services, or programs provided or offered by a PHA that helps child and adult victims of domestic violence, dating violence, sexual assault, or stalking, to obtain or maintain housing; and **3)** Any activities, services, or programs provided or offered by a public housing agency to prevent domestic violence, dating violence, sexual assault, and stalking, or to enhance victim safety in assisted families. ([24 CFR §903.7\(m\)\(5\)](#))

☐ **Pet Policy.** Describe the PHA's policies and requirements pertaining to the ownership of pets in public housing. ([24 CFR §903.7\(n\)](#))

☐ **Asset Management.** State how the agency will carry out its asset management functions with respect to the public housing inventory of the agency, including how the agency will plan for the long-term operating, capital investment, rehabilitation, modernization, disposition, and other needs for such inventory. ([24 CFR §903.7\(q\)](#))

☐ **Substantial Deviation.** PHA must provide its criteria for determining a "substantial deviation" to its 5-Year Plan. ([24 CFR §903.7\(r\)\(2\)\(i\)](#))

☐ **Significant Amendment/Modification.** PHA must provide its criteria for determining a "Significant Amendment or Modification" to its 5-Year and Annual Plan. For modifications resulting from the Rental Assistance Demonstration (RAD) program, refer to the 'Sample PHA Plan Amendment' found in Notice PIH-2012-32 REV-3, successor RAD Implementation Notices, or other RAD Notices.

If any boxes are marked "yes", describe the revision(s) to those element(s) in the space provided.

PHAs must submit a Deconcentration Policy for Field Office review. For additional guidance on what a PHA must do to deconcentrate poverty in its development and comply with fair housing requirements, see [24 CFR 903.2](#). ([24 CFR §903.23\(b\)](#))

**B.2 New Activities.** If the PHA intends to undertake any new activities related to these elements in the current Fiscal Year, mark "yes" for those elements, and describe the activities to be undertaken in the space provided. If the PHA does not plan to undertake these activities, mark "no."

☐ **HOPE VI or Choice Neighborhoods.** **1)** A description of any housing (including project number (if known) and unit count) for which the PHA will apply for HOPE VI or Choice Neighborhoods; and **2)** A timetable for the submission of applications or proposals. The application and approval process for HOPE VI or Choice Neighborhoods is a separate process. See guidance on HUD's website at:

[https://www.hud.gov/program\\_offices/public\\_indian\\_housing/programs/ph/hope6](https://www.hud.gov/program_offices/public_indian_housing/programs/ph/hope6) . ([Notice PIH 2011-47](#))

☐ **Mixed Finance Modernization or Development.** **1)** A description of any housing (including project number (if known) and unit count) for which the PHA will apply for Mixed Finance Modernization or Development; and **2)** A timetable for the submission of applications or proposals. The application and approval process for Mixed Finance Modernization or Development is a separate process. See guidance on HUD's website at:

[https://www.hud.gov/program\\_offices/public\\_indian\\_housing/programs/ph/hope6/mfph#4](https://www.hud.gov/program_offices/public_indian_housing/programs/ph/hope6/mfph#4)

☐ **Demolition and/or Disposition.** With respect to public housing only, describe any public housing development(s), or portion of a public housing development projects, owned by the PHA and subject to ACCs (including project number and unit numbers [or addresses]), and the number of affected units along with their sizes and accessibility features) for which the PHA will apply or is currently pending for demolition or disposition approval under section 18 of the 1937 Act (42 U.S.C. 1437p); and **2)** A timetable for the demolition or disposition. This statement must be submitted to the extent that approved and/or pending demolition and/or disposition has changed as described in the PHA's last Annual and/or 5-Year PHA Plan submission. The application and approval process for demolition and/or disposition is a separate process. Approval of the PHA Plan does not constitute approval of these activities. See guidance on HUD's website at: [http://www.hud.gov/offices/pih/centers/sac/demo\\_dispo/index.cfm](http://www.hud.gov/offices/pih/centers/sac/demo_dispo/index.cfm). ([24 CFR §903.7\(h\)](#))

☐ **Designated Housing for Elderly and Disabled Families.** Describe any public housing projects owned, assisted or operated by the PHA (or portions thereof), in the upcoming fiscal year, that the PHA has continually operated as, has designated, or will apply for designation for occupancy by elderly and/or disabled families only. Include the following information: **1)** development name and number; **2)** designation type; **3)** application status; **4)** date the designation was approved, submitted, or planned for submission, **5)** the number of units affected and; **6)** expiration date of the designation of any HUD approved plan. **Note:** The application and approval process for such designations is separate from the PHA Plan process, and PHA Plan approval does not constitute HUD approval of any designation. ([24 CFR §903.7\(i\)\(C\)](#))

☐ **Conversion of Public Housing under the Voluntary or Mandatory Conversion programs.** Describe any public housing building(s) (including project number and unit count) owned by the PHA that the PHA is required to convert or plans to voluntarily convert to tenant-based assistance; **2)** An analysis of the projects or buildings required to be converted; and **3)** A statement of the amount of assistance received to be used for rental assistance or other housing assistance in connection with such conversion. See guidance on HUD's website at:

<http://www.hud.gov/offices/pih/centers/sac/conversion.cfm>. ([24 CFR §903.7\(j\)](#))

☐ **Conversion of Public Housing under the Rental Assistance Demonstration (RAD) program.** Describe any public housing building(s) (including project number and unit count) owned by the PHA that the PHA plans to voluntarily convert to Project-Based Rental Assistance or Project-Based Vouchers under RAD. See additional guidance on HUD's website at: [Notice PIH 2012-32 REV-3, successor RAD Implementation Notices, and other RAD notices.](#)

☐ **Occupancy by Over-Income Families.** A PHA that owns or operates fewer than two hundred fifty (250) public housing units, may lease a unit in a public housing development to an over-income family (a family whose annual income exceeds the limit for a low income family at the time of initial occupancy), if all the following conditions are satisfied: **(1)** There are no eligible low income families on the PHA waiting list or applying for public housing assistance when the unit is leased to an over-income family; **(2)** The PHA has publicized availability of the unit for rental to eligible low income families, including publishing public notice of such availability in a newspaper of general circulation in the jurisdiction at least thirty days before offering the unit to an over-income family; **(3)** The over-income family rents the unit on a month-to-month basis for a rent that is not less than the PHA's cost to operate the unit; **(4)** The lease to the over-income family provides that the family agrees to vacate the unit when needed for rental to an eligible family; and **(5)** The PHA gives the over-income family at least thirty days notice to vacate the unit when the unit is needed for rental to an eligible family. The PHA may incorporate information on occupancy by over-income families into its PHA Plan statement of deconcentration and other policies that govern eligibility, selection, and admissions. See additional guidance on HUD's website at: [Notice PIH 2011-7](#). ([24 CFR 960.503](#)) ([24 CFR 903.7\(b\)](#))

☐ **Occupancy by Police Officers.** The PHA may allow police officers who would not otherwise be eligible for occupancy in public housing, to reside in a public housing dwelling unit. The PHA must include the number and location of the units to be occupied by police officers, and the terms and conditions of

their tenancies; and a statement that such occupancy is needed to increase security for public housing residents. A “police officer” means 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. The PHA may incorporate information on occupancy by police officers into its PHA Plan statement of deconcentration and other policies that govern eligibility, selection, and admissions. See additional guidance on HUD’s website at: [Notice PIH 2011-7](#). (24 CFR 960.505) (24 CFR 903.7(b))

☐ **Non-Smoking Policies.** The PHA may implement non-smoking policies in its public housing program and incorporate this into its PHA Plan statement of operation and management and the rules and standards that will apply to its projects. See additional guidance on HUD’s website at: [Notice PIH 2009-21](#) and [Notice PIH-2017-03](#). (24 CFR §903.7(e))

☐ **Project-Based Vouchers.** Describe any plans to use Housing Choice Vouchers (HCVs) for new project-based vouchers, which must comply with PBV goals, civil rights requirements, Housing Quality Standards (HQS) and deconcentration standards, as stated in 983.57(b)(1) and set forth in the PHA Plan statement of deconcentration and other policies that govern eligibility, selection, and admissions. If using project-based vouchers, provide the projected number of project-based units and general locations, and describe how project-basing would be consistent with the PHA Plan (24 CFR §903.7(b)).

☐ **Units with Approved Vacancies for Modernization.** The PHA must include a statement related to units with approved vacancies that are undergoing modernization in accordance with [24 CFR §990.145\(a\)\(1\)](#).

☐ **Other Capital Grant Programs** (i.e., Capital Fund Community Facilities Grants or Emergency Safety and Security Grants).

For all activities that the PHA plans to undertake in the current Fiscal Year, provide a description of the activity in the space provided.

**B.3 Progress Report.** For all Annual Plans following submission of the first Annual Plan, a PHA must include a brief statement of the PHA’s progress in meeting the mission and goals described in the 5-Year PHA Plan. (24 CFR §903.7(r)(1))

**B.4 Capital Improvements.** PHAs that receive funding from the Capital Fund Program (CFP) must complete this section (24 CFR §903.7 (g)). To comply with this requirement, the PHA must reference the most recent HUD approved Capital Fund 5 Year Action Plan in EPIC and the date that it was approved. PHAs can reference the form by including the following language in the Capital Improvement section of the appropriate Annual or Streamlined PHA Plan Template: “See Capital Fund 5 Year Action Plan in EPIC approved by HUD on XX/XX/XXXX.”

**B.5 Most Recent Fiscal Year Audit.** If the results of the most recent fiscal year audit for the PHA included any findings, mark “yes” and describe those findings in the space provided. (24 CFR §903.7(p))

#### C. Other Document and/or Certification Requirements.

**C.1 Resident Advisory Board (RAB) comments.** If the RAB had comments on the annual plan, mark “yes,” submit the comments as an attachment to the Plan and describe the analysis of the comments and the PHA’s decision made on these recommendations. (24 CFR §903.13(c), 24 CFR §903.19)

**C.2 Certification by State of Local Officials.** Form HUD-50077-SL, *Certification by State or Local Officials of PHA Plans Consistency with the Consolidated Plan*, must be submitted by the PHA as an electronic attachment to the PHA Plan. (24 CFR §903.15). Note: A PHA may request to change its fiscal year to better coordinate its planning with planning done under the Consolidated Plan process by State or local officials as applicable.

**C.3 Civil Rights Certification/ Certification Listing Policies and Programs that the PHA has Revised since Submission of its Last Annual Plan.** Provide a certification that the following plan elements have been revised, provided to the RAB for comment before implementation, approved by the PHA board, and made available for review and inspection by the public. This requirement is satisfied by completing and submitting 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*. 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* must be submitted by the PHA as an electronic attachment to the PHA Plan. This includes all certifications relating to Civil Rights and related regulations. A PHA will be considered in compliance with the certification requirement to affirmatively further fair housing if the PHA fulfills the requirements of §§ 903.7(o)(1) and 903.15(d) and: (i) examines its programs or proposed programs; (ii) identifies any fair housing issues and contributing factors within those programs, in accordance with 24 CFR 5.154 or 24 CFR 5.160(a)(3) as applicable; (iii) specifies actions and strategies designed to address contributing factors, related fair housing issues, and goals in the applicable Assessment of Fair Housing consistent with 24 CFR 5.154 in a reasonable manner in view of the resources available; (iv) works with jurisdictions to implement any of the jurisdiction’s initiatives to affirmatively further fair housing that require the PHA’s involvement; (v) operates programs in a manner consistent with any applicable consolidated plan under 24 CFR part 91, and with any order or agreement, to comply with the authorities specified in paragraph (o)(1) of this section; (vi) complies with any contribution or consultation requirement with respect to any applicable AFH, in accordance with 24 CFR 5.150 through 5.180; (vii) maintains records reflecting these analyses, actions, and the results of these actions; and (viii) takes steps acceptable to HUD to remedy known fair housing or civil rights violations. impediments to fair housing choice within those programs; addresses those impediments in a reasonable fashion in view of the resources available; works with the local jurisdiction to implement any of the jurisdiction’s initiatives to affirmatively further fair housing; and assures that the annual plan is consistent with any applicable Consolidated Plan for its jurisdiction. (24 CFR §903.7(o)).

**C.4 Challenged Elements.** If any element of the Annual PHA Plan or 5-Year PHA Plan is challenged, a PHA must include such information as an attachment to the Annual PHA Plan or 5-Year PHA Plan with a description of any challenges to Plan elements, the source of the challenge, and the PHA’s response to the public.

**C.5 Troubled PHA.** If the PHA is designated troubled, and has a current MOA, improvement plan, or recovery plan in place, mark “yes,” and describe that plan. Include dates in the description and most recent revisions of these documents as attachments. If the PHA is troubled, but does not have any of these items, mark “no.” If the PHA is not troubled, mark “N/A.” (24 CFR §903.9)

#### D. Affirmatively Furthering Fair Housing (AFFH).

**D.1 Affirmatively Furthering Fair Housing.** The PHA will use the answer blocks in item D.1 to provide a statement of its strategies and actions to implement each fair housing goal outlined in its accepted Assessment of Fair Housing (AFH) consistent with 24 CFR § 5.154(d)(5) that states, in relevant part: “To implement goals and priorities in an AFH, strategies and actions shall be included in program participants’ ... PHA Plans (including any plans incorporated therein) ...

Strategies and actions must affirmatively further fair housing ....” Use the chart provided to specify each fair housing goal from the PHA’s AFH for which the PHA is the responsible program participant – whether the AFH was prepared solely by the PHA, jointly with one or more other PHAs, or in collaboration with a state or local jurisdiction – and specify the fair housing strategies and actions to be implemented by the PHA during the period covered by this PHA Plan. If there are more than three fair housing goals, add answer blocks as necessary.

Until such time as the PHA is required to submit an AFH, the PHA will not have to complete section D., nevertheless , the PHA will address its obligation to affirmatively further fair housing in part by fulfilling the requirements at 24 CFR 903.7(o)(3) enacted prior to August 17, 2015, which means that it examines its own programs or proposed programs; identifies any impediments to fair housing choice within those programs; addresses those impediments in a reasonable fashion in view of the resources available; works with local jurisdictions to implement any of the jurisdiction’s initiatives to affirmatively further fair housing that require the PHA’s involvement; and maintain records reflecting these analyses and actions. Furthermore, under Section 5A(d)(15) of the U.S. Housing Act of 1937, as amended, a PHA must submit a civil rights certification with its Annual PHA Plan, which is described at 24 CFR 903.7(o)(1) except for qualified PHAs who submit the Form HUD-50077-CR as a standalone document.

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This information collection is authorized by Section 511 of the Quality Housing and Work Responsibility Act, which added a new section 5A to the U.S. Housing Act of 1937, as amended, which introduced the 5-Year and Annual PHA Plan.

Public reporting burden for this information collection is estimated to average 7.52 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. HUD may not collect this information, and respondents are not required to complete this form, unless it displays a currently valid OMB Control Number.

**Privacy Act Notice.** The United States Department of Housing and Urban Development is authorized to solicit the information requested in this form by virtue of Title 12, U.S. Code, Section 1701 et seq., and regulations promulgated thereunder at Title 12, Code of Federal Regulations. Responses to the collection of information are required to obtain a benefit or to retain a benefit. The information requested does not lend itself to confidentiality.



## **Tenant Anti-Displacement and Relocation Assistance Plan**

This tenant Anti-displacement and Relocation Assistance Plan is prepared by the City of Chandler in accordance with the Housing and Community Development Act of 1974, as amended; and HUD regulations at 24 CFR §42.325 and is applicable to public housing tenants.

### **Minimizing Displacement**

The City of Chandler is committed to a policy to make all reasonable efforts to ensure that activities undertaken through the use of Community Development Block Grant (CDBG) and/or other federal funding will not cause unnecessary displacement or relocation. Such federally funded programs will be administered in such a manner that careful consideration is given during the planning phase with regard to avoiding displacement. Involuntary displacement shall be reserved as a last resort action necessitated only when no other alternative is available and when the activity is determined necessary in order to carry out a specific goal or objective that results from an action necessary to implement HUD management responsibilities, or other projects as allowed by HUD. In this case, community development and housing programs will be planned in a manner which avoids displacement of households or business.

However, "voluntary" relocation (temporary or permanent) may be necessary in order to achieve a benefit to public housing (such as housing rehabilitation or reconstruction). As it pertains to the City's Public Housing, CDBG, HOME and NSP programs, the U.S. Department of Housing and Urban Development Handbook 1378, shall be adopted in its entirety as a part of this policy.

#### **1. Permanent, Involuntary Displacement**

The City of Chandler will provide reasonable relocation assistance to tenant displaced permanently and involuntarily as a result of the use of HUD/federal assistance to substantially rehabilitate or demolish a unit. Benefits and assistance to displaced persons may include:

- a. Actual moving costs or fixed payment.
- b. Financial assistance sufficient to enable the displaced person to occupy a suitable replacement dwelling (tenant benefits vary).
- c. Advisory services necessary to minimize hardships in relocating.

#### **2. Provisions for One-for-One Replacement (Acceptable Replacement Units (24 CFR 42.375(b)))**

The City of Chandler will replace all occupied and vacant occupiable low/moderate-income dwelling units demolished or converted to use other than as low/moderate-income housing

as a direct result of activities assisted with funds provided under the Housing and Community Development Act of 1974, as amended, and as described in 24 C.F.R. Part 570. Replacement low/moderate-income units may include public housing or existing housing receiving Section 8 project based-assistance or other types of federal assisted units.

All replacement housing will be provided within three years of the commencement of the demolition or rehabilitation relating to conversion and will meet the following requirements:

- a. The units will be located within the City of Chandler.
- b. The units will meet all applicable housing, building, and zoning ordinances and will be in standard, good condition.
- c. The units will be designed to remain low/moderate-income dwelling units for at least 10 years from the date of initial occupancy (applies to initial tenant only). (See 24 CFR §42.375(b)(5)).
- d. The units will be sufficient in size and number (functionally equivalent) to house at least the number of occupants who could have been housed in the units that are demolished or converted.

Before obligating or expending HUD/federal funds that will directly result in such demolition or conversion, the local government (City of Chandler) will make public and submit to the U.S. Department of Housing and Urban Development the following information in writing:

- a. A description of the proposed assisted activity.
- b. The general location on an area map including approximate number of dwelling units by size (number of bedrooms) that will be demolished or converted to a use other than low/moderate-income dwelling units.
- c. A time schedule for commencement and completion of the demolition or conversion.
- d. The general location on a service area map and approximate number of dwelling units by size (number of bedrooms) that will be provided as replacement units.
- e. Identification of the source of funding at the time of submittal and the time frame, location and source for the replacement dwelling unit.
- f. The basis for concluding that each replacement dwelling unit will be designed to remain a low/moderate-income dwelling unit for at least 10 years from the date of initial occupancy. (See 24 CFR §42.375(b)(5)).
- g. Information demonstrating that any proposed replacement of a unit with a smaller unit is consistent with the housing needs of LMI persons in the jurisdiction.

### 3. Provisions for Relocation Assistance for Residential Displacement

The City of Chandler will provide relocation assistance, as described in 24 CFR Part 570, to each low/moderate-income household involuntarily displaced by the rehabilitation or demolition of residential housing or by the conversion of a low/moderate-income dwelling to

another use as a direct result of HUD/federally assisted activities. Persons that are relocated are entitled to:

- a. A choice between actual reasonable moving expenses or a fixed expense and dislocation allowance.
- b. Advisory services
- c. Reimbursement for reasonable and necessary security deposits and credit checks.
- d. Replacement housing assistance which may include a Section 8 housing voucher/certificate and referral to assisted units; cash rental assistance to reduce the rent and utility cost or lump sum payment equal to the present value of rental assistance installments to be used toward purchasing an interest in a housing cooperative or mutual housing association.

4. Temporary, Voluntary Relocation

- a. Persons occupying a housing unit which is to be rehabilitated using HUD/federal fund must voluntarily agree to participate in the program and shall temporarily vacate the housing at the direction of the City in order to facilitate the safe, timely and economical rehabilitation process.
- b. A moving allowance will be established and provided to each household.
- c. The City will provide referrals to safe, decent and sanitary housing for use as temporary relocation housing. The unit shall be available free of charge to temporarily displaced households for the time period authorized by the City but generally for the period of rehabilitation construction.
- d. A storage allowance maybe provided if storage is necessary and essential to the move.
- e. Insurance cost for the replacement value of the household property in connection with the move will be provided for the household furnishings.

5. Permanent, Voluntary Displacement and Relocation

If it is determined by the City that the occupants of a dwelling should be permanently relocated and the occupants voluntarily consent, benefits will be provided in accordance with the Uniform Relocation Act. CFR Part 570.

6. Tenant Assistance Policy/Federally Funded Rental Rehabilitation Program

- a. It is not the City's policy to displace families in rental units. The City will be required to warrant that the proposed rehabilitation will not cause any tenant to be permanently displaced unless the City will be able to relocate the tenant displaced in accordance with HUD relocation criteria. The City will be required to comply with all URA notice requirements to the tenant in occupancy of a rental unit. Rehabilitation funds will not be used to rehabilitate the rental units if the rehabilitation will cause the permanent displacement of low moderate income (LMI) families.



- b. If it becomes necessary for the City to temporarily move a tenant from a unit as a direct result of rehabilitation assisted through rental rehabilitation funds, the City will assure that the tenant is given a referral to a decent, safe and sanitary dwelling unit at an affordable rate as described in the applicable regulations.
- c. Should temporary displacement become necessary for a tenant as a result of the rental rehabilitation assistance, the City will assure that tenants are provided temporary relocation information, counseling, and housing referrals, Fair Housing information and other relocation services as needed without regard to race, color, religion, sex, familial status, age, disability, or national origin, so as to enable the family to obtain decent, safe and sanitary housing at an affordable rent.
- d. Where required, compensation to obtain replacement housing shall not exceed the statutory Uniform Relocation Act (URA) threshold.

## 7. Appeals/Counseling

- a. If a claim for assistance is denied by the City, the claimant may appeal, where applicable to the City of Chandler and their decision shall be final unless a court determines the decision was arbitrary and capricious.
- b. Counseling will be provided to displaced tenants in the areas housing counseling, fair housing, real estate transactions, and locating and evaluating replacement housing options. Counseling shall be provided by an appropriate service provider identified by the City.
- c. These services are available to ensure that no person is discriminated against based upon age, race, color, religion, sex, disability, familial status, national origin, or presence of children in the household and that the displaced tenants receives information concerning the full range of housing opportunities within the local housing market.

### Reference:

HUD Handbook, Community Planning and Development (CPD)/Tenant Assistance, Relocation and Real Property Acquisition (1378.0)



# Temporary Relocation Assistance Policy

## Temporary Relocation Assistance Overview

Families residing in Chandler Public Housing may be asked to temporarily or permanently relocate for reasons that may include maintenance, capital improvements, or on a case-by-case basis for emergency purposes. This list is not all inclusive.

This policy will discuss the types of moves and responsibilities for costs, as well as limitations on costs paid by the city of Chandler.

## Moving Costs

### 1. Self-Move

A self-move means that the temporarily displaced household will be responsible for the physical move of their furnishings and personal property. The self-move payment will be in accordance with the attached 2012 Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs Fixed Residential Move Cost Schedule published by the Federal Highway Administration.

**\*\* Note:** The move assistance may not exceed the levels indicated for the average number of furnished rooms referenced in the Residential Moving Expense and Dislocation Allowance Payment Schedule for the State of Arizona.

### 2. Commercial Move

The City will procure the services of a licensed bonded moving company to move the tenant's household furnishings under this voluntary agreement when a self-move is not a viable option.

### 3. Packing and Unpacking Assistance

The City of Chandler will discuss relocation assistance options with the tenant and determine whether packing and unpacking services performed by a commercial moving company is necessary to accomplish the move.

#### 4. Storage of Household Furnishings

The cost of storage for the tenant's furnishings will be provided when the City determines that storage is necessary for the housing rehabilitation work to occur.

### **Rental Assistance**

The City of Chandler will provide up to \$\_\_\_\_\_ per month (variable, depending upon suitable unit) in rental assistance for the period of time the home/unit is being rehabilitated, or when the home/unit is habitable, whichever is shorter. The City will provide one referral to a suitable unit. The temporary replacement unit selected by the homeowner must pass a Housing Quality Standards inspection (HQS) performed by the City of Chandler Housing Rehab Specialist. The City of Chandler will NOT provide rental assistance for a unit that does NOT meet HQS requirements and rental assistance will NOT be provided for homeowners that temporarily relocate with family members.

Temporary relocation assistance expenses (rental assistance, moving costs, and storage) are paid by the City of Chandler and are not the tenant's responsibility.

Because the project is funded by HUD you will be protected by a federal law known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA).



## Request for Temporary Relocation Assistance

Property Address: \_\_\_\_\_

Tenant (Head of Household): \_\_\_\_\_

Housing Program: \_\_\_\_\_

The City of Chandler has informed me that I need to temporarily move to facilitate the rehabilitation of my home/unit. I understand the information I provide will be used to help the City effectively plan and coordinate my move.

### **Anticipated Duration of Temporary Relocation**

Starting on or about \_\_\_\_\_, I will move temporarily from my home and the estimated length of temporary relocation will be up to \_\_\_\_ days.

### **Temporary Replacement Unit Selection**

The Housing Specialist has explained the temporary relocation assistance and I choose to:

\_\_\_\_ Move to a suitable temporary housing unit identified by the City of Chandler that meets housing inspection standards.

\_\_\_\_ Move in with friends/family.

\_\_\_\_ Locate my own unit that will pass housing inspection standards.

### **Moving Assistance Needed (check all that apply):**

\_\_\_\_ Residential move by a licensed bonded moving company

\_\_\_\_ Temporary storage for household furnishings that will not be moved to the temporary unit

\_\_\_\_ Packing of household items

\_\_\_\_ Unpacking of household items

## Request for Temporary Relocation Assistance – Page 2

### Pets:

\_\_\_ I **do not** have pets.

\_\_\_ I have pet(s) that will move with me.

\_\_\_ cats Number: \_\_\_\_\_

\_\_\_ dogs Breed and number: \_\_\_\_\_

\*\*The City of Chandler does not provide temporary shelter for pets.

**Cable TV:**                      **Yes / No**                      **Service Provider:** \_\_\_\_\_

**Internet:**                      **Yes / No**                      **Service Provider:** \_\_\_\_\_

**ADA Unit Needed:** **Yes / No**                      **Downstairs/Upstairs:** \_\_\_\_\_

## Temporary Relocation Certification

I (we) have been provided a copy of the City of Chandler Temporary Relocation Policy and understand fully the conditions, restrictions and assistance stated in the Policy and do certify that my request to participate in this Policy is a voluntary act.

I (we) certify that the temporary relocation assistance offered by this Policy is needed, and that by signature below, I/we hereby request the assistance available under this policy be provided.

Head of Household Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Other Household Member Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Other Household Member Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Other Household Member Signature: \_\_\_\_\_ Date: \_\_\_\_\_

City of Chandler Determination:

☐ The Tenant is **eligible** to receive assistance available under the City’s Temporary Relocation Assistance Policy.

☐ The Tenant is **not eligible** to receive Temporary Relocation Assistance for the following reasons:

\_\_\_\_\_  
Housing Assistance Senior Program Manager Signature

\_\_\_\_\_  
Date





## **Assistance Animal Policy**

### **[FHEO 2020-01]**

The terms of this policy apply to the City of Chandler Housing and Redevelopment Division (COCHRD) Public Housing Program.

This policy applies to assistance animals that are used to assist, support or provide service to persons with disabilities. Assistance animals include service animals and support animals that live in or visit public housing developments.

***This policy should be read in conjunction with FHEO 2020-01, "Assessing a Person's Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act," the City of Chandler Public Housing Admissions and Continued Occupancy Policy (ACOP), Section 504 of the ADA.***

***Notice FHEO 2020-01 replaces Notice FHEO 2013-01.***

This guidance is meant to help distinguish between a person with a non-obvious disability who has a legitimate need for an assistance animal, and a person without a disability who simply wants to have a pet or avoid the costs and limitations imposed by housing providers' pet policies, such as pet fees or deposits.

### **I. BACKGROUND**

Persons with disabilities may request a reasonable accommodation for service animals and other types of assistance animals, including support animals, under the Fair Housing Act (FHA).

This procedure is meant to provide guidance with compliance with the FHA when assessing requests for reasonable accommodations for an assistance animal in housing, including what information the COCHRD may need to know from a health care professional about an individual's need. The Assistance Animal Permit is attached to the end of this procedure.

This procedure is written in accordance with FHEO 202-01. It provides guidance for the review of a reasonable accommodation request for an assistance animal in Chandler public housing. (Housing providers may be subject to the requirements of several civil rights laws, including but not limited to the FHA, Section 504 of the Rehabilitation Act (Section 504), and the Americans with Disabilities Act (ADA).)

## **II. ASSISTANCE ANIMALS**

There are two types of assistance animals: (1) service animals, and (2) support animals. These are assistance animals that do work, perform tasks, provide assistance, and/or provide therapeutic emotional support for individuals with disabilities (i.e., support animals).

Assistance animals are generally an animal commonly kept in the household.

Assistance animals, including service and support animals, are not pets, and thus, are not subject to the COCHRD's pet policies [24 CFR 5.303; 960.705; Notice FHEO 2020-01].

While most requests for reasonable accommodations involve one animal, requests sometimes involve more than one animal (for example, a person has a disability-related need for both animals, or two people living together each have a disability-related need for a separate assistance animal).

The decision-making process can be used for all requests for exceptions or modifications to COCHRD's rules, policies, practices, and/or procedures so persons with disabilities can have assistance animals where they reside.

### **Assessing a Request for an Animal as a Reasonable Accommodation under the FHA**

The FHA makes it unlawful for a housing provider to refuse to make a reasonable accommodation that a person with a disability may need to have equal opportunity to enjoy and use a dwelling. One common request for housing providers is a reasonable accommodation to pet or no-animal policies so that individuals with disabilities are permitted to use assistance animals in housing including public and common use areas.

Assistance animals are not pets. They are animals that do work, perform tasks, assist, and/or provide therapeutic emotional support for individuals with disabilities.

Persons with disabilities may request a reasonable accommodation for service animals and other types of assistance animals, including support animals, under the FHA.

A resident may request a reasonable accommodation either before or after acquiring the assistance animal.

An accommodation may also be requested after a housing provider seeks to terminate the resident's lease or tenancy because of the animal's presence, although such timing may create an inference against good faith on the part of the person seeking a reasonable accommodation.

However, under the FHA, a person with a disability may make a reasonable accommodation request at any time, and the COCHRD must consider the reasonable accommodation request even if the resident made the request after bringing the animal into housing.

The request for an assistance animal may be oral or written. It may be made by others on behalf of the individual, including a person legally residing in the unit with the requesting individual or a legal guardian or authorized representative.

While it is not necessary to submit a written request or to use the words “reasonable accommodation,” “assistance animal,” or any other special words to request a reasonable accommodation under the FHA, persons making a request should be encouraged to do so in order to avoid miscommunication.

The COCHRD will maintain a list of reasonable accommodation requests, to include name, date of request, date of determination, and the final determination (approved/denied).

**\*\*\*Note: Assistance animals are not interchangeable.**

**The animal that is approved is the animal that can live in the assisted unit. If the family replaces it for a different animal, the approval process must start from the beginning.**

### **Assistance Animal Permit**

It is important that the COCHRD is able to physically identify the animal requested to be approved as a service or support animal. The request MUST include the following:

- Type and description of animal;
- Evidence that the animal has been spayed or neutered, as applicable;
- All inoculations and licenses required by or local law; and
- One photograph of the assistance animal.

Registration must be renewed annually and will be coordinated with the annual reexamination date.

### **Observable and Non-Observable Disabilities**

Under the FHA, a disability is a physical or mental impairment that substantially limits one or more major life activities. While some impairments may seem invisible, others can be readily observed.

- **Observable impairments** include blindness or low vision, deafness or being hard of hearing, mobility limitations, and other types of impairments with observable symptoms or effects, such as intellectual impairments (including some types of autism), neurological impairments (e.g., stroke, Parkinson’s disease, cerebral palsy, epilepsy, or brain injury), mental illness, or other diseases or conditions that affect major life activities or bodily functions. Observable impairments generally tend to be obvious and would not be reasonably attributable to non-medical causes by a lay person.
- **Non-Observable impairments** are those that may not be seen, and therefore, may form the basis for a request for an emotional support animal.

\*\*\* In the instance where the disability is not observable, the COCHRD will request information regarding both the disability and the disability-related need for the animal. Housing providers are not entitled to know an individual’s diagnosis.

## **A. Service Animals**

Under the ADA, “service animal” means any **dog** that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.

Other species of animals, whether wild or domestic, trained, or untrained, are not service animals for the purposes of this definition.

The work or tasks performed by a service animal must be directly related to the individual's disability.

Although a miniature horse is not a service animal, DOJ has determined that the same type of analysis is applied to determine whether a miniature horse should be provided access, although additional considerations, beyond the scope of this guidance, apply. (See 28 CFR §§ 35.136(i); 36.302(c)(9))

It is important to start with the following questions if the request is for a service animal. You must know if the animal is a service animal, by definition:

### **\*\*\*Note:**

Has the individual requested a reasonable accommodation — that is, has the tenant asked to get or to keep an animal in connection with a physical or mental impairment or disability:

- If “yes,” proceed to question #1.
- If “no,” the COCHRD will not grant a reasonable accommodation that has not been requested.

(The request for a reasonable accommodation with respect to an assistance animal may be oral or written. It may be made by others on behalf of the individual, including a person legally residing in the unit with the requesting individual or a legal guardian or authorized representative.)

#### **1) Is the animal a dog?**

- If “yes,” proceed to the next question.
- If “no,” the animal is not a service animal but may be another type of assistance animal for which a reasonable accommodation is needed. Proceed to **“Support Animal”**, below. (Also see Unique Animals)

#### **2) Is it **\*\*readily apparent\*\*** that the dog is trained to do work or perform tasks for the benefit of an individual with a disability?**

- If “yes,” further inquiries are unnecessary and inappropriate because the animal is a service animal.
- If “no,” proceed to question #3.

**\*\* It is “readily apparent”** when the dog is observed:

- guiding an individual who is blind or has low vision
- pulling a wheelchair
- providing assistance with stability or balance to an individual with an observable mobility disability

**3)** In regards to a Service Animals (not a Support Animal) and in accordance with FHEO 2020-01, the COCHRD will limit its inquiries to the following two questions:

- “Is the animal required because of a disability?” and
- “What work or task has the animal been trained to perform?”

In regards to a Service Animal (not a Support Animal), the COCHRD will not ask about the nature or extent of the person’s disability, and will not ask for documentation. The COCHRD requires the attestation for truth and accuracy of information be provided during the approval process. The COCHRD will provide a form for tenant’s signature.

Providing false information for the purpose of keeping a dog in the unit is grounds for termination of assistance.

- a. If the answer to question (a) is “yes” and work or a task is identified in response to question (b), grant the requested accommodation, if otherwise reasonable, because the animal qualifies as a service animal.
- b. If the answer to either question is “no” or “none,” the animal does not qualify as a service animal under federal law but may be a support animal or other type of assistance animal that needs to be accommodated.

Performing “work or tasks” means that the dog is **trained** to take a specific action when needed to assist the person with a disability. If the individual identifies at least one action the dog is **trained** to take which is helpful to the disability **other than emotional support**, the dog should be considered a service animal and permitted in housing, including public and common use areas.

If the answers to the above questions sufficiently resolve the validity of the request for a Service Animal, the COCHRD will not make further inquiries for Service Animals.

If no specific work or task is identified, the dog should **not** be considered a service animal but may be another type of animal for which a reasonable accommodation may be required.

Emotional support, comfort, well-being, and companionship **are not** a specific work or task for purposes of analysis under the ADA.

If the animal does not qualify as a service animal, the COCHRD must next determine whether the animal would qualify as a support animal (See Support Animals).

## **B. Support Animals (Assistance Animals other than Service Animals)**

Other trained or untrained animals that do work, perform tasks, provide assistance, and/or provide therapeutic emotional support for individuals with disabilities (referred to in this guidance as a “support animal”).

For an animal to be eligible for consideration as a support animal, it must be one that is commonly kept in homes, such as a dog, cat, small bird, rabbit, hamster, gerbil, other rodent, fish, turtle, or other small, domesticated animal.

FHEO 2020-01 does not consider as common household animals reptiles (other than turtles), barnyard animals, monkeys, kangaroos, and other non-domesticated animals. Someone may request a “unique” animal as a support animal but must provide extra documentation (See Unique Animals).

## **III. ANALYSIS OF REASONABLE ACCOMMODATION REQUESTS FOR ASSISTANCE ANIMALS OTHER THAN SERVICE ANIMALS**

The COCHRD will ask the following questions to better understand the request and to help make a decision when the animal does not meet the definition of service animal.

- 1) Has the individual requested a reasonable accommodation — that is, has the tenant asked to get or to keep an animal in connection with a physical or mental impairment or disability?:
  - If “yes,” proceed to Part IV, **“Criteria for Assessing Whether to Grant the Requested Accommodation”**.
  - If “no,” the COCHRD will not grant a reasonable accommodation that has not been requested.

Note: The request for a reasonable accommodation with respect to an assistance animal may be oral or written. It may be made by others on behalf of the individual, including a person legally residing in the unit with the requesting individual or a legal guardian or authorized representative.

## **IV. CRITERIA FOR ASSESSING WHETHER TO GRANT THE REQUESTED ACCOMMODATION**

The COCHRD will ask the following questions to better understand the request and to help them assess whether to grant the requested accommodation.

- 2) Does the person have an observable disability or does the COCHRD already have information giving them reason to believe that the person has a disability? (See page 3 for guidance on observable and non-observable disabilities)
  - If “yes,” skip to question #7 to determine if there is a connection between the person’s disability and the animal.
  - If “no,” continue to question #6.
- 3) Does the request provide information that reasonably supports that the person

seeking the accommodation has a disability?

The COCHRD requires the attestation for truth and accuracy of information be provided during the approval process. The COCHRD will provide a form for tenant's signature.

- If "no," the COCHRD will not grant the accommodation unless this information is provided.

\*\*\* If the person requesting the accommodation has not yet submitted required information, the COCHRD will not deny the request until the deadline for submittal has past.

\*\*\* To assist the tenant to understand what information is necessary, the COCHRD will provide the tenant a copy of the ***"Guidance on Documenting an Individual's Need for Assistance Animals in Housing"***, FHEO 2020-01. This referral will also help ensure that the correct disability-related information necessary to make a reasonable accommodation decision is received.

## **V. TYPES OF DOCUMENTATION**

### **Information About A Disability May Include-**

- A determination of disability from a federal, state, or local government agency.
- Receipt of disability benefits or services (Social Security Disability Income (SSDI)), Medicare or Supplemental Security Income (SSI) for a person under age 65, veterans' disability benefits, services from a vocational rehabilitation agency, or disability benefits or services from another federal, state, or local agency.
- Eligibility for housing assistance or a housing voucher received because of disability.
- Information confirming disability from a health care professional – e.g., physician, optometrist, psychiatrist, psychologist, physician's assistant, nurse practitioner, or nurse.

\*\* Note that a determination that an individual does not qualify as having a disability for purposes of a benefit or other program does not necessarily mean the individual does not have a disability for purposes of the FHA, Section 504, or the ADA.

Under DOJ's regulations implementing the ADA Amendments Act of 2008, which HUD considers instructive when determining whether a person has a disability under the FHA, some types of impairments will be, in virtually all cases, found to impose a substantial limitation on a major life activity resulting in a determination of a disability.

Examples include deafness, blindness, intellectual disabilities, partially or completely missing limbs or mobility impairments requiring the use of a wheelchair, autism, cancer, cerebral palsy, diabetes, epilepsy, muscular dystrophy, multiple sclerosis, Human Immunodeficiency Virus (HIV) infection, major depressive disorder, bipolar disorder, post-traumatic stress disorder, traumatic brain injury, obsessive compulsive disorder, and schizophrenia.

This does not mean that other conditions are not disabilities. It simply means that in virtually all cases, these conditions will be covered as disabilities.

While the COCHRD most likely will be unable to observe or identify some of these impairments, individuals with disabilities sometimes voluntarily provide more details about their disability than the COCHRD actually needs to make decisions on accommodation requests. When this information is provided, the COCHRD will consider it.

### **Documentation from the Internet**

Some websites sell certificates, registrations, and licensing documents for assistance animals to anyone who answers certain questions or participates in a short interview and pays a fee.

Under the FHA, the COCHRD will request reliable documentation when an individual requesting a reasonable accommodation has a disability and disability-related need for an accommodation that are not obvious or otherwise known.

In HUD's experience, such documentation from the internet is not, by itself, sufficient to reliably establish that an individual has a non-observable disability or disability-related need for an assistance animal.

By contrast, many legitimate, licensed health care professionals deliver services remotely, including over the internet. One reliable form of documentation is a note from a person's health care professional that confirms a person's disability and/or need for an animal when the COCHRD has personal knowledge of the individual.

- 1) Has the person requesting the accommodation provided information which reasonably supports that the animal does work, performs tasks, provides assistance, and/or provides therapeutic emotional support with respect to the individual's disability?
  - If "yes," proceed to Part V, ***"Types of Animals"***. The COCHRD requires the attestation for truth and accuracy of information be provided during the approval process. The COCHRD will provide a form for tenant's signature.
  - If "no," the COCHRD will not grant the accommodation unless this information is provided, but will not deny the accommodation on the grounds that the person requesting the accommodation has not provided this information until the requester has been provided a reasonable opportunity to do so.

\*\*\* To assist the tenant to understand what information is necessary, the COCHRD will provide the tenant a copy of the ***"Guidance on Documenting an Individual's Need for Assistance Animals in Housing"***, FHEO 2020-01. This referral will also help ensure that the correct disability-related information necessary to make a reasonable accommodation decision is received.

### **Information Confirming Disability-Related Need for an Assistance Animal**



- Reasonably supporting information often consists of information from a licensed health care professional – e.g., physician, optometrist, psychiatrist, psychologist, physician’s assistant, nurse practitioner, or nurse – general to the condition but specific as to the individual with a disability and the assistance or therapeutic emotional support provided by the animal;
- A relationship or connection between the disability and the need for the assistance animal must be provided. This is particularly the case where the disability is non-observable, and/or the animal provides therapeutic emotional support;
- For non-observable disabilities and animals that provide therapeutic emotional support, the COCHRD will ask for information that is consistent with that identified in the ***“Guidance on Documenting an Individual’s Need for Assistance Animals in Housing”*** (\*see Questions 6 and 7) in order to conduct an individualized assessment of whether it must provide the accommodation under the FHA. The lack of such documentation may be reasonable grounds for denying a requested accommodation.

## **VI. TYPES OF ANIMALS**

The COCHRD may come across requests for accommodation that involve animals other than a service dog, or common household animals used as assistance animals. In this case, the COCHRD will have to make the determination whether to approve a unique animal. To do so, the following question must be asked:

- 1) Is the animal commonly kept in households?
  - If “yes,” the reasonable accommodation should be provided under the FHA unless the general exceptions described below exist.
  - If “no,” a reasonable accommodation need not be provided, but note the very rare circumstances described below.

### **Animals commonly kept in households**

If the animal is a dog, cat, small bird, rabbit, hamster, gerbil, other rodent, fish, turtle, or other small, domesticated animal that is traditionally kept in the home for pleasure rather than for commercial purposes, then the reasonable accommodation should be granted because the tenant has provided information confirming that there is a disability-related need for the animal.

For purposes of this assessment, reptiles (other than turtles), barnyard animals, monkeys, kangaroos, and other non-domesticated animals are not considered common household animals.

### **Unique animals**

If the individual is requesting to keep a unique type of animal that is not commonly kept in households as described above, then the requestor has the substantial burden of demonstrating a disability-related therapeutic need for the specific animal or the specific type of animal.

The individual is encouraged to submit documentation from a health care professional confirming the need for this animal, which includes information of the type set out in the ***Guidance on Documenting an Individual's Need for Assistance Animals in Housing***.

While this guidance does not establish any type of new documentary threshold, the lack of such documentation in many cases may be reasonable grounds for denying a requested accommodation.

As the COCHRD enforces a policy prohibiting animals based on weight at adulthood and limiting all pets to common household animals, the COCHRD will take reasonable steps to enforce the policy if the requester obtains the animal before submitting reliable documentation from a health care provider that reasonably supports the disability-related need for the animal. COCHRD will make a determination within 10 days of the receipt of the request.

**Reasonable accommodations may be necessary when the need for a unique animal involves unique circumstances**

Examples:

- a. The animal is individually trained to do work or perform tasks that cannot be performed by a dog.
- b. Information from a health care professional confirms that:
  - Allergies prevent the person from using a dog; or
  - Without the animal, the symptoms or effects of the person's disability will be significantly increased.
  - The individual seeks to keep the animal outdoors at a house with a fenced yard where the animal can be appropriately maintained.

**Example: A Unique Type of Support Animal**

- An individually trained capuchin monkey performs tasks for a person with paralysis caused by a spinal cord injury. The monkey has been trained to retrieve a bottle of water from the refrigerator, unscrew the cap, insert a straw, and place the bottle in a holder so the individual can get a drink of water. The monkey is also trained to switch lights on and off and retrieve requested items from inside cabinets. The individual has a disability-related need for this specific type of animal because the monkey can use its hands to perform manual tasks that a service dog cannot perform.

**VII. GENERAL CONSIDERATIONS**

COCHRD includes the following additional statements and requirements:

- COCHRD has the authority to regulate assistance animals under applicable federal, state, and local law (24 CFR §5.303(b)(3); 24 CFR §960.705(b)(3))
- The FHA does not require a dwelling to be made available to an individual whose

tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others. A housing provider may, therefore, refuse a reasonable accommodation for an assistance animal if the specific animal poses a direct threat that cannot be eliminated or reduced to an acceptable level through actions the individual takes to maintain or control the animal.

- The animal may not be denied access to the ADA-covered facility unless: (1) the animal is out of control and its handler does not take effective action to control it; (2) the animal is not housebroken (i.e., trained so that, absent illness or accident, the animal controls its waste elimination); or (3) the animal poses a direct threat to the health or safety of others that cannot be eliminated or reduced to an acceptable level by a reasonable modification to other policies, practices and procedures.
- A determination that a service animal poses a direct threat must be based on an individualized assessment of the specific service animal's actual conduct — not on fears, stereotypes, or generalizations.
- The service animal must be permitted to accompany the individual with a disability to all areas of the facility where members of the public are normally allowed to go."

\*\*\* As COCHRD public housing grounds are all common area grounds, the COCHRD will not approve an accommodation for an animal that must be kept outdoors in a corral-like or barn-like structure, or any other structure that would have to be built or allowed to be moved or placed on the grounds to accommodate the animal. As the summer temperatures are not conducive to any animal being kept outside, any such request will be rejected due to possible life-threatening conditions present in a desert environment. In addition, none of the public housing units have individual fenced yards or any private yard space to accommodate such a request, which would be considered a fundamental alteration, and will be denied.

Scattered site units have backyards.

- COCHRD will not charge a fee for processing a reasonable accommodation request.
- COCHRD will not charge a deposit, fee, or surcharge for an assistance animal.
- Pet Related Damages During Occupancy: All reasonable expenses incurred by the City's Housing Office as a result of damages directly attributable to the presence of the pet in the property will be the responsibility of the resident, including but not limited to:
  - The cost of repairs and replacement to the resident's dwelling unit
  - Fumigation of the dwelling unit
  - Repairs to common areas of the property
  - Elimination of fleas
- Pet Waste Removal Charge: A separate pet waste removal charge of \$21.00 (a

minimum labor charge) per occurrence will be assessed against the resident/pet owners who fail to remove pet waste in accordance to this policy.

- A person with a disability is responsible for feeding, maintaining, providing veterinary care, and controlling his or her assistance animal. The individual may do this on his or her own or with the assistance of family, friends, volunteers, or service providers. COCHRD staff will not be responsible for caring for or cleaning after the animal inside or outside. (24 CFR 5.303)
- Failure to adhere to this guidance does not necessarily constitute a violation by the COCHRD of the FHA or regulations promulgated thereunder.
- Before denying a reasonable accommodation request due to lack of information confirming an individual's disability or disability-related need for an animal, the COCHRD will engage in a good-faith dialogue with the requestor called the "interactive process."
- COCHRD will not insist on specific types of evidence if the information provided or is actually known to COCHRD meets the requirements of this guidance (except as provided above). Disclosure of details about the diagnosis or severity of a disability or medical records or a medical examination cannot be required.
- If a reasonable accommodation request, provided under the framework of this guidance, is denied because it would impose a fundamental alteration to the nature of the COCHRD's operations or impose an undue financial and administrative burden, the COCHRD will engage in the interactive process to discuss whether an alternative accommodation may be effective in meeting the individual's disability-related needs.
- An approved assistance animal will not be approved for an additional bedroom.

### **Verification of Need**

For an assistance animal already approved, ongoing necessity will be re-verified every three years, unless the need for the reasonable accommodation is readily apparent.

If the assistance animal changes, the approval process must start over.

### **Tenant Responsibilities**

- Understand that the assistance animal/service dog is not a pet.
- All permitted assistance animal/service dog shall remain inside the resident's unit, unless accompanying the resident.
- Residents shall not permit their assistance animal to disturb, interfere or diminish the peaceful enjoyment of neighbors.
- Complaints of disturbances or reactions of this nature shall constitute a violation of the lease and may result in the revocation of the assistance animal/service dog permit, termination of the lease agreement, or both.
- In addition, the assistance animal/service dog permit may be revoked if:

- There is reliable objective evidence that the animal poses a direct threat to the health or safety of others that cannot be reduced or eliminated by a reasonable accommodation.
- There is reliable objective evidence that the animal would cause substantial physical damage to the property of others,
- The presence of the assistance animal/service dog would pose an undue financial and administrative burden to the owner, or
- The presence of the assistance animal/service dog would fundamentally alter the nature of the COCHRD services.
- Residents are solely responsible for cleaning up permitted assistance animal/service dog droppings inside the unit. All droppings will be cleaned up immediately. Droppings must be disposed of by being placed in a suitable covered trash container.
- Residents shall take adequate precautions and measures necessary to eliminate assistance animal/service dog odors within or around the unit and shall maintain the unit in a sanitary condition at all times.
- If the assistance animal/service dog is left unattended for a period of twenty-four (24) hours or more, the COCHRD may authorize entrance to the dwelling unit, removal of the assistance animal and transfer of the assistance animal by proper authorities, subject to provision of Arizona law and local ordinances. The COCHRD accepts no responsibility for the animal under such circumstances.
- Residents shall not alter their unit or unit area in order to create an enclosure for any assistance animal/service dog.
- Residents are responsible for all damages caused by their assistance animals/service dog, including and not limited to the cost of cleaning of carpets and draperies and/or fumigation of units.
- Resident assistance animal/service dog owners are responsible for the safety and health of their assistance animal, and to secure the animal during those scheduled occasions when the dwelling unit is being treated for control of pests.
- In the event of the death of an assistance animal/service dog, the resident shall properly and immediately remove and dispose of the remains. The remains shall not be placed in any container on the grounds of a COCHRD property or in a container on COCHRD grounds. The resident will notify the COCHRD within 10 days of the change.
- Residents must identify an alternate custodian for the assistance animal in the event of resident illness or absence from the dwelling unit. This identification of an alternate custodian must occur prior to the COCHRD issuing an assistance animal registration permit.
- Residents will be responsible for compliance for all visiting assistance animals/service dogs to the property.
- While an assistance animal is not subject to the COCHRD Pet Policy, the tenant remains

responsible for compliance with all other public housing rules and regulations, and federal and local policy. The right to have an assistance animal on COCHRD grounds can be revoked at any time, subject to complaints, maintenance orders, damages, or if the animal becomes destructive, a nuisance, a threat to the safety, health, quiet enjoyment and security of other residents, or creates a problem in the area of cleanliness and sanitation. If the COCHRD determines, on the basis of objective facts, supported by written statements, that the owner has violated a rule governing the owning or keeping of an assistance animal on public housing property, the COCHRD may serve a written notice of the violation on the owner in accordance with this policy. The notice can be for removal of the animal or termination of assistance for failure to comply.

- The COCHRD shall notify the tenant if the COCHRD refuses to register an assistance animal. The notice shall state the basis for COCHRD's action and shall be served on the tenant.



## Assistance Animal Policy Certification

I have an assistance animal and I have received, read and understand the above policy provisions regarding the keeping of assistance animals and agree to abide by those provisions.

Please Print:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone #: \_\_\_\_\_ Email: \_\_\_\_\_

My signature below indicates that all information I have provided regarding an assistance animal is true and correct. I understand that submitting false or fraudulent information is cause for termination of my assistance.

\_\_\_\_\_  
Head of Household Signature

\_\_\_\_\_  
Date



## Assistance Animal Permit

Name: \_\_\_\_\_ Phone # \_\_\_\_\_

Address: \_\_\_\_\_ Email: \_\_\_\_\_

Application for permission to keep the following type assistance animal in a dwelling unit operated under the City of Chandler Housing and Redevelopment Public Housing program is hereby made:

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Type and Description of Animal

I have attached the following:

- ☐ Certificate signed by a licensed veterinarian or /local authority that the animal has received all inoculations required by or local law,
- ☐ Verification that the dog or cat has been spayed or neutered,
- ☐ Verification that the owner has the licenses required by the or local law,
- ☐ A photograph of the animal , to include the face and body of the animal
- ☐ Age, weight of the animal for identification purposes.

**The animal that is approved is the animal that is allowed to live in the assisted unit. If the family replaces it for a different animal, the approval process must start from the beginning.**

***Designated alternate assistance animal custodian is:***

\_\_\_\_\_  
Name

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Name

\_\_\_\_\_  
Phone



***Certification:***

I have received, read, and fully understand the rules and regulations regarding keeping an assistance animal while I reside in the City of Chandler Public Housing, and I agree to abide by those rules and regulations. I understand that if I fail to comply with the rules and regulations, the City has the right to deny my assistance animal or terminate my assistance.

My signature below indicates that all information I have provided regarding an assistance animal is true and correct. I understand that submitting false or fraudulent information is cause for termination of my assistance.

---

Head of Household Signature

---

Date



## **Bed Bug Management Plan and Tenant Roles and Responsibilities**

Bed bugs are a growing national problem, and as a result, this policy has been created for the City of Chandler Public Housing program. The purpose of this policy is to set forth the roles and responsibilities of all parties in minimizing the potential for bed bugs. The policy will also provide guidance in cases where bed bugs are present in order to eliminate them as quickly as possible.

Bed bugs are difficult to contain without the proper treatment; therefore, it is imperative that all parties work simultaneously towards a common goal to extermination and elimination. Left untreated bed bugs can spread throughout a residence affecting current and future tenants.

### **City of Chandler Roles and Responsibilities:**

Upon notification from the tenant, the City of Chandler Housing and Redevelopment Division (the "COCHRD") staff will contact the pest control contractor to perform an initial inspection of the tenant's residence. If it is determined that bed bugs are present, the COCHRD will provide the tenant with the "Bed Bug Management Plan and Tenant Roles and Responsibilities" document. The above document will be explained to the tenant to ensure understanding and compliance prior to treatment. In addition, COCHRD staff will secure the tenant's signature indicating understanding of the document. Upon successful completion by the tenant of their roles and responsibilities, COCHRD staff will contact the pest control contractor to professionally treat the residence and perform follow-up to ensure treatment was successful.

In order to educate tenants and minimize potential for the presence of bed bugs, the Bed Bug Management Plan and Tenant Roles and Responsibilities document provided to the tenant includes Bed Bug Prevention Tips as an attachment.

### **Tenant Roles and Responsibilities:**

HUD regulations require the tenant's cooperation in order to successfully eliminate the presence of bed bugs; therefore, it is the tenant's responsibility to call in a work order as soon as the presence of bed bugs is suspected. This will allow COCHRD staff to address the potential infestation at its onset and before it affects other tenants.

In addition, the tenant must be onsite when the initial inspection is conducted.

If it is determined by the pest control contractor that bed bugs are present, the tenant must complete all items listed on the “Tenant Roles and Responsibilities” prior to treatment and as soon as possible. This will help to minimize the severity of bed bug presence and resolve the problem quickly. A tenant may be deemed in violation of the lease agreement if they fail to fully cooperate and comply with their roles and responsibilities.

#### Bed Bug Policy Attachments

- Tenant Roles and Responsibilities
- Prevention Tips

If it has been determined, based on the inspection of the tenant’s residence that bed bugs are present, professional treatment is required. Bed bugs are a problem that can only be solved when both parties (landlord and tenant) work simultaneously towards a common goal, to extermination and elimination. HUD regulations require the tenant’s cooperation in order to successfully eliminate the presence of bed bugs. Without proper treatment, bed bugs are difficult to contain and have the potential to infest neighboring housing units. In addition, if a tenant relocates and the proper treatment has not taken place, the bed bugs will move with the tenant as bed bugs can be carried in furniture, bedding, clothing, etc. COCHRD will not be responsible for the reimbursement and/or replacement of any tenant furniture, clothing, household items, and medical expenses.

The following plan outlines the roles and responsibilities of City of Chandler Housing and Redevelopment Office (landlord) and the tenant in the treatment of bed bugs:

#### **COCHRD Office Responsibilities:**

- Within twenty-four (24) hours of receipt of a work order for bed bugs, a housing representative will make contact with the tenant, provide information about control and prevention of bedbugs, and discuss measures the tenant may be able to take in the unit before the inspection is performed.
- Inspect residence and surrounding units for infestation within three (3) business days of receipt of work order. The inspection will be conducted by a housing representative or a qualified third party trained in bedbug detection.
- If reputable, licensed pest control companies are unattainable within 3 calendar days, documentation of the efforts to obtain qualified services will be retained.
- If an infestation is suspected but cannot be verified, the unit(s) will be re-inspected periodically over the next several months.
- When an infestation is identified, the unit and surrounding units will be treated for bedbugs within five days of the inspection at no cost to the tenant. Effective treatment may require two or three visits, and possibly more. The length, method, and extent of

the treatment will depend on the severity and complexity of the infestation, and the level of cooperation of the tenants.

### **Tenant Responsibilities:**

- Immediately, within twenty-four (24) hours, report the suspicion of possible bedbugs in a housing unit or other areas of the property by calling in a work order request.
- For treatment to be effective, tenant must perform the tasks listed below prior to the scheduled treatment date. COCHRD staff encourages tenant to complete items listed as soon as possible in order to minimize severity of bed bug presence and resolve the problem quickly.
- Tenant is expected to cooperate with the treatment efforts by allowing for heat treatment of clothing and furniture and refraining from placement of infested furniture or other items in common areas.
- Remove all sheets, blankets, mattress covers, pillowcases, etc. from beds and wash in hot water (120+ degrees recommended) and dry in clothes dryer on the highest heat setting for at least 30 minutes. Fold them and place them in plastic garbage bags and seal the plastic bags tightly. Do not put them back on the bed until the evening after treatment.
- Closets, dresser drawers, and night stand drawers must be empty. Remove all clothing, toys, boxes, etc. from bedroom floors.
- Wash all clothing, towels, and other linens in hot water (120+ degrees recommended) and dry in the dryer on the highest heat setting for at least 30 minutes. Place clean items inside airtight plastic storage bins or plastic garbage bags that are sealed tightly and store until after treatment.
- Vacuum (using disposable vacuum cleaner bags) all furniture, dresser drawers, night stand drawers, mattresses, and box springs. Place disposable vacuum cleaner bag inside plastic garbage bag that is sealed tightly and discard in outdoor trash receptacle immediately.
- Move all furniture to the center of the room(s) being treated.
- Discard all cardboard hangers, boxes, etc.
- Remove all pictures from walls.
- Place all bed bug mattress encasements on all beds. The bed bug mattress encasement is an effective bed bug killer when combined with treatment and must remain on the mattress for at least one year. If the mattress or box spring encasement becomes torn or damaged it is the tenant's responsibility to replace.
- Discarded mattresses, box springs, furniture, etc. must be removed from the premises and marked as containing bed bugs. Please do not place bed bug materials in dumpsters rather set materials near dumpster and call City's Housing Office for a pick up.
- Remain out of the residence for four hours after treatment (includes all household

members and pets).

- Furniture that does not respond to a third treatment must be disposed of.
- Tenant will not be reimbursed the cost of any additional expense to the household, such as purchase of new furniture, clothing or cleaning.

**Tenant Failure to Comply:**

If treatment is scheduled and it is determined that tenant has not performed the above stated responsibilities, the following will occur:

- Treatment will be cancelled.
- Failure to cooperate with the treatment efforts and Tenant Responsibilities listed in this procedure will constitute a Lease violation and may be subject to termination of assistance.



## **Bed Bug Prevention Tips**

**(Reference: PIH Notice 2012-17)**

- Reduce unreasonable amounts of clutter that create hiding places for bedbugs.
- Wash all bedding and linens regularly in hot water. The water should be at least 120 degrees.
- Use bed bug encasements on all mattresses and box springs.
- Regularly check your own bed for bed bugs from time to time. Catching them early will make bedbug treatment easier if bed bugs do occur.
- Inspect in and around all sleeping and resting areas at home once a month.
- Vacuum floors regularly. Use the brush tool of your vacuum to vacuum your mattress. Use the crevice tool to vacuum crevices in the mattress and your baseboards.
- Clean up clutter to reduce hiding spots.
- Check for holes in floors and walls and contact the City's Housing Office to repair any holes discovered.
- When purchasing second hand clothing, place all garments in a sealed bag until they can be washed and place in a dryer on high heat for 15 to 30 minutes.
- If you purchase furniture, examine it for bed bugs. Pay special attention to used mattresses and bed frames. Avoid second hand furniture.
- When traveling, check your room for signs of bed bugs such as bloodstains on the pillows or linens. Inspect mattress seams, look behind headboards and pictures. If you suspect you may have brought bed bugs home, place infected items in the dryer or freezer.
- After you return from a trip, check your luggage for insects that might have hitched a ride.



## **Tenant Statement of Certification for Bed Bug Policy, Bed Bug Management Plan, and Tenant Roles and Responsibilities**

I, \_\_\_\_\_, certify that I have received a copy, read, and understand the Bed Bug Policy, Bed Bug Management Plan and Tenant Roles and Responsibilities and Bed Bug Prevention Tips as stated above and agree to perform them in order to successfully eliminate the presence of bed bugs.

I understand that noncompliance with this policy will be cause to review my assistance for termination.

\_\_\_\_\_  
Head of Household Signature

\_\_\_\_\_  
Date

## 2023 Capital Fund

OMB Approval No. 2577-0075  
(exp. 08/31/2023)Capital Fund Program  
(CFP) Amendment  
Annual Contributions Contract  
Terms and Conditions (HUD-52840-A)U.S. Department of Housing  
and Urban Development  
Office of Public and Indian Housing

The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB control number 2577-0075. There is no personal information contained in this application. Information on activities and expenditures of grant funds is public information and is generally available for disclosure. Recipients are responsible for ensuring confidentiality when disclosure is not required. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

Whereas, (Public Housing Authority) Chandler Housing & Redevelopment Division AZ028 (herein called the "PHA")  
and the United States of America, Secretary of Housing and Urban Development (herein called "HUD") entered into an Annual Contributions Contract  
ACC(s) Numbers(s) (On File) dated (On File)

Whereas, in accordance with Public Law 117-328, Division L, Title II,

Whereas, HUD has agreed to provide CFP assistance, upon execution of this Amendment, to the PHA in the amount to be specified below for the purpose of assisting the PHA in carrying out capital and management activities at existing public housing projects in order to ensure that such projects continue to be available to serve low-income families. HUD reserves the right to provide additional CFP assistance in this FY to the PHA. When HUD provides additional amounts, it will notify the PHA and those amended grants will be subject to these terms and conditions.

\$ \$926,327.00 for Fiscal Year 2023 to be referred to under the Capital Fund Grant Number AZ20P02850123  
PHA Tax Identification Number (TIN): On File UEI Number: On File

Whereas, HUD and the PHA are entering into the CFP Amendment Number On File

Now Therefore, the ACC is amended as follows:

1. The ACC(s) is (are) amended to provide CFP assistance in the amount specified above for capital and management activities of PHA projects. This CFP Amendment is a part of the ACC.

2. The PHA must carry out all capital and management activities in accordance with the United States Housing Act of 1937 (the Act), 24 CFR Part 905 (the Capital Fund Final rule) as well as other applicable HUD requirements, except that the limitation in section 9(g)(1) of the Act is increased such that of the amount of CFP assistance provided for under this CFP amendment only, the PHA may use no more than 25 percent for activities that are eligible under section 9(e) of the Act only if the PHA's HUD-approved Five Year Action Plan provides for such use; however, if the PHA owns or operates less than 250 public housing dwelling units, such PHA may continue to use the full flexibility in accordance with section 9(g)(2) of the Act.

3. The PHA has a HUD-approved Capital Fund Five Year Action Plan and has complied with the requirements for reporting on open grants through the Performance and Evaluation Report. The PHA must comply with 24 CFR 905.300 of the Capital Fund Final rule regarding amendment of the Five Year Action Plan where the PHA proposes a Significant Amendment to the Capital Fund Five Year Action Plan.

4. For cases where HUD has approved a Capital Fund Financing Amendment to the ACC, HUD will deduct the payment for amortization scheduled payments from the grant immediately on the effective date of this CFP Amendment. The payment of CFP funds due per the amortization scheduled will be made directly to a designated trustee within 3 days of the due date.

5. Unless otherwise provided, the 24 month time period in which the PHA must obligate this CFP assistance pursuant to section 9(j)(1) of the Act and 48 month time period in which the PHA must expend this CFP assistance pursuant to section 9(j)(5) of the Act starts with the effective date of this CFP amendment (the date on which CFP assistance becomes available to the PHA for obligation). Any additional CFP assistance this FY will start with the same effective date.

6. Subject to the provisions of the ACC(s) and paragraph 3, and to assist in capital and management activities, HUD agrees to disburse to the PHA or the designated trustee from time to time as needed up to the amount of the funding assistance specified herein.

7. The PHA shall continue to operate each public housing project as low-income housing in compliance with the ACC(s), as amended, the Act and all HUD regulations for a period of twenty years after the last disbursement of CFP assistance for modernization activities for each public housing project or portion thereof and for a period of forty years after the last distribution of CFP assistance for development activities for each public housing project and for a period of ten years following the last payment of assistance from the Operating Fund to each public housing project. Provided further that, no disposition of any project covered by this amendment shall occur unless approved by HUD.

8. The PHA will accept all CFP assistance provided for this FY. If the PHA does not comply with any of its obligations under this CFP Amendment and does not have its Annual PHA Plan approved within the period specified by HUD, HUD shall impose such penalties or take such remedial action as provided by law. HUD may direct the PHA to terminate all work described in the Capital Fund Annual Statement of the Annual PHA Plan. In such case, the PHA shall only incur additional costs with HUD approval.

9. Implementation or use of funding assistance provided under this CFP Amendment is subject to the attached corrective action order(s).

(mark one): Yes ☐ No ☒

10. The PHA is required to report in the format and frequency established by HUD on all open Capital Fund grants awarded, including information on the installation of energy conservation measures.

11. If CFP assistance is provided for activities authorized pursuant to agreements between HUD and the PHA under the Rental Assistance Demonstration Program, the PHA shall follow such applicable statutory authorities and all applicable HUD regulations and requirements. For total conversion of public housing projects, no disposition or conversion of any public housing project covered by these terms and conditions shall occur unless approved by HUD. For partial conversion, the PHA shall continue to operate each non-converted public housing project as low-income housing in accordance with paragraph 7.

12. CFP assistance provided as an Emergency grant or a Safety and Security grant shall be subject to a 12 month obligation and 24 month expenditure time period. CFP assistance provided as a Natural Disaster grant shall be subject to a 24 month obligation and 48 month expenditure time period. The start date shall be the date on which such funding becomes available to the PHA for obligation. The PHA must have a recorded and effective Declaration(s) of Trust on all property funded with Capital Fund grants (all types) or HUD will exercise all available remedies including recapture of grant funding.

The parties have executed this CFP Amendment, and it will be effective on the date HUD signs below.

U.S. Dept of HUD

By /s/

Date: 02/17/2023

Marianne Nazzaro

Title: Deputy Assistant Secretary

Office Public Housing Investments

Previous versions obsolete

PHA (Executive Director or authorized agent)

By

Date:

*Amy Jacobson*

*March 14, 2024*

Title

*Housing and Redevelopment Senior Manager*

form HUD-52840-A OMB Approval No. 2577-0075 (exp. 08/31/2023)



Capital Fund Program - Five-Year Action Plan

Status: Submitted      Approval Date:      Approved By:

<b>Part I: Summary</b>						
<b>PHA Name :</b> Chandler Housing & Redevelopment Division		<b>Locality (City/County &amp; State)</b>				
<b>PHA Number:</b> AZ028		<input checked="" type="checkbox"/> Original 5-Year Plan <input type="checkbox"/> Revised 5-Year Plan (Revision No:      )				
A.	Development Number and Name	Work Statement for Year 1 2023	Work Statement for Year 2 2024	Work Statement for Year 3 2025	Work Statement for Year 4 2026	Work Statement for Year 5 2027
	AUTHORITY-WIDE	\$95,925.00	\$67,000.00	\$67,000.00	\$67,000.00	
	SCATTERED SITES/SENIOR SITES (AZ028000002)	\$652,314.00	\$433,000.00	\$633,000.00	\$623,000.00	
	FAMILY SITES (AZ028000001)	\$181,005.00	\$200,000.00		\$10,000.00	

Capital Fund Program - Five-Year Action Plan

Part II: Supporting Pages - Physical Needs Work Statements (s)				
Work Statement for Year		1	2023	
Identifier	Development Number/Name	General Description of Major Work Categories		Estimated Cost
	AUTHORITY-WIDE (NAWASD)			\$95,925.00
ID0014	Capital Fund Program Salary & Supplies(Administration (1410)-Salaries)	Salaries and supplies		\$92,925.00
ID0018	Staff Training(Management Improvement (1408)-Staff Training)	Training events for staff for Capital Fund Program		\$3,000.00
	SCATTERED SITES/SENIOR SITES (AZ028000002)			\$652,314.00
ID0081	Replace Kitchen & Bathroom Cabinets(Dwelling Unit-Interior (1480)-Bathroom Counters and Sinks,Dwelling Unit-Interior (1480)-Kitchen Cabinets,Dwelling Unit-Interior (1480)-Kitchen Sinks and Faucets)	Replace the kitchen and bathroom cabinets and associated plumbing fixture in 14 homes.		\$187,821.00
ID0090	Shower/Tub Surround Replacement(Dwelling Unit-Interior (1480)-Tubs and Showers)	Remove 17 damaged shower/tub surrounds and replace with new cultured marble or composite surrounds at scattered site homes.		\$99,493.00
ID0091	Replace Roofs(Dwelling Unit-Exterior (1480)-Roofs)	Replace roofs in 17 homes.		\$250,000.00

Capital Fund Program - Five-Year Action Plan

Part II: Supporting Pages - Physical Needs Work Statements (s)				
Work Statement for Year		1	2023	
Identifier	Development Number/Name	General Description of Major Work Categories		Estimated Cost
ID0100	Install Block Fence(Dwelling Unit-Site Work (1480)-Fencing,Non-Dwelling Exterior (1480)-Paint and Caulking)	Installation of block fence		\$67,000.00
ID0102	Radon Testing(Dwelling Unit-Interior (1480)-Other)	Annual Testing EPA standard for Kingston units		\$8,000.00
ID0112	AMP 2 Kingston Shade Structure(Non-Dwelling Exterior (1480)-Other)	create outdoor shade structure for kingston		\$40,000.00
	FAMILY SITES (AZ028000001)			\$181,005.00
ID0103	Site 4 Water Heater Replacement(Dwelling Unit-Interior (1480)-Other)	Replace water heaters at site 4 for energy efficient		\$181,005.00
	Subtotal of Estimated Cost			\$929,244.00

Capital Fund Program - Five-Year Action Plan

Part II: Supporting Pages - Physical Needs Work Statements (s)				
Work Statement for Year		2	2024	
Identifier	Development Number/Name	General Description of Major Work Categories		Estimated Cost
	AUTHORITY-WIDE (NAWASD)			\$67,000.00
ID0078	Capital Fund Program Salary & Supplies(Administration (1410)-Salaries)	Salaries and Supplies		\$64,000.00
ID0079	Staff Training(Management Improvement (1408)-Staff Training)	Training events for staff for Capital Fund Program		\$3,000.00
	FAMILY SITES (AZ028000001)			\$200,000.00
ID0107	Site 4 Cabinet Replacement(Dwelling Unit-Interior (1480)-Kitchen Cabinets)	replace cabinets		\$200,000.00
	SCATTERED SITES/SENIOR SITES (AZ028000002)			\$433,000.00
ID0108	Install Security Gates(Dwelling Unit-Exterior (1480)-Other)	Security Gates-Kingston		\$133,000.00

Capital Fund Program - Five-Year Action Plan

Part II: Supporting Pages - Physical Needs Work Statements (s)				
Work Statement for Year		2	2024	
Identifier	Development Number/Name	General Description of Major Work Categories		Estimated Cost
ID0109	Shower Replacement(Dwelling Unit-Interior (1480)-Tubs and Showers)	Replace Showers Kingston		\$200,000.00
ID0110	SS Blockwall Replacement (Dwelling Unit-Exterior (1480)-Other)	Replace 10 more block wall at scatter site homes		\$100,000.00
	Subtotal of Estimated Cost			\$700,000.00

Capital Fund Program - Five-Year Action Plan

Part II: Supporting Pages - Physical Needs Work Statements (\$)				
Work Statement for Year		3	2025	
Identifier	Development Number/Name	General Description of Major Work Categories		Estimated Cost
	AUTHORITY-WIDE (NAWASD)			\$67,000.00
ID0087	Capital Fund Program Salary & Supplies (Administration (1410)-Salaries)	Salaries and Supplies		\$64,000.00
ID0101	Staff Training/Management Improvement (1408)-Staff Training	Training events for staff for Capital Fund Program		\$3,000.00
	SCATTERED SITES/SENIOR SITES (AZ028000002)			\$633,000.00
ID0088	Shower/Tub Surround Replacement Site 1 (Dwelling Unit-Interior (1480)-Tubs and Showers)	Remove 53 damaged shower/tub surrounds and replace with new cultured marble or composite surrounds at Site 1.		\$268,000.00
ID0089	Replace Kitchen & Bathroom Cabinets (Dwelling Unit-Interior (1480)-Bathroom Counters and Sinks, Dwelling Unit-Interior (1480)-Kitchen Cabinets, Dwelling Unit-Interior (1480)-Kitchen Sinks and Faucets)	Replace the kitchen and bathroom cabinets and associated plumbing fixture in 20 homes.		\$365,000.00
	Subtotal of Estimated Cost			\$700,000.00

Capital Fund Program - Five-Year Action Plan

Part II: Supporting Pages - Physical Needs Work Statements (s)				
Work Statement for Year		4	2026	
Identifier	Development Number/Name	General Description of Major Work Categories		Estimated Cost
	SCATTERED SITES/SENIOR SITES (AZ028000002)			\$623,000.00
ID0093	Replace Kitchen & Bathroom Cabinets(Dwelling Unit-Interior (1480)-Kitchen Cabinets,Dwelling Unit-Interior (1480)-Kitchen Sinks and Faucets,Dwelling Unit-Interior (1480)-Bathroom Counters and Sinks)	Replace the kitchen and bathroom cabinets and associated plumbing fixture in 20 homes.		\$250,000.00
ID0094	Shower/Tub Surround Replacement(Dwelling Unit-Interior (1480)-Tubs and Showers)	Remove 30 damaged shower/tub surrounds and replace with new cultured marble or composite surrounds at scattered site homes.		\$273,000.00
ID0111	SS Backyard Rock (Dwelling Unit-Exterior (1480)-Other)	Replace backyard rock in 40 scattered site homes		\$100,000.00
	AUTHORITY-WIDE (NAWA/SD)			\$67,000.00
ID0097	Capital Fund Program Salary & Supplies(Administration (1410)-Salaries)	Salaries and Supplies		\$64,000.00
ID0098	Staff Training(Management Improvement (1408)-Staff Training)	Training events for staff for Capital Fund Program		\$3,000.00

Capital Fund Program - Five-Year Action Plan

Part II: Supporting Pages - Physical Needs Work Statements (s)				
Work Statement for Year		4	2026	
Identifier	Development Number/Name	General Description of Major Work Categories		Estimated Cost
	FAMILY SITES (AZ028000001)			\$10,000.00
ID0099	Parking Lot paint(Non-Dwelling Exterior (1480)-Paint and Caulking)	Parking lot painting		\$10,000.00
	Subtotal of Estimated Cost			\$700,000.00



Capital Fund Program - Five-Year Action Plan

Part II: Supporting Pages - Physical Needs Work Statements (s)				
Work Statement for Year		5	2027	
Identifier	Development Number/Name	General Description of Major Work Categories	Quantity	Estimated Cost

Capital Fund Program - Five-Year Action Plan

Part III: Supporting Pages - Management Needs Work Statements (s)		
Work Statement for Year	1	2023
Development Number/Name General Description of Major Work Categories		Estimated Cost
Housing Authority Wide		
Capital Fund Program Salary & Supplies(Administration (1410)-Salaries)		\$92,925.00
Staff Training(Management Improvement (1408)-Staff Training)		\$3,000.00
Subtotal of Estimated Cost		\$95,925.00

Capital Fund Program - Five-Year Action Plan

Part III: Supporting Pages - Management Needs Work Statements (s)		
Work Statement for Year	2	2024
Development Number/Name General Description of Major Work Categories		Estimated Cost
Housing Authority Wide		
Capital Fund Program Salary & Supplies(Administration (1410)-Salaries)		\$64,000.00
Staff Training(Management Improvement (1408)-Staff Training)		\$3,000.00
Subtotal of Estimated Cost		\$67,000.00

Capital Fund Program - Five-Year Action Plan

Part III: Supporting Pages - Management Needs Work Statements (s)		
Work Statement for Year	3	2025
Development Number/Name General Description of Major Work Categories		Estimated Cost
Housing Authority Wide		
Capital Fund Program Salary & Supplies(Administration (1410)-Salaries)		\$64,000.00
Staff Training(Management Improvement (1408)-Staff Training)		\$3,000.00
Subtotal of Estimated Cost		\$67,000.00

Capital Fund Program - Five-Year Action Plan

Part III: Supporting Pages - Management Needs Work Statements (s)		
Work Statement for Year	4	2026
Development Number/Name General Description of Major Work Categories		Estimated Cost
Housing Authority Wide		
Capital Fund Program Salary & Supplies(Administration (1410)-Salaries)		\$64,000.00
Staff Training(Management Improvement (1408)-Staff Training)		\$3,000.00
Subtotal of Estimated Cost		\$67,000.00



**Community Service Policy  
Compliance Certification**

I/We have received a copy of, have read, and understand the contents of the City of Chandler Housing and Redevelopment’s Community Service Policy.

I/We understand that this is a requirement of the Quality Housing and Work Responsibility Act of 1998 and that, if we do not comply with this requirement, our lease will not be renewed.

\_\_\_\_\_  
Head of Household Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Other Household Member Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Other Household Member Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Other Household Member Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Other Household Member Signature

\_\_\_\_\_  
Date



# Community Service Policy

## Introduction

This chapter explains HUD regulations requiring PHAs to implement a community service program for all nonexempt adults living in public housing.

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

Part I: Community Service Requirements. This part describes who is subject to the community service requirement, who is exempt, and HUD's definition of economic self-sufficiency.

Part II: PHA Implementation of Community Service. This part provides PHA policy regarding PHA implementation and program design.

## PART I: COMMUNITY SERVICE REQUIREMENT

### Overview

HUD regulations pertaining to the community service requirement are contained in 24 CFR 960 Subpart F (§960.600 through §960.609). PHAs and residents must comply with the community service requirement, effective with PHA fiscal years that commenced on or after October 1, 2000. Per §903.7(l)(1)(iii), the PHA Plan must contain a statement of how the PHA will comply with the community service requirement, including any cooperative agreement that the PHA has entered into or plans to enter into.

Community service is the performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self-responsibility in the community. Community service is not employment and may not include political activities [24 CFR §960.601(b)].

In administering community service requirements, the PHA must comply with all nondiscrimination and equal opportunity requirements [24 CFR §960.605(c)(5)].

### Requirements

Each adult resident of the PHA, who is not exempt, must [24 CFR §960.603(a)]:

- Contribute 8 hours per month of community service; or
- Participate in an economic self-sufficiency program (as defined in the regulations) for 8 hours per month; or
- Perform 8 hours per month of combined activities (community service and economic self-sufficiency programs).

- The required community service or self-sufficiency activity may be completed 8 hours each month or may be aggregated across a year. Any blocking of hours is acceptable as long as 96 hours is completed by each annual certification of compliance [Notice PIH 2015-12].

## Definitions

### ***Exempt Individual [24 CFR §960.601(b), Notice PIH2015-12]***

An *exempt individual* is an adult who:

- Is age 62 years or older
- Is blind or disabled (as defined under section 216[i][I] or 1614 of the Social Security Act), and who certifies that because of this disability s/he is unable to comply with the service provisions
- Is a primary caretaker of such an individual
- Is engaged in work activities

### PHA Policy

The PHA will consider 30 hours per week as the minimum number of hours needed to qualify for a work activity exemption.

- Is able to meet requirements of being exempted under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program
- This exemption applied to anyone whose characteristics or family situation meet the welfare agency exemption criteria and can be verified.
- Is a member of a family receiving assistance, benefits, or services under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program and the supplemental nutrition assistance program (SNAP), and has not been found by the state or other administering entity to be in noncompliance with such program.

### ***Community Service [24 CFR §960.601(b), Notice PIH2015-12]***

*Community service* is the performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self-responsibility in the community. Community service is not employment and may not include political activities.

Eligible community service activities include, but are not limited to, work at:

- Local public or nonprofit institutions such as schools, head start programs, before or after school programs, child care centers, hospitals, clinics, hospices, nursing homes, recreation centers, senior centers, adult day care programs, homeless shelters, feeding programs, food banks, distribution either donated or commodity foods), or clothes closets,(distributing donated clothing.).
- Nonprofit organizations serving PHA residents or their children such as: Boy or Girl Scouts, Boys or Girls Club, 4-H clubs, Police Assistance League (PAL), organized children's recreation, mentoring or education programs, Big Brothers or Big Sisters, garden centers, community clean-up programs, beautification programs.
- Programs funded under the Older Americans Act, such as Green Thumb Service Corps of Retired Executives, senior meals programs, senior centers, Meals on Wheels.



- Serve as member of the resident organization (Tenant Community Builders) or resident advisory board.
- 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
- Caring for the children of other residents so parent may volunteer.

PHA Policy

Community Service must be only in the City of Chandler or serving citizens from the City of Chandler.

***Economic Self-Sufficiency Program [24 CFR §5.603(b), Notice PIH 2015-12]***

For purposes of satisfying the community service requirement, an *economic self-sufficiency program* is defined by HUD as any program designed to encourage, assist, train, or facilitate economic independence of assisted families or to provide work for such families.

Eligible self-sufficiency activities include but are not limited to:

- Job readiness or job training
- Training programs through local one-stop career centers, workforce investment boards (local entities administered through the U.S. Department of Labor), or other training providers
- Employment counseling, work placement, or basic skills training
- Education, including higher education (junior college or college), GED classes, or reading financial, or computer literacy classes
- Apprenticeships (formal or informal)
- English proficiency or English as a second language classes
- Budgeting and credit counseling
- Any other program necessary to ready a participant to work (such as substance abuse or mental health counseling)

***Work Activities [42 U.S.C. 607(d)]***

As it relates to an exemption from the community service requirement, *work activities* means:

- Unsubsidized employment
- Subsidized private sector employment
- Subsidized public sector employment
- Work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available
- On-the-job training
- Job search and job readiness assistance
- Community service programs
- Vocational educational training (not to exceed 12 months with respect to any individual)

- Job skills training directly related to employment
- Education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency
- Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate

#### **Notification Requirements [24 CFR §960.605(c)(2), Notice PIH2015-12, Notice PIH 2016-06]**

The PHA must give each family a written description of the community service requirement, the process for claiming status as an exempt person, and the process for PHA verification of exempt status. The PHA must also notify the family of its determination identifying the family members who are subject to the service requirement, and the family members who are exempt. In addition, the family must sign a certification, such as Attachment A of Notice PIH 2015-12, that they have received and read the policy and understand that if they are not exempt, failure to comply with the requirement will result in nonrenewal of their lease. The family must also sign a certification at annual reexamination, such as Attachment B of Notice PIH 2015-12, certifying that they understand the requirement.

##### PHA Policy

The PHA will provide the family with a copy of the Community Service Policy at lease-up, lease renewal, when a family member is determined to be subject to the community service requirement during the lease term, and at any time upon the family's request. The policy will notify the family that self-certification forms are subject to review by the PHA.

On an annual basis, at the time of lease renewal, the PHA will notify the family in writing of the family members who are subject to the community service requirement and the family members who are exempt. If the family includes nonexempt individuals the notice will include a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which they may record the activities they perform and the number of hours contributed. The form will also have a place for a signature by an appropriate official, who will certify to the activities and hours completed.

#### **Determination of Exemption Status and Compliance [24 CFR §960.605(c)(3)]**

The PHA must review and verify family compliance with service requirements annually at least thirty days before the end of the twelve month lease term. The policy for documentation and verification of compliance with service requirements may be found at Section 11-I.D., Documentation and Verification.

##### PHA Policy

Where the lease term does not coincide with the effective date of the annual reexamination, the PHA will change the effective date of the annual reexamination to coincide with the lease term. In making this change, the PHA will ensure that the annual reexamination is conducted within 12 months of the last annual reexamination.

## **Annual Determination**

### ***Determination of Exemption Status***

An exempt individual is excused from the community service requirement [24 CFR §960.603(a)].

#### PHA Policy

At least 60 days prior to lease renewal, the PHA will review and verify the exemption status of all adult family members. This verification will only be done on an annual basis unless the family reports a change or the PHA has reason to believe that an individual's exemption status has changed. For individuals who are exempt because they are 62 years of age and older, or disabled, verification of exemption status will be done only at the initial examination.

Upon completion of the verification process, the PHA will notify the family of its determination in accordance with the policy in Section 11-I.B., Notification Requirements.

### ***Determination of Compliance***

The PHA must review resident family compliance with service requirements annually at least 30 days before the end of the 12-month lease term [24 CFR §960.605(c)(3)]. As part of this review, the PHA must verify that any family member that is not exempt from the community service requirement has met his or her service obligation.

#### PHA Policy

Approximately 90-120 days prior to the end of the lease term, the PHA will provide written notice requiring the family to submit documentation that all subject family members have complied with the service requirement. The family will have 10 business days to submit the PHA required documentation form(s).

If the family fails to submit the required documentation within the required timeframe, or PHA approved extension, the subject family members will be considered noncompliant with community service requirements, and notices of noncompliance will be issued pursuant to the policies in Section 11-I.E., Noncompliance.

## **Change in Status between Annual Determinations**

#### PHA Policy

Exempt to Nonexempt Status: If an exempt individual becomes nonexempt during the twelve month-lease term, it is the family's responsibility to report this change to the PHA within 10 business days. Within 10 business days of a family reporting such a change, or the PHA determining such a change is necessary, the PHA will provide written notice of the effective date of the requirement, a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which the family member may record the activities performed and number of hours contributed. The effective date of the community service requirement will be the first of the month following 30-day notice.

#### *Determination of Initial Compliance*

When an adult family member becomes subject to community service, he or she must perform 8 hours of community service for the months he or she is subject to the requirement before the end of the lease term (anniversary date).

Example 1: Alberto Jones turns 18 on 5/10/15 and is not exempt from the community service requirement. His community service requirement begins on 6/1/15, and his initial compliance is reviewed before the end of the lease term (anniversary date), which is 11/30/15.

Alberto must perform 6 months of community service in his initial compliance period, before the end of the lease term (anniversary date).

Example 2: Lisa Dewhurst leaves her job on 9/20/14 and is not exempt from the community service requirement. Her community service requirement begins on 10/1/14, and her initial compliance is reviewed before the end of the lease term (anniversary date), which is 6/30/15. Ms. Dewhurst must perform 9 months of community service in her initial compliance period, before the end of the lease term (anniversary date).

#### Nonexempt to Exempt Status

If a nonexempt person becomes exempt during the twelve month lease term, it is the family's responsibility to report this change to the PHA within 10 business days. Any claim of exemption will be verified by the PHA in accordance with the policy at 11-I.D., Documentation and Verification of Exemption Status.

Within 10 business days of a family reporting such a change, or the PHA determining such a change is necessary, the PHA will provide the family written notice that the family member is no longer subject to the community service requirement, if the PHA is able to verify the exemption.

The exemption will be effective immediately.

#### **Documentation and Verification [24 CFR §960.605(c)(4), §960.607, Notice PIH 2016-08]**

The PHA must retain reasonable documentation of service requirement performance or exemption in participant files.

#### **Documentation and Verification of Exemption Status**

##### PHA Policy

All family members who claim they are exempt from the community service requirement will be required to sign the community service exemption certification form found in Exhibit 11-3. The PHA will provide a completed copy to the family and will keep a copy in the tenant file.

The PHA will verify that an individual is exempt from the community service requirement by following the verification hierarchy and documentation requirements in Chapter 7.

The PHA makes the final determination whether or not to grant an exemption from the community service requirement. If a resident does not agree with the PHA's determination, s/he can dispute the decision through the PHA's grievance procedures (see Chapter 14).

## **Documentation and Verification of Compliance**

At each regularly scheduled reexamination, each nonexempt family member presents a signed standardized certification form developed by the PHA of community service and self-sufficiency activities performed over the last 12 months [Notice PIH 2015-12].

If qualifying community service activities are administered by an organization other than the PHA, a family member who is required to fulfill a service requirement must provide documentation required by the PHA. The PHA may require a self-certification or certification form a third party [24 CFR §960.607].

If the PHA accepts self-certification of compliance with the community service requirement, it must provide a form which includes a statement that the client performed the required hours, contact information for the community service provider, a description of activities performed, and dates of service.

If the PHA accepts self-certification, it must validate a sample of certifications through third-party documentation. The PHA must notify families that self-certification forms are available and that a sample of self-certifications will be validated.

HUD strongly encourages PHAs to investigate community service compliance when there are questions of accuracy.

### PHA Policy

Each individual who is subject to the community service requirement will be required to record their community service or self-sufficiency activities and the number of hours contributed on the required form. The certification form will also include places for signatures and phone numbers of supervisors, instructors, and counselors certifying to the number of hours contributed.

Families will be required to submit the documentation to the PHA, upon request by the PHA, at least annually.

If the PHA has reasonable cause to believe that the certification provided by the family is false or fraudulent, the PHA has the right to require additional third-party verification.

## **Noncompliance**

### **Noncompliant Residents**

The lease specifies that it is renewed automatically for all purposes, unless the family fails to comply with the community service requirement. Violation of the service requirement is grounds for nonrenewal of the lease at the end of the twelve month lease term, but not for termination of tenancy during the course of the twelve month lease term [24 CFR §960.603(b)].

PHAs may not evict a family due to CSSR noncompliance. However, if PHA finds a tenant is noncompliant with CSSR, the PHA must provide written notification to the tenant of the noncompliance which must include:

- A brief description of the finding of non-compliance with CSSR.
- A statement that the PHA will not renew the lease at the end of the current 12-month lease term unless the tenant enters into a written work-out agreement with the PHA or the family provides written assurance that is satisfactory to the PHA explaining that the tenant or other noncompliant resident no longer resides in the unit.
  - Such written work-out agreement must include the means through which a noncompliant family member will comply with the CSSR requirement [24 CFR

The notice must also state that the tenant may request a grievance hearing on the PHA's determination, in accordance with the PHA's grievance procedures, and that the tenant may exercise any available judicial remedy to seek timely redress for the PHA's nonrenewal of the lease because of the PHA's determination.

PHA Policy

The notice of noncompliance will be sent at least 45 days prior to the end of the lease term.

The family will have 10 business days from the date of the notice of noncompliance to enter into a written work-out agreement to cure the noncompliance over the 12 month term of the new lease, provide documentation that the noncompliant resident no longer resides in the unit, or to request a grievance hearing.

If the family reports that a noncompliant family member is no longer residing in the unit, the family must provide documentation that the family member has actually vacated the unit before the PHA will agree to continued occupancy of the family. Documentation must consist of a certification signed by the head of household as well as evidence of the current address of the family member that previously resided with them.

If the family does not request a grievance hearing, or does not take either corrective action required by the notice of noncompliance within the required 10 business day timeframe, the PHA will terminate tenancy in accordance with the policies in Section 13-IV.D.

**Continued Noncompliance and Enforcement Documentation [24 CFR §960.607(b)]**

Should a family member refuse to sign a written work-out agreement, or fail to comply with the terms of the work-out agreement, PHAs are required to initiate termination of tenancy proceedings at the end of the current 12-month lease (see 24 CFR §966.53(c)) for failure to comply with lease requirements. When initiating termination of tenancy proceedings, the PHA will provide the following procedural safeguards:

- Adequate notice to the tenant of the grounds for terminating the tenancy and for non-renewal of the lease;
- Right of the tenant to be represented by counsel;
- Opportunity for the tenant to refute the evidence presented by the PHA, including the right to confront and cross-examine witnesses and present any affirmative legal or equitable defense which the tenant may have; and,
- A decision on the merits.

PHA Policy

Notices of continued noncompliance will be sent at least 30 days prior to the end of the lease term and will also serve as the family's termination notice. The notice will meet the requirements for termination notices described in Section 13-IV.D, Form, Delivery, and Content of the Notice.

The family will have 10 business days from the date of the notice of non-compliance to provide documentation that the noncompliant resident no longer resides in the unit, or to request a grievance hearing.

If the family reports that a noncompliant family member is no longer residing in the unit, the family must provide documentation that the family member has actually vacated the unit before the PHA

will agree to continued occupancy of the family. Documentation must consist of a certification signed by the head of household as well as evidence of the current address of the noncompliant family member that previously resided with them.

If the family does not request a grievance hearing, or provide such documentation within the required 10 business day timeframe, the family's lease and tenancy will automatically terminate at the end of the current lease term without further notice.

## **PART II: IMPLEMENTATION OF COMMUNITY SERVICE**

### **Overview**

Each PHA must develop a policy for administration of the community service and economic self-sufficiency requirements for public housing. It is in the PHA's best interests to develop a viable, effective community service program, to provide residents the opportunity to engage in the community and to develop competencies.

### **PHA Implementation of Community Service**

The PHA may not substitute any community service or self-sufficiency activities performed by residents for work ordinarily performed by PHA employees, or replace a job at any location where residents perform activities to satisfy the service requirement [24 CFR §960.609].

#### PHA Policy

If a disabled resident certifies that s/he is able to perform community service, the PHA will ensure that requests for reasonable accommodation are handled in accordance with the policies in Chapter 2.

### **PHA Program Design**

The PHA may administer qualifying community service or economic self-sufficiency activities directly, or may make community service activities available through a contractor, or through partnerships with qualified organizations, including resident organizations, and community agencies or institutions [24 CFR §960.605(b)].

#### PHA Policy

The PHA will attempt to provide the broadest choice possible to residents as they choose community service activities.

The PHA's goal is to design a service program that gives residents viable opportunities to become involved in the community and to gain competencies and skills. The PHA will work with resident organizations and community organizations to design, implement, assess and recalibrate its community service program.

The PHA will make every effort to identify volunteer opportunities throughout the community, especially those in proximity to public housing developments. To the greatest extent possible, the PHA will provide names and contacts at agencies that can provide opportunities for residents, including persons with disabilities, to fulfill their community service obligations.

The PHA will provide in-house opportunities for volunteer work or self-sufficiency programs when possible.

If a member of the family is participating in the FSS program, the regular meetings with the FSS Specialist will satisfy community service activities.

Reference:

City of Chandler, Public Housing Admissions and Continued Occupancy Policy



## Community Service and Self-Sufficiency

### A. Background

The Quality Housing and Work Responsibility Act of 1998 requires that all nonexempt (see definitions) public housing adult residents (18 or older) contribute eight (8) hours per month of community service (volunteer work) or participate in eight (8) hours of training, counseling, classes or other activities that help an individual toward self-sufficiency and economic independence. This is a requirement of the public housing lease.

### B. Definitions

**Community Service** – community service activities include, but are not limited to, work at:

- Local public or nonprofit institutions such as schools, head start programs, before or after school programs, child care centers, hospitals, clinics, hospices, nursing homes, recreation centers, senior centers, adult day care programs, homeless shelters, feeding programs, food banks (distributing either donated or commodity foods), or clothes closets (distributing donated clothing).
- Nonprofit organizations serving PHA residents or their children such as: Boy or Girl Scouts, Boys or Girls Club, 4-H clubs, Police Assistance League (PAL), organized children's recreation, mentoring or education programs, Big Brothers or Big Sisters, garden centers, community clean-up programs, beautification programs.
- Programs funded under the Older Americans Act, such as Green Thumb, Service Corps of Retired Executives, senior meals programs, senior centers, Meals on Wheels.
- Public or nonprofit organizations dedicated to seniors, youth, children, residents, citizens, special-needs populations or with missions to enhance the environment, historic resources, cultural identities, neighborhoods, or performing arts.
- PHA housing to improve grounds or provide gardens (so long as such work does not alter the PHA's insurance coverage); or work through resident organizations to help other residents with problems, including serving on the Resident Advisory Board.
- Care for the children of other residents so parent may volunteer.

**NOTE:** Political activity is not acceptable for community service.

#### PHA Policy

Community Service must be only in the City of Chandler or serving citizens from the City of Chandler.

**Self-Sufficiency Activities** – self-sufficiency activities include, but are not limited to:

- Job readiness or job training
- Training programs through local one-stop career centers, workforce investment boards (local entities administered through the U.S. Department of Labor), or other training providers
- Employment counseling, work placement, or basic skills training
- Education, including higher education (junior college or college) or reading, financial, or

computer literacy classes

- Apprenticeships (formal or informal)
- English proficiency or English as a second language classes
- Budgeting and credit counseling
- Any other program necessary to ready a participant to work (such as substance abuse or mental health counseling)

**Exempt Adult** – an adult member of the family who meets any of the following criteria:

- Is 62 years of age or older
- Is blind or a person with disabilities (as defined under section 216[i][I] or 1614 of the Social Security Act), and who certifies that because of this disability he or she is unable to comply with the service provisions, or is the primary caretaker of such an individual
- Is engaged in *work activities*
- Is able to meet requirements under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program; or
- Is a member of a family receiving assistance, benefits, or services under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program and the supplemental nutrition assistance program (SNAP), and has not been found by the state or other administering entity to be in noncompliance with such program.

PHAs can use reasonable guidelines in clarifying the work activities in coordination with TANF, as appropriate.

**Work Activities** – as it relates to an exemption from the community service requirement, *work activities* means:

- Unsubsidized employment
- Subsidized private sector employment
- Subsidized public sector employment
- Work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available
- On-the-job training
- Job search and job readiness assistance
- Community service programs
- Vocational educational training (not to exceed 12 months with respect to any individual)
- Job skills training directly related to employment
- Education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency
- Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalency, in the case of a recipient who has not completed secondary school or received such a certificate

- Provision of child care services to an individual who is participating in a community service Program

### **C. Requirements of the Program**

1. The eight (8) hours per month may be either volunteer work or self-sufficiency program activity, or a combination of the two.
2. At least eight (8) hours of activity must be performed each month or may be aggregated across a year. Any blocking of hours is acceptable as long as 96 hours is completed by each annual certification of compliance.
3. Family obligation:
  - At lease execution, all adult members (18 or older) of a public housing resident family must:
    - Sign a certification (Attachment A) that they have received and read this policy and understand that if they are not exempt, failure to comply with the community service requirement will result in a nonrenewal of their lease; and
    - Declare if they are exempt. If exempt, they must complete the Exemption Form (Exhibit 11-3) and provide documentation of the exemption.
  - Upon written notice from the PHA, nonexempt family members must present complete documentation of activities performed during the applicable lease term. This documentation will include places for signatures of supervisors, instructors, or counselors, certifying to the number of hours contributed.
  - If a family member is found to be noncompliant at the end of the 12-month lease term, he or she, and the head of household, will be required to sign an agreement with the housing authority to make up the deficient hours over the next twelve (12) month period, or the lease will be terminated.
  - At annual reexamination, the family must also sign a certification certifying that they understand the community service requirement.
4. Change in exempt status:
  - If, during the twelve (12) month lease period, a nonexempt person becomes exempt, it is his or her responsibility to report this to the PHA and provide documentation of exempt status.
  - If, during the twelve (12) month lease period, an exempt person becomes nonexempt, it is his or her responsibility to report this to the PHA. Upon receipt of this information the PHA will provide the person with the appropriate documentation form(s) and a list of agencies in the community that provide volunteer and/or training opportunities.

### **D. Authority Obligation**

1. To the greatest extent possible and practicable, the PHA will:
  - Provide names and contacts at agencies that can provide opportunities for residents, including residents with disabilities, to fulfill their community service obligations.
  - Provide in-house opportunities for volunteer work or self-sufficiency activities.
2. The PHA will provide the family with a copy of this policy, and all applicable exemption verification forms and community service documentation forms, at lease-up, lease renewal, when a family

member becomes subject to the community service requirement during the lease term, and at any time upon the family's request.

3. Although exempt family members will be required to submit documentation to support their exemption, the PHA will verify the exemption status in accordance with its verification policies. The PHA will make the final determination as to whether or not a family member is exempt from the community service requirement. Residents may use the PHA's grievance procedure if they disagree with the PHA's determination.
4. Noncompliance of family member:
  - At least thirty(30) days prior to the end of the 12-month lease term, the PHA will begin reviewing the exempt or nonexempt status and compliance of family members;
  - If, at the end of the initial 12-month lease term under which a family member is subject to the community service requirement, the PHA finds the family member to be noncompliant, the PHA will not renew the lease unless:
    - The head of household and any other noncompliant resident enter into a written agreement with the PHA, to make up the deficient hours over the next twelve (12) month period; or
    - The family provides written documentation satisfactory to the PHA that the noncompliant family member no longer resides in the unit.
  - If, at the end of the next 12-month lease term, the family member is still not compliant, a 30-day notice to terminate the lease will be issued and the entire family will have to vacate, unless the family provides written documentation satisfactory to the PHA that the noncompliant family member no longer resides in the unit;
  - The family may use the PHA's grievance procedure to dispute the lease termination.

All adult family members must sign and date below, certifying that they have read and received a copy of this Community Service and Self-Sufficiency Policy.

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Head of Household Signature

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Date

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Other Household Member Signature

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Date

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Other Household Member Signature

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Date

---

Other Household Member Signature

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Date

## **Definition of a Person with a Disability Under Social Security Acts 216(i)(I) and Section 1416 (excerpt) for Purposes of Exemption from Community Service**

### **Social Security Act:**

**216(i)(1):** Except for purposes of sections 202(d), 202(e), 202(f), 223, and 225, the term “disability” means (A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, or (B) blindness; and the term “blindness” means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye, which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees, shall be considered for purposes of this paragraph as having a central visual acuity of 20/200 or less.

### **Section 1416 (excerpt):**

SEC. 1614. [42 U.S.C. 1382c] (a)(1) For purposes of this title, the term “aged, blind, or disabled individual” means an individual who—

(A) is 65 years of age or older, is blind (as determined under paragraph (2)), or is disabled (as determined under paragraph (3)), and

(B)(i) is a resident of the United States, and is either (I) a citizen or (II) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 212(d)(5) of the Immigration and Nationality Act), or

(ii) is a child who is a citizen of the United States and, who is living with a parent of the child who is a member of the Armed Forces of the United States assigned to permanent duty ashore outside the United States.

(2) An individual shall be considered to be blind for purposes of this title if he has central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of the first sentence of this subsection as having a central visual acuity of 20/200 or less. An individual shall also be considered to be blind for purposes of this title if he is blind as defined under a State plan approved under title X or XVI as in effect for October 1972 and received aid under such plan (on the basis of blindness) for December 1973, so long as he is continuously blind as so defined.

(3)(A) Except as provided in subparagraph (C), an individual shall be considered to be disabled for purposes of this title if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months.

## PHA Determination of Exemption for Community Service

Family: \_\_\_\_\_

Adult family member: \_\_\_\_\_

This adult family member meets the requirements for being exempted from the PHA's community service requirement for the following reason:

- ☐ 62 years of age or older. *(Documentation of age in file)*
- ☐ Is a person with disabilities and self-certifies below that he or she is unable to comply with the community service requirement. *(Documentation of HUD definition of disability in file)*

**Tenant certification:** I am a person with disabilities and am unable to comply with the community service requirement.

\_\_\_\_\_  
Family Member Signature

\_\_\_\_\_  
Date

- ☐ Is the primary caretaker of such an individual in the above category. *(Documentation in file)*
- ☐ Is engaged in work activities. *(Employment Verification in file)*
- ☐ Is able to meet requirements under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work *(Documentation in file)*
- ☐ Is a member of a family receiving assistance, benefits, or services under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program and the supplemental nutrition assistance program (SNAP), and has not been found by the state or other administering entity to be in noncompliance with such program *(Documentation in file)*

\_\_\_\_\_  
Head of Household Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Housing Specialist Signature

\_\_\_\_\_  
Date

## Community Room Policy and Use Agreement

### 127 North Kingston Only

Head of Household or Tenant ("Renter") agrees to assume responsibility for the cost of repair or replacement if the community space or its equipment, furniture, fixtures, or other appliances specified in the attached inventory list are damaged.

- Renter agrees to use the community room solely for the purpose stated to the City of Chandler Housing and Redevelopment Division (the "City") in writing. The community room is available for use by Renter and Renter's guests. Renter may not reserve the community room on behalf of another person or organization.
- Renter must be present at the community room function and assume responsibility for the conduct of all guests. Renter agrees to ensure that the guests do not make excessive noise or otherwise disturb the neighbors.
- Renter agrees to play any music at a low or moderate volume only.
- Smoking, use of alcohol or illegal drugs, and possession of firearms or other weapons in the community room is strictly prohibited.
- Renter agrees to comply with the City of Chandler Smoke-Free Policy, which states, "Smoking is not permitted anywhere on public housing grounds, to include living units, interior and exterior common areas, outdoor areas, and in or near public housing and administrative office buildings."
- Improper use of the community room may be a basis for denying future requests by Renter.

### Fee & Deposit

Renter agrees to pay a fee of **\$16.00 per hour**, payable by check or money order, for the rental of the community room. A separate, refundable deposit of **\$100.00**, payable by check or money order, is required and must be paid at least two weeks in advance of the event. The deposit will be fully refunded if the key is returned, no damage is incurred, and/or special cleaning is not required.

### Return of Deposit

The City agrees to return the deposit within 7 days of the rental if the following conditions are met:

- Renter returns the community space key to the management office, located at 235 S. Arizona Ave Chandler, AZ 85225, by noon of the day after the event. If the event occurs on the weekend, key must be returned the next business day to the management office by noon.
- The community space and its equipment furniture, fixtures, and other appliances specified in the attached inventory list are not damaged.

- Renter cleans the community space and returns it to its original condition immediately after the rental, including:
  - Turning off all electrical appliances, except the refrigerator in the kitchen;
  - Wiping down all countertops, appliances and tables;
  - Removing all food items from the refrigerator.
  - Sweeping and mopping the floors and vacuuming all rugs. The City will provide a broom, mop and vacuum upon request;
  - Returning all furniture to the original position;
  - Locking all doors;
  - Throwing out all garbage; and
  - Cleaning restrooms

Attachment J

### **Management's Right To Reimbursement**

Management will deduct from the deposit the costs of repairing damage to the community space and repairing or replacing any items on the attached inventory list that are damaged or missing (including the cost of changing the lock on the community space door if the key is not returned).

Management will deduct a cleaning fee of \$16.00 per hour per maintenance person from the deposit if staff must complete any of the cleaning tasks listed in Return of Deposit, above.

Renter agrees to pay any replacement and/or repair costs that exceed the amount of the deposit.

### **Indemnification**

To the extent permitted by law, Renter shall indemnify and hold harmless the City of Chandler Housing and Redevelopment Division, its managing agent, and their respective officers, directors, beneficiaries, shareholders, partners, agents, and employees from and against all fines, suits, damages, claims, demands, losses, and actions (including attorney's fees) arising out of, or relating to, all acts, failures, omissions, willful acts, and negligence of Renter, his or her agents, employees, visitors, guests, invitees, and contractors arising out of, or in any way relating to, Renter's use of the community room. This indemnification shall apply both to claims of third parties and to claims of the Renter or any guest of the Renter.

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Head of Household Signature

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Date

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Tenant (Renter) Signature (if different from Head of Household)

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Date



## Community Space and Use Rental Form

Date of Request: \_\_\_\_\_

Head of Household and Tenant Names (if different): \_\_\_\_\_

\_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

127 North Kingston Street Chandler AZ 85224

Purpose: \_\_\_\_\_

\_\_\_\_\_

Date Needed: \_\_\_\_\_ Time of Use FROM: \_\_\_\_\_ a.m./p.m. TO: \_\_\_\_\_ a.m./p.m.

### HOUSING OFFICE INFORMATION

**REVIEWED BY:** \_\_\_\_\_

Housing Specialist

**APPROVED TO BE FORWARDED:**

\_\_\_\_\_  
Housing Assistance Senior Program Manager

\_\_\_\_\_  
Date

**PERMISSION GRANTED BY:**

\_\_\_\_\_  
Housing and Redevelopment Senior Manager

\_\_\_\_\_  
Date

cc: Housing Maintenance Supervisor



## **Definition of Substantial Deviation and Significant Amendment or Modification For the 5-Year Plan FY 2020-2025**

PHAs are required to define and adopt their own standards of substantial deviation from the 5- Year Plan and Significant Amendment to the Annual and Five Year Plan. The definition of significant amendment is important because it defines when the PHA will subject a change to the policies or activities described in the Annual and Five Year Plan to full public hearing and HUD review before implementation [24 CFR Part §903.7(r)].

### **A. Definition of Substantial Deviation from the 5-Year Plan**

The City of Chandler Housing and Redevelopment Division shall define a Substantial Deviation from Annual and Five-Year Plan as follows.

As part of the Rental Assistance Demonstration (RAD), (COCHRD ) is redefining the definition of a substantial deviation from the PHA Plan to exclude the following RAD-specific items:

- a. The decision to convert to either Project Based Rental Assistance or Project Based Voucher Assistance;
  - b. Changes to the Capital Fund Budget produced as a result of each approved RAD Conversion, regardless of whether the proposed conversion will include use of additional Capital Funds;
  - c. Changes to the construction and rehabilitation plan for each approved RAD conversion; and
  - d. Changes to the financing structure for each approved RAD conversion.
- 
- Any collective change in the planned or actual use of federal funds for activities that would prohibit or redirect the City of Chandler Housing and Redevelopment Division strategic goals or mission of sustaining or increasing the availability of decent, safe and affordable housing while promoting self-sufficiency and asset development of families and individuals from being implemented as identified in the five-year plan.

This includes elimination or major changes in any activities proposed, or policies provided in the Agency Plan that would momentarily affect services or programs provided residents.

This definition does not include budget revisions, changes in organizational structure, changes resulting from HUD-imposed regulations, or minor policy changes.

- Any collective change in the planned or actual use of federal funds as identified in the 5- year plan that exceeds 20% of the City of Chandler Housing and Redevelopment Division's annual program budget for all combined public housing activities to include the Capital Fund Program.

#### **B. Definition of Significant Amendment or Modification to the Annual and Five Year Plan**

The City of Chandler Housing and Redevelopment Division shall define a Significant Amendment or Modification to the Annual and Five Year Plan as follows:

- Changes of a sufficient nature to the rent, admissions policies, or the organization of the waiting list not required by federal regulatory requirements as to a change in the Section 8 Administrative Plan or the Public Housing Admissions and Continued Occupancy Policy.
- Changes to the City of Chandler Housing and Redevelopment Division's plans effecting the demolition or disposition of public housing, designation of senior or disabled housing, the homeownership program, and a plan to convert public housing units to other than assisted housing.
- This includes elimination or major changes in any activities proposed, or policies provided in the Agency Plan that would momentarily affect services or programs provided residents. This definition does not include budget revisions, changes in organizational structure, changes resulting from HUD-imposed regulations, or minor policy changes.

#### **C. Capital Fund Program Definition of Significant Amendment or Modification to the Annual and Five Year Plan**

A proposed demolition, disposition, homeownership, Capital Fund Financing, development, or mixed finance proposal are considered by HUD to be significant amendments to the CFP Five Year Action Plan based on the Capital Fund Rule.

## **Grievance Procedure for Conventional and Scattered Site Public Housing Programs**

The purpose of this grievance procedure is to set forth the requirements, standards and criteria established and implemented by the City of Chandler Housing and Redevelopment Division (hereafter referred to as the PHA) to assure that tenants in the Conventional and Scattered Site public housing program are afforded an opportunity for a hearing if the individual disputes, within a reasonable time, any action or failure to act involving the tenant's lease with the PHA or a PHA regulation which adversely affects the individual's tenant rights, duties, welfare or status.

This procedure is meant to be used in conjunction with the City of Chandler Housing and Redevelopment Admissions and Continued Occupancy Policy (ACOP), Chapter 14, Part III.

### **Applicability**

The grievance procedure outlined herein shall be applicable to all individual grievances, as defined by HUD as a tenant and resident organization, between the tenant and the PHA.

This grievance procedure shall not apply to any grievance concerning an eviction or termination of tenancy based upon any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of the PHA or any drug-related criminal activity on or off the premises. This procedure shall apply to all other eviction actions.

This grievance procedure shall not be applicable to:

- A. disputes between tenants not involving the PHA, or to class grievances.
- B. The grievance procedure is not intended as a forum for initiating or negotiating policy changes between a group or groups of tenants and the PHA's Board of Commissioners.

This grievance procedure is incorporated by reference in all tenant dwelling leases and will be furnished to each tenant and all resident organizations [24 CFR 966.52 (b) and (d)].

Any changes proposed in this grievance procedure must provide for at least 30 days' notice to tenants and resident organizations, setting forth the proposed changes and providing an

opportunity to present written comments. Comments will be considered by the PHA before any revisions are made to the grievance procedure [24 CFR 966.52(c)].

### **Due Process Determination**

The PHA is located in a HUD-declared due process state. Therefore, the PHA will not offer grievance hearings for lease terminations involving:

- A. criminal activity that resulted in a felony conviction of a household member;
- B. Activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of the PHA,
- C. Any violent or drug-related criminal activity on or off the premises,

(See City of Chandler, Admissions and Continued Occupancy Policy (ACOP), chapter 14-III.C. Applicability; [24 CFR 966.51])

The PHA may evict the occupants of the dwelling unit through the judicial eviction procedures, which are the subject of the determination. In this case, the PHA is not required to provide the opportunity for a hearing under the PHA's administrative grievance procedure.

### **Definitions**

- A. Grievance shall mean any dispute, which a tenant may have with respect to PHA action or failure to act in accordance with the individual tenant's lease or PHA regulations which adversely affect the individual tenant's rights, duties, welfare or status.
- B. Complainant shall mean any tenant in the Conventional or Scattered Site program whose grievance is presented to the PHA.
- C. Due process determination means a determination by HUD that law of the jurisdiction requires that the tenant must be given the opportunity for a hearing in court which provides the basic elements of due process before eviction from the dwelling unit. HUD has issued a due process determination that entitles the PHA to exclude from the PHA administrative grievance any grievance concerning a termination of tenancy or eviction that involves criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of the PHA or any drug-related criminal activity on or near such premises.
- D. Elements of due process means an eviction action or a termination of tenancy in a State or local court in which the following procedures are required:

1. Adequate notice to the tenant of the grounds for terminating the tenancy and eviction;
  2. Right of the tenant to be represented by counsel;
  3. Opportunity for the tenant to refute the evidence presented by the PHA including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the tenant may have;
  4. Right of the tenant to examine, before the grievance hearing, any PHA documents including records and regulations that are directly relevant to the hearing.
  5. A decision on the merits.
- E. Hearing Officer means an impartial person selected to hear grievances and render a decision with respect thereto.
- F. Hearing Panel means a panel selected to hear grievances and render a decision with respect thereto.
- G. Informal settlement conference shall mean a meeting between the complainant and the Housing and Redevelopment Senior Manager and or their designated representative. The PHA has sole discretion to determine the method of conducting the informal settlement conference. Included in the methods are remotely, in-person, or telephonic conference.
- H. Informal hearing shall mean a due process hearing before an impartial hearing officer, who may be an employee or official of the PHA who is not involved in the day-to-day administration of the public housing program.
- I. Tenant means the adult person (or persons) (other than a live-in aide):
1. Who resides in the unit, and who executed the lease with the PHA as lessee of the dwelling unit, or, if no such person now resides in the unit,
  2. Who resides in the unit, and who is the remaining head of household of the tenant family residing in the dwelling unit.
- J. Resident organization includes a resident management corporation.

## **Grievance Process**

The grievance process shall consist of all these three (3) steps:

1. Filing of a grievance with the PHA;
2. Meeting with Housing Division Management in an informal settlement conference; and
3. If the issue is still not resolved, the holding of an informal hearing.

## **Informal Settlement of Grievance**

The PHA has the option to conduct the informal settlement via writing only, or it may be conducted remotely, telephonically, or in person. The PHA has the sole discretion regarding the method of an informal settlement.

A request for an informal grievance settlement will be accepted by the PHA orally or in writing, including email requests. The request should include the reason(s) for the appeal. The request shall be signed and dated by the tenant, no later than ten (10) working days after the receipt of determination giving rise to the Grievance, so that the grievance may be discussed informally and settled without a hearing.

Grievances related to complaints about operations matters that are received by the PHA's central office will be referred to the Housing Assistance Senior Program Manager. Grievances involving complaints related to discrimination, harassment, or disability rights will be referred to the Housing and Redevelopment Senior Manager.

As soon as the grievance is received, it will be reviewed by the COCHRD management team or delegate to be certain that neither of the exclusions in "APPLICABILITY" applies to the grievance. Should one of the exclusions apply, the complainant will be notified in writing that the matter raised is not subject to the PHA's grievance procedure with the reason specified.

## **Notification to Tenant**

If neither of the exclusions cited above apply, the complainant will be contacted by mail or email **within 10 business days** to arrange a mutually convenient time to meet so the grievance may be discussed informally and settled without a hearing. At the informal settlement, the complainant will present the grievance and the person in charge of the management office or the Civil Rights Administrator will attempt to settle the grievance to the satisfaction of both parties.

The notification will include the following:

- A. Acknowledgment of the request for informal grievance settlement meeting
- B. Method of conducting the meeting (in-person, remotely, in-person, or telephonically)
- C. Date and time of the settlement meeting

The notification will include instructions to the tenant as well as the outcome for failure to attend.

- A. If telephonic, the tenant must accept the phone call at the designated time.
- B. If via remote process, the tenant must be online and access the email invitation to the online meeting.
- C. If in-person, the tenant must be on time for the meeting.

If a tenant fails to attend the scheduled meeting without prior notice, the PHA will reschedule the appointment only if the tenant can show good cause for failing to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family.

Failure to attend the informal grievance settlement meeting does not affect the tenant's right to request a formal hearing.

### **Informal Grievance Settlement Determination**

After the informal settlement meeting, a summary of such discussion shall be prepared in writing within five (5) business days and one copy shall be given to the tenant and one retained in the PHA's tenant file. The summary shall specify the names of the participants, dates of meeting, the nature of the proposed disposition of the complainant and the specific reasons therefore and shall specify the procedures by which a hearing may be obtained if the complainant is not satisfied. All grievances and copies shall be signed and dated at time of receipt by the PHA.

### **Procedures to Obtain a Hearing**

If the complainant is not satisfied with the PHA's response, the complainant shall submit a written request for a hearing to the PHA within ten (10) days after receipt of the summary of discussion.



The written request shall specify:

- A. The nature of the grievance and grounds upon which it is based; and
- B. The action or relief sought.

Within ten (10) working days after receipt of the request, the PHA shall contact the complainant to schedule a time and place reasonably convenient to both the complainant and the PHA.

A written notification specifying the time, place and the procedures governing the hearing shall be delivered to the complainant and the appropriate PHA official. The PHA shall expeditiously forward the complainant's file to the person appointed as hearing officer.

### **Selection of Hearing Officer or Hearing Panel**

A grievance hearing shall be conducted by an impartial person or persons who are appointed by the PHA, other than a person who made or approved the PHA action under review or a subordinate of such person. Such individual or individuals do not need legal training. PHAs must describe their policies for selection of a hearing officer in their lease forms as required by §966.4. This person may be an officer of the PHA or an employee of the PHA or contractor, or another PHA. The PHA must include the method of selection in the Public Housing lease.

### **Failure to Request Hearing**

If the tenant fails to request a hearing, the PHA informal grievance summary and/or eviction action is final. Failure to request a hearing does not constitute a waiver by the tenant of his/her right to contest the action in a court of law.

### **Expedited Grievance Procedure**

Currently, the PHA does not offer expedited grievances

### **Scheduling Hearings [24 CFR 966.56(a) and (b)]**

When a complainant submits a timely request for a grievance hearing, within ten (10) business days, the PHA will contact the complainant and the hearing officer to schedule the hearing as expeditiously as possible.

The PHA staff member will send written notice of the hearing date and time to the complainant. Notice to the complainant will be in writing, either personally delivered to the complainant, or sent by mail or email, return receipt requested.

The notice will include the following:

- A. Acknowledgment of the request for informal grievance settlement meeting
- B. Method of conducting the meeting (in-person, remotely, in-person, or telephonically)
- C. Date and time of the settlement meeting
- D. That the PHA will provide technical assistance prior to and during the hearing, if needed; and
- E. That if the family or any individual witness has any technological, resource, or accessibility barriers, the family may inform the PHA and the PHA will assist the family in either resolving the issue or allow the family to participate in an in-person hearing, as appropriate.

The tenant may request to reschedule a hearing on a one-time basis. Should the complainant need to reschedule a second time, he or she may do so for good cause, or if needed as a reasonable accommodation for a person with disabilities.

*Good cause* is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date.

### **Remote Hearings**

HUD allows PHAs to conduct all or a portion of their grievance hearings remotely either over the phone, via video conferencing, or through other virtual platforms. If the PHA chooses to conduct remote grievance hearings, applicants may still request an in-person hearing, as applicable

The PHA has the sole discretion to require informal hearings be conducted remotely.

Remote hearings as a standard of customer service and convenience, will allow the PHA to provide a reasonable accommodation for a person with a disability, if an applicant does not have childcare or transportation that would enable them to attend the informal hearing, or if the applicant believes an in-person informal hearing would create an undue health risk.

### **Conducting Remote Grievance Hearings** [PIH 2020-32; 28 CFR §35.104]

The PHA must ensure that the tenant has the right to hear and be heard.

The PHA must ensure that the lack of technology or inability to use technology for remote grievance hearings does not pose a disadvantage to families that may not be apparent to the PHA. The PHA should determine through a survey or other means if these barriers exist prior to conducting the remote grievance hearing and, if the family does not have the proper technology to fully participate, either postpone the hearing or provide an alternative means of access.

As with in-person grievance hearings, the PHA must provide all materials presented, whether paper or electronic, to the family prior to the remote grievance hearing. The family must also be provided with an accessible means by which to transmit their own evidence.

The PHA's essential responsibility is to ensure grievance hearings meet the requirements of due process and comply with HUD regulations. Therefore, all PHA policies and processes for remote grievance hearings will be conducted in accordance with due process requirements and will be in compliance with HUD regulations at 24 CFR 966.56 and the guidance for conducting remote hearings specified in Notice PIH 2020-32.

COCHRD ACOP, Chapter 14-III.G., Remote Hearings, Conducting Remote Grievances Hearings, includes the following local policy:

#### PHA Policy

The PHA will conduct remote grievance hearings via videoconferencing or telephone conferencing.

If the grievance will be conducted via videoconferencing, the PHA will ensure the following:

- All tenants, tenant's representatives, witnesses, and PHA representatives can adequately access the platform (i.e., hear, be heard, see, and be seen).
- All parties who must have necessary documentation from the PHA have received it and makes it available for the grievance via hand delivery, US mail, and/or email.
- At least 48 hours in advance of the grievance, all parties have received the documentation to be presented.
- At least 48 to 72 hours in advance of the grievance, all parties have received information on how to access the video or telephone conference.
  - At least 24 hours before the scheduled hearing, the PHA has tested the access with the participants to ensure on the day and time of the grievance, delays due to inability to access will be at a minimum.

#### **Procedures Governing the Hearing [24 CFR §966.56]**

24 CFR §966.56 (a) states, "The hearing must be scheduled promptly for a time and place reasonably convenient to both the complainant and the PHA and held before a hearing officer.

A written notification specifying the time, place, and the procedures governing the hearing must be delivered to the complainant and the appropriate official.

The hearing shall be held before a hearing officer or hearing panel, as appropriate. The complainant shall be afforded a fair hearing under the elements of due process, which will include:

- A. The opportunity to examine before the hearing any PHA documents, including records and regulations, that are directly relevant to the hearing. The tenant is allowed to copy

any such document at the tenant's expense. If the PHA does not make the document available for examination upon request by the complainant, the PHA may not rely on such document at the grievance hearing.

- B. The right to be represented by counsel, or other person chosen as the tenant's representative, and to have such person make statements on the tenant's behalf.
- C. The right to a private hearing unless the complainant requests a public hearing.
- D. The right to present evidence and arguments in support of the tenant's complaint, to refute evidence relied on by the PHA or project management, and to confront and cross-examine all witnesses upon whose testimony or information the PHA or project management relies.
- E. A decision based solely and exclusively upon the facts presented at the hearing [24 CFR 966.56(b)].

The hearing is conducted informally by the hearing officer. The PHA and the tenant must be given the opportunity to present oral or documentary evidence pertinent to the facts and issues raised by the complaint, and to question any witnesses.

The complainant or the PHA may arrange in advance for a transcript of the hearing at the expense of the party making the arrangement. Any interested party may purchase a copy of the transcript [24 CFR 966.56(e)].

If the complainant or the PHA fails to appear at a scheduled hearing, the hearing officer or hearing panel may make a determination to postpone the hearing not to exceed five business days or may make a determination that the party has waived his right to a hearing.

- A. If the tenant does not appear at the scheduled time of the hearing, the hearing officer will wait up to 20 minutes. If the tenant appears within 20 minutes of the scheduled time, the hearing will be held. If the tenant does not arrive within 20 minutes of the scheduled time, they will be considered to have failed to appear.
- B. If the tenant fails to appear and was unable to reschedule the hearing in advance, the tenant must contact the PHA within 24 hours of the scheduled hearing date, excluding weekends and holidays. The hearing officer will reschedule the hearing only if the tenant can show good cause for the failure to appear, or it is needed as a reasonable accommodation for a person with disabilities.
- C. "Good cause" is defined as an unavoidable conflict, which seriously affects the health, safety, or welfare of the family.

Both the complainant and the PHA shall be notified of the determination by the hearing officer or hearing panel: provided that a determination that the complainant has waived his 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.

At the hearing, the complainant must first make a showing of an entitlement to the relief sought and thereafter the PHA must sustain the burden of justifying the PHA action or failure to act against which the complaint is directed.

The hearing officer shall require the PHA, the complainant, counsel and other participants 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 as appropriate.

The decision of the hearing officer must be in writing, must be based solely on evidence provided at the hearing, and must state the legal and evidentiary grounds for the decision.

Copies of the decision shall be provided to the PHA and the complainant not later than ten (10) working days after the hearing. To the extent that the decision is not inconsistent with state law, the United States Housing Act of 1937, as amended; HUD regulations and requirements promulgated thereunder; the PHA Annual Contributions Contract; or the Dwelling Lease and Occupancy Policy of the Conventional housing program; the decision of the hearing officer shall be binding on the PHA and the complainant, provided, however, that nothing contained in this grievance procedure shall preclude a complainant from exercising other rights if the complainant believes he/she is being discriminated against on the basis of race, color, creed, religion, sex or national origin.

### **Accommodations of Persons with Disabilities**

The PHA must provide reasonable accommodation for persons with disabilities to participate in the hearing.

Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants.

If the tenant is visually impaired, any notice to the tenant that is required must be in an accessible format. [24 CFR 966.56(f)]

### **Ensuring Accessibility for Persons with Disabilities and LEP Individuals**

As with in-person informal settlement of Grievances and hearings, the method for conducting remote informal settlement of Grievances and hearings must be accessible to persons with disabilities and the settlement/hearing must be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities.

Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents,

screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual.

PHAs may never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote informal settlement of Grievances and hearings.

PHAs are required to make reasonable accommodations in policies, practices, and procedures to ensure persons with disabilities have a full and equal opportunity to participate in and benefit from all aspects of the informal settlement/hearing process. See Chapter 2 for a more detailed discussion of reasonable accommodation requirements.

If no method of conducting a remote informal settlement of Grievances or hearings is available that appropriately accommodates an individual's disability, the PHA may not hold against the individual his or her inability to participate in the remote settlement/hearing, and the PHA should consider whether postponing the hearing to a later date is appropriate or whether there is a suitable alternative.

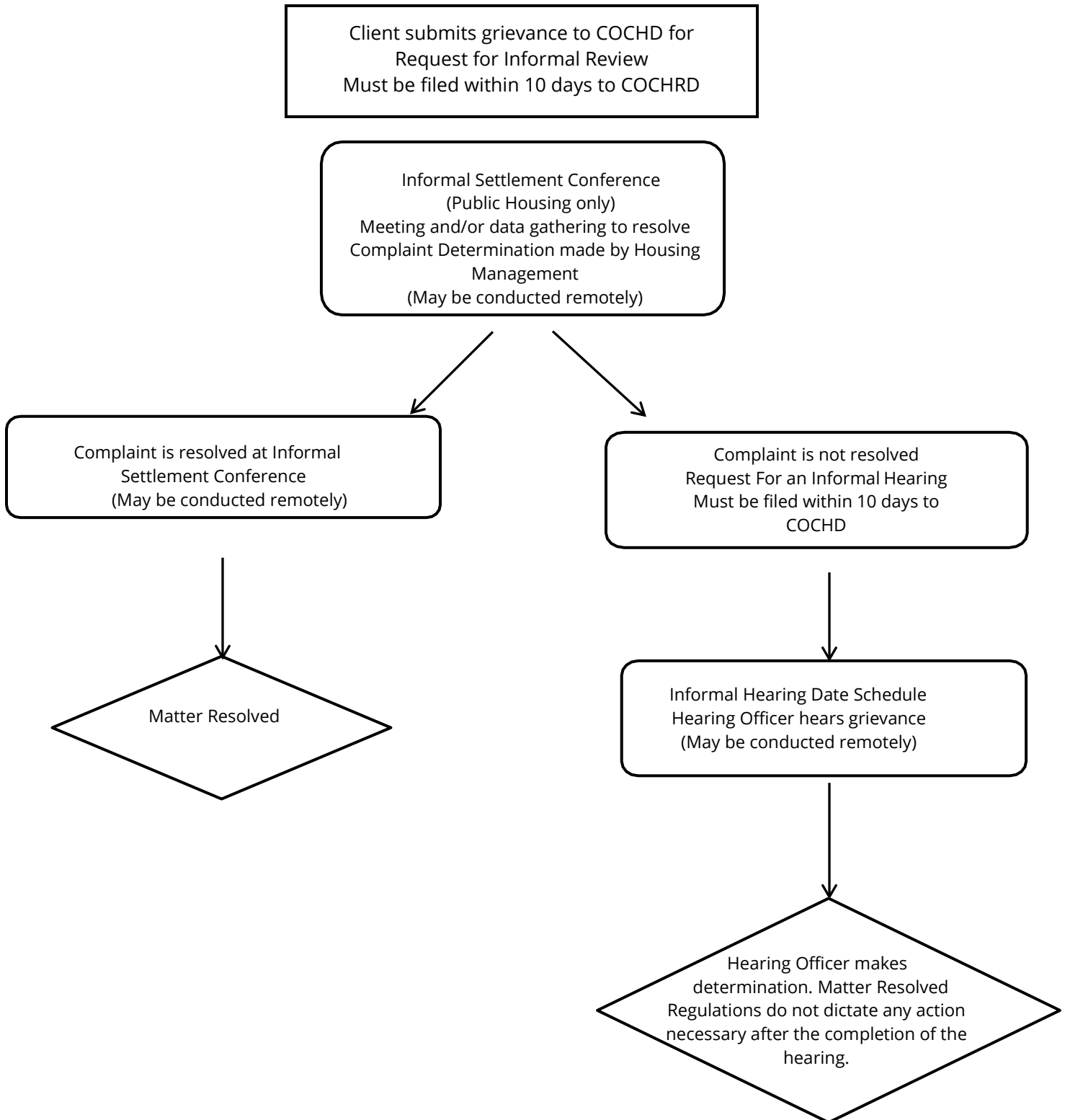
Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation, will depend on the specific circumstances and requirements.

As with in-person settlements/hearings, Limited English Proficiency (LEP) requirements also apply to remote informal settlements/hearings, including the use of interpretation services and document translation. See ACOP, Chapter 2 for a more thorough discussion of accessibility and LEP requirements, all of which apply in the context of remote informal settlements/hearings, as well as "Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons," issued January 22, 2007, and available at:

[portal.hud.gov/hudportal/HUD?src=/program\\_offices/fair\\_housing\\_equal\\_opp/promotingfh/lep-faq](https://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/promotingfh/lep-faq).

# Grievance Process

## City of Chandler Housing and Redevelopment Division (COCHRD)



## Landscaping Policy Scattered Site Housing

The City of Chandler Housing and Redevelopment Division is pleased to provide well maintained housing that adds to the overall quality of the neighborhoods where their homes are located. The purpose of this policy is to make certain that tenants are aware of their responsibilities as they pertain to maintaining the visual appearance of their residence.

### **Tenant Responsibilities**

All tenants on the City of Chandler Housing and Redevelopment Division Scattered Site dwelling lease shall comply with the following:

Tenants will be responsible for the upkeep and maintenance of all areas of landscaping on the dwelling premises including but not limited to the front, sides, back yards and alleyways. This includes maintaining sidewalk, patios and driveways to be free of vegetation, rocks, and debris.

1. Tenants will be responsible for all yard work, including but not limited to mowing, trimming, watering, trash/litter pickup and general upkeep to ensure that their landscaping is always maintained in good condition.
  - Good condition is defined as no vegetation protruding through any desert landscaping, commonly referred to as decomposed granite or a similar product.
  - If there is a turf lawn, the grass should not exceed a height of more than four (4) inches.
  - Other vegetation (weeds) should not be present in the turf areas or non-turf areas.
  - Final determination of specific tenant questions regarding the condition of their landscape will be the responsibility of the Housing Staff or their representatives/subcontractors.
  - During the wet season, tenants need to be proactive about weeds and weed removal.
2. Tenants will be responsible for the purchase and maintenance of all equipment, mowers, hoses, sprinkler systems, tools, chemicals, fertilizers, and/or other necessary items required to maintain the landscaping in good condition.
3. Tenants will dispose of all garbage, rubbish, landscaping clippings or trimmings in approved city refuse containers supplied by the City of Chandler Solid Waste Department and will not allow such items to accumulate on the premises.
4. Tenants will maintain an appropriate watering schedule that indicates an awareness of the need to conserve water and still maintains an adequate water supply to support the landscaping in a healthy condition.
5. Tenants will maintain the property in a clean and weed free manner. The tenant may remove weeds by physical means or by the use of chemicals. This will be done as often as necessary to control weeds.



- 6. Tenants are not to park or store any type of motor vehicle on the yard (landscaping).
- 7. Tenants are required to report (request a work order) on any dead shrubs, trees or large vegetation.

**Landscaping Neglect, Damage And Repair**

Tenant shall use reasonable care to maintain all of the landscaping in a neat and healthy condition. Failure of tenant to do so shall constitute neglect, and the tenant will be held financially responsible for the upkeep, repairs or replacement required to remedy this neglect.

**Lease Violation**

Tenant will receive a lease violation notice (typically a door hanger notice) and will have 3 days to correct the problem. On the 4<sup>th</sup> day, housing staff or their representative will do a follow up check of the property. If the problem is corrected, no other notice or steps are required. If the problem is not corrected either housing maintenance staff or a landscape company will be sent out, at the tenants expense, to correct all landscape issues.

**Multiple Violations of the Landscaping Policy**

Multiple violations are defined as any tenant that has received more than two landscape lease violations in a continuous twelve (12) month period. Multiple violations of the Landscape Policy may result in eviction.

I have received, read and understand the above policy provision regarding the maintenance of the landscaping and agree to abide by these provisions. I have also received, read and understood the landscape guidelines.

_____ Head of Household Signature	_____ Date
_____ Other Adult Household Member Signature	_____ Date
_____ Other Adult Household Member Signature	_____ Date



## Scattered Site Housing Program Landscaping Guidelines

### **What Constitutes a Weed?**

- **Desert Landscape Areas**

Any valueless, troublesome or noxious living plant material (including all grasses) growing in an area not designated as or intended for planting or growing. This would exclude trees, shrubs or flowers approved by and planted by the Housing Division.

- **Lawn Areas**

Any valueless, troublesome or noxious living plant material (including all grasses) growing in an area designated as or intended solely for grass/turf. This would exclude trees, shrubs or flowers approved by and planted by the Housing Division.

### **What Size of Weed or Amount of Weeds Constitutes a Lease Violation?**

- **Desert Landscape (granite)**

Any weed(s) that exceeds three (3) inches in height, or that covers, or in combination covers, more than one square foot of the yard space. Yard space is defined as any area of the front yard, side yard or back yard intended to have only granite as the main ground cover.

- **Lawn (grass/turf)**

Any weed that exceeds three (3) inches in height cover or in combination covers more than one square foot of the lawn area. Lawn area is defined as any area intended to have grass/turf as the main ground cover.

- **Non-vegetated soil-dirt (This is permitted in backyards only)**

Any weed that exceeds three (3) inches in height, or more than one square foot of the yard space.

- **Alleys**

Any weed that exceeds three (3) inches in height and /or cover or in combination covers more than one square foot of the area located on the alley side of the wall, within the boundaries of the property lines, and to the centerline of the alley.

- **Sidewalks, Driveways, Gutters and Curbs**

Any weed that grows in a control joint, expansion joint, or crack located in any portion of the sidewalk, driveway, gutter or curb, within the boundaries of the property lines.

## **What Are the Tenants Responsibilities Pertaining to the Landscape?**

- **Weeds**

Tenants will remove all weeds from all areas (as defined above) by either physical means, or by the use of chemicals. This will be done as often as necessary to control weeds.

- **Lawns**

Tenants will remove all weeds from all areas (as defined above) by either physical means, or by the use of chemicals. This will be done as often as necessary to control weeds and meet above requirements.

Tenants will mow grass areas as often as necessary to keep grass at a height not to exceed 4". If tenant does not use a mower with a bag attachment or a mower that mulches, then tenant must rake up and properly dispose of all grass clippings immediately after mowing. Grass clippings are not to be stored on the property. Tenants will provide sufficient water to keep grass healthy and green.

- **Trees**

Tenants will keep all trees trimmed to a bottom height of at least 7'. Housing Maintenance will complete any other tree trimming. Tenant will report any dead branches (above 7') or dead trees to the Housing Office as soon as discovered. Tenant will remove all tree cuttings from the yard and properly dispose of. Tree trimmings are not to be stored on the property. Tenants will provide sufficient water to keep trees healthy and green.

- **Shrubs**

Tenants will keep all shrubs trimmed as appropriate for each particular type shrub. Shrubs near the house will not exceed total height greater than the height of the windowsills. Shrub trimmings will be picked up and properly disposed of, and not stored on the property. Questions regarding height should be directed to Housing Maintenance. Tenants will provide sufficient water to keep shrubs healthy and green.

- **Front & Back Yards**

Yards are to be kept free of trash and debris at all times. Tenants will not allow garbage, rubbish, or landscaping debris to accumulate on the premises. Tenants will not store construction materials, landscape materials, auto & motorcycle or bicycle parts on the premises. Tenants will not park or store any type of motor vehicle on any landscaped area.

- **Alleys**

Tenants will keep the portion of the alley that extends from property line to property line, and to the centerline of the alley. Tenant will not store or allow to be stored any type of debris on this portion of the alley. Tenant will keep weeds and grass within the policy as stated above.

- **Trash & Recycling Containers**

Tenant will keep both trash and recycling containers in the back yard except on the day of pickup. Containers set out the day of collection must be returned by the end of the day. Containers are not to be stored anywhere in the front of the property, including garages or carports.

- **Lawn, Shrub, and Tree Care**

Tenants will maintain an appropriate watering and fertilizing schedule to keep lawns, shrubs, and trees healthy and green.

- **Adding or Removal of Trees, Shrubs, Plants, Flowers, and Grass.**

Without written consent from the Maintenance Supervisor (through a "Request for Alteration" form) tenants will not plant, or remove plantings (trees, shrubs, plants, grass, etc.) from the property.

# Public Housing Lease Agreement

Attachment N

Name of Tenant:

Lease Address:

Bedroom Size: BR

Lease Start Date:

- I. **Lease of Residence.** The City of Chandler, an Arizona municipal corporation, by and through its Housing and Redevelopment Division, acting as the Housing Authority of the City of Chandler (the "Authority"), does hereby lease to the above-named tenant ("Tenant") the residence located at the above-stated address and described further below (the "Residence"), pursuant to the terms and conditions of this Public Housing Lease Agreement (the "Lease"), which the parties hereto intend and agree shall be binding upon the Authority, Tenant, and any adult member of Tenant's household as a Co-Tenant.
- II. **Household Composition.** Except as otherwise indicated, the use of the Residence is limited to Tenant's household. Tenant's household only consists of Tenant (listed below as Head of Household) and those other persons listed below and having the relationship to Tenant indicated below (the "household members" or "Tenant's household members"). Any of Tenant's household members that is 18 years of age or older is deemed to be an adult member of Tenant's household and shall sign the Lease as a Co-Tenant. A Co-Tenant is subject to the terms and conditions of the Lease to the same extent as Tenant, but has no right of occupancy and use of the Residence greater than that of Tenant and may not continue to occupy and use the Residence in the event Tenant's right to occupancy and use of the Residence is terminated for any reason.

(List Tenant first, and list all other persons in order by age, oldest to youngest. Add a written addendum to complete the listing if not enough space is available below.)

Name	Relationship	Age & Birthdate	Social Security #
	Head of Household		

- A. Any addition to the household members, including the addition of any live-in aide or a foster child, **but excluding natural births**, requires prior written approval of the Authority. The Authority will grant such approval only if the proposed additional member passes the Authority's screening criteria and a dwelling unit of the appropriate size is available. "Live-in aide" means a person who resides with an elderly, disabled or handicapped person and who (i) is determined by the Authority to be essential to the care and well-being of the person, (ii) is not obligated for the support of the person, and (iii) would not be living in the dwelling unit except to provide the necessary support services.
- B. Any change in the composition of Tenant's household shall be reported by Tenant in writing to be received by the Authority within ten (10) business days of the occurrence in accordance with Paragraph E.2 of Section VII of the Lease.

### III. The Residence.

- A. If the Lease is for a conventional unit (apartment), the "Residence" consists of the dwelling unit at the above-stated address ("dwelling unit"), including any adjoining entrance or access way to the dwelling unit, which is located within the public housing development owned, operated and/or maintained by the Authority at that address (the "Development"), and includes permission for Tenant and Tenant's household members to use the common areas of the Development, along with other residents of the Development. The Development also includes any additional facilities and grounds used by the Authority to provide educational, recreational or other support services for the benefit of the residents of the Development alone or jointly with residents of other public housing developments owned, operated and/or maintained by the Authority.
- B. If the Lease is for a scattered site unit (single family home), the "Residence" is all of the real property at the above-stated address, including, without limitation, the dwelling unit and any other improvement upon the real property, any entrance or access way to the real property and/or the dwelling unit, and any yard or grounds at the real property.
- C. Regardless of the type of unit leased, the dwelling unit also includes without additional charge the following appliances: cooking range and refrigerator.
- D. As used in this Lease, the term "premises" means the Tenant's Residence.

### IV. Utilities.

#### CONVENTIONAL UNITS (Apartments):

- A. The Authority shall furnish the following utilities, but is not responsible for the absence of any such utility services caused by matters beyond the control of the City of Chandler's Housing and Redevelopment Division: water, sewer, and refuse collection.
- B. Tenant shall arrange and pay for the following utilities, which are not furnished by the Authority, but which are needed to maintain a decent, safe and sanitary dwelling: electricity and gas. Tenant shall be responsible for arranging and paying for these utilities and shall present proof of utility arrangements prior to signing the Lease.
- C. The Authority shall provide a utility allowance for Tenant-purchased utilities (other than the telephone). The allowance will be based upon the monthly cost of a reasonable consumption of such utilities and the allowance will be posted in a Utility Allowance Schedule available at the Housing and Redevelopment Division Office.

#### SCATTERED SITE UNITS (Single Family Homes):

- A. All utility services shall be provided by Tenant. Tenant shall be responsible for arranging and paying for all utilities and shall present proof of utility arrangements prior to signing the Lease. Utilities include electricity, gas, water, sewer and refuse collection (where not part of water or sewer service).
- B. The Authority shall provide a utility allowance for Tenant-purchased utilities (other than the telephone). The allowance will be based upon the monthly cost of a

reasonable consumption of such utilities and the allowance will be posted in a Utility Allowance Schedule available at the Housing and Redevelopment Division Office.

V. **Lease Term.** The term of the Lease shall be for a period of twelve (12) months beginning on the lease start date indicated above (the "Lease Start Date"), and shall be renewed automatically for successive twelve (12) month periods *provided that* Tenant and all adult members of Tenant's household have fully complied with their community service obligations (described in Paragraph T of Section X of the Lease), and the Lease has not been terminated or is in the process of being terminated for good cause. The Lease Start Date is also the date on which Tenant may first occupy the dwelling unit.

VI. **Lease Payments.** Payments due to the Authority from Tenant under the Lease are:

A. **Rental Payment.** Tenant shall pay a monthly rent of \$\_\_\_\_ and it shall remain in effect unless adjusted by the Authority in accordance Section VII below. If the Lease Start Date is not the first day of the calendar month, then the prorated rent for the first calendar month of the lease term is **\$0.00. The monthly rent is DUE and PAYABLE in advance on the first day of the month and is delinquent thereafter**, except that any prorated rent for the first calendar month of the lease term is due and payable on the Lease Start Date. Any other charges that are due and owing shall be paid at the same time as the monthly rent. The monthly rent and other charges shall be paid at the *City Hall, Utility Office, 175 South Arizona Avenue, bldg. A, Chandler, Arizona 85225*, or at such other location as may be subsequently designated in writing by the Authority. **No partial payments of any rent that is due and payable will be accepted.**

B. **Rental Basis.** The monthly rent is based on the following: (Check One)

☐ the Authority-determined flat rent for the unit (flat rent option).

☐ the income and other information reported by the Tenant (income-based rent option).

Tenant may change the basis on which monthly rent is determined at the time of Tenant's annual review. Also, if Tenant is currently using the flat rent option, then, at any time Tenant so requests, the Authority will immediately provide for Tenant to make rent payments using the income-based rent option upon making a determination that the Tenant is unable to pay current monthly rent because of financial hardship to Tenant's household, including: (a) decrease of household income; (b) increase in household expenses for medical costs, child care, transportation, education or similar items; and (c) such other hardship situations as may be determined by the Authority.

C. **Other Charges.** Tenant shall also pay certain additional charges as follows:

1. **Maintenance costs** -- Tenant shall pay a charge for the cost of maintenance services or repairs incurred by the Authority due to damage to the Residence, beyond normal wear and tear, caused by intentional or negligent acts (either of omission or commission) of Tenant, any of Tenant's household members or by any guest (defined below). The charge for the cost of such service or repair shall be based upon either the Schedule of Maintenance Charges posted by the Authority at the Housing Office (defined below) or, for work not listed on the Schedule of Maintenance Charges, the actual cost to the Authority for the labor and materials needed to complete the work. If overtime work is required, overtime rates shall be charged.

2. Late Charge -- Tenant shall pay a late fee charge of \$25.00 per month if rent or other charges then due are not paid until after the fifth (5th) calendar day of the month.

The charges listed in paragraphs C.1 and C.2 above shall not be due and payable until fourteen (14) days after the Authority gives written notice of the charges. The Authority, in its sole discretion and where it has determined that undue hardship to Tenant exists, may enter into a written agreement with Tenant for payment of maintenance costs through periodic installment payments over a fixed period of time not to exceed six (6) months, but the failure to make any installment payment when due under such an agreement shall, without further notice or demand, cause the full amount of the maintenance charges covered by the agreement to become immediately due and payable, and shall constitute a violation of Tenant's payment obligation under the Lease.

- D. **Security Deposit.** Tenant shall pay a security deposit of \$ \_\_\_\_\_. The security deposit shall be held on deposit, accruing no interest to Tenant, and shall be refunded to Tenant on termination of the Lease after deducting that amount necessary (i) to pay the cost of any rent or other charges due and owing by Tenant at the termination of the Lease and (ii) to reimburse the Authority for the cost of repairing any damage to the Residence, beyond normal wear and tear, caused by intentional or negligent acts (either of omission or commission) of Tenant, any of Tenant's household members or by any guest.

1. The security deposit shall not be used to advance payment of rent or other charges owing by Tenant while Tenant continues in occupancy of the premises.
2. Within thirty (30) days after termination of the Lease and recovery of possession of the premises by the Authority, an itemization of all amounts to be deducted from the security deposit shall be contained within a written notice delivered to Tenant together with the balance of the security deposit payable to Tenant, provided that Tenant has delivered to the Authority written notice of Tenant's forwarding address.

- E. **Posting of Payments.** Payments will be applied as follows:

1. Late unpaid rent for prior months
2. Maintenance charges
3. Late charges
4. Other charges
5. Current rent

## **VII. Resident Information and Re-determination of Rent, Dwelling Size, and Eligibility.**

- A. **Annual Review.** The Authority shall conduct an annual review of the circumstances of Tenant's household to re-determine the monthly rent amount and the suitability of the size of the dwelling unit.

1. If Tenant's rent is based on the flat rent option, a review of Tenant's household's income will occur only every third year that the Lease is in effect. However, at each annual review, rent for the next succeeding twelve (12)



month period of the Lease shall be determined, and issues related to suitability of the dwelling unit given the household's composition may be addressed. Tenant shall also be provided the opportunity to change to the income-based rent option for the next succeeding twelve (12) month period of the Lease.

2. If Tenant's rent is based on the income-based rent option, the Authority shall conduct an income review of Tenant's household and the rent for the next succeeding twelve (12) month period of the Lease shall be determined, as well as suitability of the dwelling unit given the household's composition. Tenant shall also be provided the opportunity to change to the flat rent option for the next succeeding twelve (12) month period of the Lease.

B. **Special Review.** In cases where annual income cannot be projected for a twelve-month period or Tenant is reporting no income and has chosen the income-based rent option, the Authority shall schedule special rent reviews every thirty (30) days. Monthly rent may be adjusted upon completion of the review.

C. **Interim Review.** An interim review may be conducted by the Authority if:

1. A person with income joins Tenant's household;
2. Tenant can verify a change in Tenant's circumstances (such as a decline in or loss of income due to circumstances beyond the resident's control) that would justify a reduction in monthly rent or switching to the income-based rent option for rent determination;
3. It is found that Tenant has misrepresented the facts upon which the monthly rent amount is based so that the rent Tenant is actually being charged is less than the rent that Tenant would have been charged if the misrepresentation has not been made; or
4. Rent determination formulas or procedures are changed by applicable law.

D. **Community Service Compliance Review.** Thirty (30) days prior to the end of the lease term, the Authority shall review and determine if the adult members of Tenant's household are in compliance with their community service obligation (Section X, Paragraph T). If the Authority determines that not all of the adult members of Tenant's household have complied with the requirement, the Authority shall notify Tenant that: (i) Tenant or another adult household member is not in compliance; (ii) determination of noncompliance is subject to the grievance procedure available under this Lease; and (iii) unless Tenant enters into an agreement prior to the end of the lease term to cure the compliance deficiency over the next twelve (12) month term of the lease, Tenant's lease term will not be renewed.

E. **Tenant Reporting Requirements.**

1. Tenant agrees that, in connection with any annual, special or interim review, Tenant shall furnish to the Authority, within a reasonable time after request to do so, accurate and complete information regarding Tenant's financial and

household circumstances, including without limitation, information concerning household composition, age of the household members, income and source(s) of income of Tenant and all of the household members, assets, expenses and related information deemed necessary by the Authority to consider re-determination of rent, suitable dwelling unit size, and eligibility.

- a. When requested, Tenant shall also provide verification of the information furnished, and/or independent verification of information concerning income from the source of the income, and/or any release needed for the Authority to obtain verified information relevant to a re-determination from third-party sources.
- b. It is agreed that failure to furnish information, verifications or releases needed for the review to be made by the Authority, or to provide accurate and complete information, shall be a serious violation of the terms of the Lease and a good cause for the Authority to terminate the Lease.

2. Tenant shall report in writing within ten (10) business days of occurrence to the Authority any of the following changes in household circumstances when they occur between the time of any annual review:

- a. An additional person has been added to the household through birth, adoption, or court-awarded custody;
- b. A household member is leaving or has left and will be residing elsewhere; or
- c. There has been an increase in household income or decrease in household's allowable expenses.

3. If Tenant or Tenant's household receives information regarding income, earnings, wages, or unemployment compensation from the Department of Housing and Urban Development (HUD) pursuant to an income verification procedure of HUD, Tenant shall disclose such information, upon receipt of such information, to the Authority.

F. Any re-determination made as part of a review shall be based upon the information provided by Tenant or obtained by the Authority and shall be made in accordance with the Authority's Admissions and Occupancy Policy, which is posted at the Housing Office. A copy of the policy will be furnished on request at the expense of the person making the request.

1. The Lease will NOT be revised to permit a change of household composition resulting from a request to allow adult children of Tenant to move back into the dwelling unit unless it is determined that the move is essential for the mental or physical health of Tenant AND does not disqualify Tenant's household for the size of unit it is currently occupying.

2. If, as part of a special or interim review, a rent reduction is granted due to change in Tenant's circumstances, any subsequent increase in the income of the Tenant's household shall be reported in writing to the Authority within ten (10) business days of the occurrence. The failure to make such report may result in a retroactive re-computation of monthly rent.

G. **Rent Adjustments.** Tenant shall be notified in writing of any rent adjustment to be made upon completion of a re-determination review. The notice will state the effective date of the rent adjustment.

1. If rent is decreased, the adjustment shall become effective on the first (1st) day of the month following the reported change in circumstances or change in applicable law, provided Tenant reported the change in a timely manner, as specified above (when change is based on new circumstances).
2. If rent is increased because an increase in income occurs which is reported within ten (10) business days of the occurrence, in writing, the increase will be completed and effective on the first of the month following 30 days' notice to the family. .
3. In the case of a rent increase due to a change in applicable law, the increase will become effective the first (1st) day of the second (2nd) month following the month in which the Authority notifies Tenant of the law or regulatory change.
4. If, within the time required by the Lease, Tenant fails to report any change in household composition or any subsequent increase in income, or fails to furnish the information or documents described in paragraph E above, or if Tenant misrepresents facts on which rent is based, and therefore avoids what would have been a change to a higher monthly rent amount, then, upon discovery of either Tenant's failure to properly disclose or Tenant's misrepresentation, the Authority shall retroactively re-compute the rent which Tenant should have been charged effective as of the date such change should have occurred. Any such retroactive rent shall be due and payable in its entirety on the first (1st) day of the second (2nd) month following the month in which the Authority notifies Tenant of the increase. Retroactive rent is in addition to any other rights or remedies available to the Authority, including termination of the Lease.

H. **Treatment of Income Changes Resulting From Welfare Requirements.**

1. This Subsection applies to Tenant if Tenant or any member of Tenant's household receives benefits for welfare or public assistance from a State or other public agency under a program for which the Federal, State or local law relating to the program requires, as a condition of eligibility for assistance under the program, participation of Tenant or a member of Tenant's household in an economic self-sufficiency program (the "assistance program").
2. Tenant's rent shall not be reduced if the decrease in the annual income of Tenant's household is caused by a reduction of the assistance program

benefits received by Tenant or any member of Tenant's household that is the result of:

- a. any failure of Tenant or a household member to comply with the conditions of the assistance program requiring participation in an economic self-sufficiency program or other work activities; or
  - b. any act of fraud.
3. Where paragraph I.2 above applies, the amount of income to be attributed to Tenant household shall include what the household would have received had there been compliance with the requirements of the assistance program or an act of fraud had not been committed.
  4. For purposes of rent adjustments, the reduction of benefits from the assistance program that occurs as a result of the expiration of a time limit for receipt of assistance will not be considered a failure to comply with the program's requirements. Tenant's rent will be reduced as a result of such a decrease.
  5. The Authority will verify the information provided by Tenant to determine if a decrease in the rent is warranted.

I. **Transfers.**

1. Tenant agrees to transfer to another appropriate size dwelling unit leased by the Authority if the Authority determines that, based on Tenant's household composition, the size or design of Tenant's present dwelling unit is inappropriate.
2. Tenant agrees to transfer to another unit if the Authority determines that such transfer is necessary to rehabilitate, repair or demolish Tenant's present dwelling unit.
3. If Tenant makes a written request for a special unit feature in support of a documented disability or handicap, the Authority shall modify Tenant's existing dwelling unit, subject to its determination that the request is reasonable. If the cost and extent of the modification are equivalent to those for a fully handicap-accessible unit, Tenant agrees that the Authority may transfer Tenant to another unit with the features requested at the Authority's expense.
4. Tenant acknowledges and agrees that if Tenant is not disabled, but is occupying a dwelling unit containing special features for disabled persons, the Tenant will transfer to a unit without such features should another person eligible for housing assistance need Tenant's present dwelling unit. Tenant further acknowledges that Tenant shall be responsible for all costs associated with the transfer to another dwelling unit pursuant to this section.

5. Transfers under paragraphs I.1 through I.4 above shall not occur until at least seven (7) days after written notice is given by the Authority to Tenant. Tenant shall leave the dwelling unit from which Tenant is transferred in a clean and good condition, reasonable wear and tear accepted, and shall return all keys to such dwelling unit or any other portion of the premises. If Tenant refuses to move after the notice is given, such refusal shall be deemed a serious violation of the Lease and good cause for Lease termination by the Authority.
6. When the Authority makes a re-determination of the monthly rent amount payable by Tenant, or determines that Tenant must transfer to another unit based on household composition, or otherwise determines that a transfer is required, the notice of such action given to Tenant by the Authority shall inform Tenant that Tenant may ask for an explanation stating the specific grounds of the Authority determination, and that if Tenant does not agree with the determination, Tenant shall have the right to request a hearing under the Authority's grievance procedure. The change in rent or the transfer to another unit shall be deferred or postponed until either the time to request a hearing has expired or, where timely requested, the hearing process has been completed.
7. The Authority will consider a Tenant request for a transfer in accordance with transfer priorities established in the Admissions and Occupancy Policies.
8. For conventional units, the Authority will consider a transfer for a Tenant who lives in a development where Tenant's income category (below or above 30% of area median) predominates and wishes to move to a development where Tenant's income category does not predominate.

#### **VIII. Use of the Premises.**

- A. The dwelling unit shall be used only as a private residence for Tenant and Tenant's household members, except that Tenant and the household members may request an exception for certain limited incidental activities on a case by case basis in the dwelling unit if the Authority has given prior written consent to do so. All exceptions will require prior written approval and, if the activity will continue in the following year, a new exception request will need to be submitted for approval.
- B. Tenant shall give *prior* notice to the Authority of any guest staying overnight at Tenant's premises and any such overnight stay is deemed an accommodation for the guest. Reasonable accommodation for a guest is permitted only so long as the guest is not provided accommodations in or upon the premises, including the dwelling unit, for more than a total of fourteen (14) days in a twelve (12) month period, except with the express written permission of the Authority made upon written request from Tenant. As used in the Lease, "guest" means a person present in the dwelling unit or elsewhere upon the premises, other than Tenant or the household members, who is so present with the consent of the Tenant or one of the household members.
- C. Tenant, any of the household members and any guest shall only use the dwelling unit or any other portion of the premises for lawful purposes permitted under the Lease

and shall comply with all applicable rules and regulations of the Authority and with all applicable federal, state and local laws.

- D. Tenant, the household members and any guests, shall use not use the utilities furnished by the Authority so as to waste the utilities through excess utility consumption, and shall also use and operate all utilities, whether or not furnished by the Authority, so as to comply with all applicable laws, regulations or guidelines of any governmental entity regulating utilities or fuels.
- E. development for any reason if the Tenant has been evicted through the judicial process; (2) the Tenant is issued an eviction notice, appeals the eviction to the hearing office and the hearing officer upholds the City's decision; and/or (3) the Tenant fails to appeal the eviction notice within the requisite time period.

#### **IX. The Authority's Obligations.**

The Authority agrees to:

- A. Maintain the premises (and for conventional units, the Development) in a decent, safe and sanitary condition;
- B. Comply with the requirements of applicable building codes, housing codes, and HUD regulations materially affecting health and safety, including housing quality standards promulgated by HUD ("Housekeeping Standards");
- C. Make necessary repairs to the dwelling unit;
- D. For conventional units, keep the Development's buildings, facilities and common areas, not otherwise assigned to Tenant for maintenance and upkeep, in a clean and safe condition;
- E. Maintain in good and safe working order and condition electrical, plumbing, sanitary, heating, ventilating, and other facilities and appliances supplied or required to be supplied by the Authority;
- F. Provide and maintain appropriate receptacles and facilities (except containers for the exclusive use of Tenant's household) for the deposit of garbage, rubbish, and other waste removed from the dwelling unit by Tenant (scattered site units have receptacles provided as part of refuse collection service);
- G. Supply running water and reasonable amounts of hot water and reasonable amount of heat at appropriate times of the year according to local custom and usage, except where the building that includes the dwelling unit is not required by law to be equipped for that purpose, or where heat and/or hot water is generated by an installation within the exclusive control of Tenant and the utility connection is interrupted by the action or inaction of Tenant, any of the household members or a guest, including failure to arrange or pay for needed utility service; and
- H. Notify Tenant of the specific grounds for any proposed adverse action by the Authority. An "adverse action" may include, but is not limited to, a proposed lease

termination, transfer of the tenant to another unit, or imposition of charges for maintenance and repair, or a late charge fee. When the Authority is required to afford Tenant the opportunity for a hearing under the Authority's grievance procedure for a grievance concerning a proposed adverse action:

1. The notice of the proposed adverse action shall inform Tenant of the right to request such hearing. In the case of a lease termination, a notice of lease termination that complies with the notice requirements of Section XV shall constitute adequate notice of the proposed adverse action.
2. In the case of a proposed adverse action other than a proposed lease termination, the Authority shall not take the proposed action until time to request such a hearing has expired and (if hearing was timely requested) the grievance process has been completed.

**X. Tenant's Obligations.**

Tenant agrees:

- A. To arrange with local utility companies for turn-on of those utilities not provided by the Authority, continuously maintain such utility services and not to use prepaid credit card programs for electric service including by not limited to the e-mpower program.
- B. Not to assign the lease or to sublease any part of the premises, including the dwelling unit;
- C. Not to provide accommodations for boarders or lodgers;
- D. To use the dwelling unit solely as a private dwelling for Tenant and Tenant's household members, and not to use or permit its use for any other purpose except as expressly authorized in writing by the Authority;
- E. To abide by necessary and reasonable regulations provided by the Authority for the benefit and well-being of the Development and for the tenants of the Development, which regulations are posted in the Authority's Housing Office and which are incorporated by reference in the Lease so that violation of any such regulation shall constitute a violation of the Lease;
- F. To comply with all obligations imposed upon tenants by applicable provisions of state or local health, fire, building and housing codes materially affecting health and safety;
- G. To keep the dwelling unit and other such areas as may be assigned to Tenant for exclusive use in a clean and safe condition;
- H. To dispose of all garbage, rubbish, and other waste from the premises in a sanitary and safe manner and only in containers approved or provided by the Authority;
- I. To use only in a safe and reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other equipment, facilities and appurtenances;

- J. To refrain from, and to cause any of the household members and any guest to refrain from, destroying, defacing, damaging, or removing any part of the premises and/or any part of the Development;
- K. To refrain from, and to cause any of the household members and any guest to refrain from, keeping, maintaining, harboring, or boarding any dog, cat, livestock, or pet of any type upon the premises or upon the Development, unless a verified disability is determined to warrant the possession of an animal, and then only with the written consent of the Authority and in compliance with any applicable rules or regulations of the Authority or unless such animal is permitted as a pet pursuant to the Authority's established pet policy;
- L. To refrain from, and to cause any of the household members and any guest to refrain from, the discharge of any weapons or firearms upon the premises and/or the Development;
- M. To refrain from, and to cause any of the household members and any guest to refrain from, keeping or storing any flammable or combustible materials upon the premises and/or the Development;
- N. To make no additions, alterations, decorations, improvements, or attachments to the dwelling unit, the premises or any equipment or appliances provided with the dwelling unit, except with the prior written approval of the Authority, and Tenant acknowledges that this prohibition includes, without limitation, making changes to or installing any new door locks and the use of nails, tacks, screws, brackets, or fasteners upon any part of the dwelling unit (a reasonable number of picture hangers excepted);
- O. To refrain from using aluminum foil as window coverings and the use of aluminum foil on stove top area;
- P. To pay reasonable charges (other than for normal wear and tear) for the repair of damages to the premises or the Development caused by Tenant, any of the household members or any guest;
- Q. To act, and cause any of the household members or any guest to act, in a manner which will not disturb any other resident of the Development in the resident's peaceful enjoyment of resident's accommodations and the Development, and which will be conducive to maintaining the Development in a decent, safe and sanitary condition;
- R. To comply with all rules and regulations of the Authority limiting the use or parking of vehicles upon the premises or the Development, including any prohibition against leaving any inoperable or unlicensed vehicle upon the premises or the Development or any prohibition against automobile repairs upon the premises or the Development;
- S. To keep any entrance to the dwelling unit (front or back) or walkway providing a means of access to the dwelling unit free from hazards and trash, and to keep the yard immediately adjacent to the dwelling unit free of debris and litter, but the Authority may provide a written exemption from this requirement where Tenant's household has no persons able to perform these tasks because of age or disability;



- T. To assure that each adult member of Tenant's household performs **eight (8)** hours per month of community service or participates in an economic self-sufficiency program unless exempted therefrom; and
- U. To assure that Tenant, any member of the household, a guest, or any other person under Tenant's control:
  - 1. Shall not engage in (i) any criminal activity or other activity that threatens the health, safety, or right to peaceful enjoyment of the Development of any other resident of the Development, or any employee or contractor of the Authority, or any person residing in the immediate vicinity of Tenant's premises; or (ii) any violent or drug-related criminal activity on or off the premises or the Development; and
  - 2. Shall not consume alcoholic beverages in or upon the premises or the Development, except within Tenant's dwelling unit; and, in any event, shall not interfere with the health, safety, or right to peaceful enjoyment of the Development by any other resident due to the abuse of alcohol or due to the illegal use of a controlled substance.

As used here and elsewhere in the Lease, "drug-related criminal activity" means the illegal manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as defined in Section 102 of the Controlled Substance Act, 21 U.S.C. 802). As used here and elsewhere in the Lease, "contractor" means a person under contract with the Authority to provide services of any kind to the Development or any of its residents.

- V. To refrain from entering upon the Development and/or the dwelling unit, if evicted through a court judgment, from the dwelling unit.
  - W. Tenant acknowledges that, pursuant to HUD Final Order effective February 3, 2017, all Public Housing Authorities must implement a smoke-free policy. Smoking is not permitted anywhere on public housing grounds as of December 31, 2017, to include living units, interior and exterior common areas, outdoor areas, and in or near public housing and administrative office buildings.
- XI. Defects Hazardous to Life, Health or Safety.** In the event that the premises or the dwelling unit is damaged to the extent that conditions are created which are hazardous to life, health, or safety of the occupants:
- A. Tenant shall immediately notify the Authority of the damage;
  - B. The Authority shall repair the damage to the premises or the dwelling unit within a reasonable period of time after receiving notice from Tenant, and if the damage was caused by Tenant, any of the household members or any guest, the reasonable cost of the repair shall be charged to Tenant;
    - 1. The Authority may terminate the Lease and the housing assistance, if it is determined that the damage was purposeful, or the result of criminal activity.

- C. The Authority shall offer Tenant a replacement dwelling unit as an alternative accommodation, if available, where necessary repairs cannot be made within a reasonable time;
- D. If repair of the damage cannot be made within a reasonable time by the Authority and alternative accommodations are unavailable, then an abatement of a portion of the monthly rent shall be made by the Authority which is in proportion to the seriousness of the damage and loss in value as a dwelling, and which shall continue until the hazardous condition is repaired, except that no abatement of rent shall occur if Tenant rejects alternative accommodations made available by Authority or if the damage was caused by Tenant, any of the household members or any guest; and
- E. If the Authority determines that the damage is such that the dwelling unit is inhabitable because of imminent danger to the life, health, and safety of its occupants, and alternative accommodations are refused by Tenant, then the Lease shall be terminated, and any rent already paid for the current month will be refunded to Tenant provided the condition was not caused by Tenant, any of the household members or any guest.

## **XII. Move-in and Move-out Inspections.**

- A. Move-in inspection: The Authority and Tenant or Tenant's representative shall inspect the premises prior to the Lease Start Date. The Authority shall furnish Tenant with a written statement of the condition of the premise, both inside the dwelling unit and out, and the appliances or any equipment provided by the Authority with the dwelling unit. The statement shall be signed by the Authority and Tenant, and a copy of the statement retained in Tenant's folder. Any items agreed to by Authority and Tenant as being a deficiency shall be noted on the written statement and shall be corrected by the Authority, at no charge to Tenant, within a reasonable time after completion of the inspection.
- B. Move-out inspection: The Authority shall inspect the premises at the time Tenant vacates the premises and shall give Tenant a written statement of charges, if any, for which Tenant is deemed responsible. Tenant shall be provided an opportunity to participate in the move-out inspection, unless Tenant vacates without notice to the Authority.

## **XIII. Entry of Premises During Tenancy.**

- A. The Authority shall, upon reasonable advance notification to Tenant, be permitted to enter the dwelling unit during reasonable hours of any day for the purpose of performing routine inspections and maintenance, for making improvements or repairs, or to show the dwelling unit for re-leasing. "Routine inspection" includes, without limitation, an annual inspection of the dwelling unit, monthly pest control treatment and any required follow up inspection necessary to assure compliance with the Housekeeping Standards and House Rules. For purpose of this section, the time between 7:00 a.m. and 5:00 p.m. is deemed to conclusively be "reasonable hours", but nothing precludes entry at other times if it is reasonable to do so under the circumstances. A written statement specifying the purpose of the Authority's entry

delivered to the dwelling unit at least two (2) days before such entry shall be deemed reasonable advance notification.

- B. In the case of necessary repeat entry for ongoing pest control or maintenance "in process", tenant will be notified of the entry schedule upon the start of treatment. No additional notices for entry will be given, as tenant will be given a copy of the schedule.
- C. The Authority may enter the dwelling unit at any time without advance notification when there is reasonable cause to believe that an emergency exists.
- D. If Tenant and all adult members of Tenant's household are absent from the dwelling unit at the time of entry, the Authority shall leave in the dwelling unit a written statement specifying the date, time and purpose of entry prior to leaving the dwelling unit.

#### **XIV. Notice Procedures.**

- A. Except as required in Section XIII above, any notice to Tenant shall be in writing and personally delivered to Tenant or to an adult member of Tenant's household residing in the dwelling unit, or shall be sent by prepaid first-class mail properly addressed to Tenant.
- B. Any notice to the Authority shall be in writing, delivered to the Housing Office or sent to the Housing Office by prepaid first-class mail properly addressed. The Housing Office is the principal office of the Authority and it is *located* at: 235 South Arizona Avenue, Chandler, Arizona 85225. The Housing office *mailing* address is:  
  
Mail Stop 101, P.O. Box 4008  
Chandler, Arizona 85244-4008
- C. If Tenant is visually impaired, any notice to Tenant will be in an accessible format.

#### **XV. Termination of the Lease.**

- A. Tenant shall terminate the Lease and vacate the premises only upon giving the Authority thirty (30) days written notice. At termination, Tenant shall leave the premises in a clean and good condition; reasonable wear and tear accepted, and shall return all keys to the premises. The failure to return all keys shall be deemed a negligent or intentional action by Tenant resulting in damage incurred by the Authority for which the Authority may charge or claim an amount equal to the cost of replacing all of the locks affected.
- B. The Authority shall terminate the Lease only for a serious or repeated violation of a material term of the Lease, which includes, but is not limited to, failure to make payments due under the Lease or to fulfill the Tenant's obligations set forth in Section X or elsewhere in the Lease, and for other good cause. Without limiting the generality of the above, Tenant and the Authority agree that a single event or incident of the following matters shall constitute cause for termination:
  - 1. Any Tenant misrepresentation of household income, assets, or composition;

2. Any failure by Tenant to timely submit, when requested to do so, any certification, release, information, or documentation regarding household income or composition deemed to be needed by the Authority in order to fully and accurately complete an annual, special or interim review;
3. Any (i) criminal activity that threatens the health, safety, or right to peaceful enjoyment of the Development of any other resident of the Development, or any employee or contractor of the Authority, or any person residing in the immediate vicinity of Tenant's Residence; or (ii) any violent or drug-related criminal activity on or off the premises or the Development, where the above-described activity is engaged in by Tenant, any member of Tenant's household, any guest, or any other person under Tenant's control;
4. Any conviction for manufacturing methamphetamines on the premises;
5. Any determination or discovery that Tenant or a member of Tenant's household is a registered sex offender;
6. Any abuse (or pattern of abuse) of alcohol or any illegal use (or pattern of illegal use) of a controlled substance by Tenant, any member of Tenant's household, any guest, or any other person under Tenant's control, which is determined by the Authority to interfere with the health, safety, or right to peaceful enjoyment of the Development of any other resident of the Development;
7. If Tenant or any co-tenant is fleeing to avoid prosecution, or custody or confinement after eviction, under the laws of the place from which the individual flees, for a crime, or attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; and
8. Any violation by Tenant or any co-tenant of a condition of probation or parole imposed under Federal or State law.

As used in the Lease, "criminal activity" does not require a conviction or arrest and may be established by a preponderance of the evidence.

C. The Authority shall give written notice of the Lease termination of:

1. Fourteen (14) days in the case of failure to pay rent or other charges due;
2. Five (5) calendar days for utilities not in service;
3. A reasonable time considering the seriousness of the situation (but not to exceed thirty (30) days) when the health or safety of other residents, or the employees or contractors of the Authority, or any person residing in the immediate vicinity of Tenant's premises, is threatened; and

3. Thirty (30) calendar days in any other case, except that if a state or local law allows a shorter notice period, such shorter period shall apply.
- D. The notice of the Lease termination to Tenant:
1. Shall state specific grounds for termination, shall inform Tenant of Tenant's right to make such reply as Tenant may wish, shall inform Tenant of Tenant's right to examine the Authority documents directly relevant to the termination or eviction; and shall state the date upon which the dwelling unit shall be vacated; and
  2. When the Authority is required to provide Tenant the opportunity for an administrative grievance hearing concerning the lease termination, the notice shall also inform Tenant of Tenant's right to request a hearing in accordance with the Authority's grievance procedure then in effect; and
  3. When the Authority is not required to provide Tenant the opportunity for an administrative grievance hearing concerning the lease termination, and the Authority has decided to exclude such grievance from the Authority's grievance procedure, the notice of lease termination shall:
    - a. State that Tenant is not entitled to a grievance hearing on the termination;
    - b. Specify the judicial eviction procedure to be used by the Authority for eviction of Tenant, and state that HUD has determined that this eviction procedure provides the opportunity for a hearing in court that contains the basic elements of due process as defined in HUD regulations; and
    - c. State whether the eviction is for a criminal activity or other activity that threatens the health, safety, or right to peaceful enjoyment of the Development of any other resident of the Development or any employee or contractor of the Authority, or any violent or drug-related criminal activity on or off the premises or the Development, or any activity resulting in a felony conviction.
- E. In the case of termination for Tenant's failure to make payment due under the Lease, the 14-day notice shall also advise Tenant that if full payment of the amount then due and owing is made on or before the date upon which the dwelling unit is to be vacated, then the Tenant's lease violation shall be deemed cured, the Tenant shall not be required to vacate the premises and the Lease will be automatically reinstated in accordance with its terms and conditions, provided that this is not the fourth (4<sup>th</sup>) such 14-day notice given during a lease period. Notwithstanding the foregoing, the fourth (4<sup>th</sup>) such 14-day notice given during a lease period to Tenant for failure to make payment due under the Lease shall advise that Tenant's lease violation shall **not** be deemed to be cured even if Tenant pays all amounts specified in the notice, that there will be no reinstatement of the Lease and Tenant must vacate the premises within the time specified.

- F. The Lease shall not terminate, even if the date to vacate has expired, until the time for Tenant to request any applicable grievance hearing has expired, and (if a hearing was timely requested by Tenant) the grievance process has been completed.
- G. Termination of the Lease by the Authority shall be enforced by eviction of Tenant from the premises through an action filed in a court of appropriate jurisdiction.
- H. In deciding to evict for criminal activity, the Authority shall have discretion to consider all of the relevant circumstances, including the seriousness of the offense, the extent of participation by Tenant and Tenant's household members, and the effects that eviction would have on both the household members not involved in the prohibited activity and on the other residents in the Development. In appropriate cases, the Authority may permit continued occupancy by the remaining household members and may impose a condition that any of the household members who engaged in the prohibited activity will not reside in or be a guest in the dwelling unit or on the Residence. The Authority may require any of the household members who has engaged in the illegal use of drugs to present credible evidence of successful completion of a treatment program as a condition to being allowed to reside in the dwelling unit.
- I. If the Authority evicts any or all of the persons in Tenant's household from the premises for engaging in criminal activity, including drug-related criminal activity, the Authority shall notify the local post office serving the premises that the person(s) or household evicted is no longer residing at the premises. This is so the post office will stop mail delivery for such persons and that the persons shall not return to the Development or the premises for mail pickup.
- J. Former tenants and any member of the tenant's household that have been evicted through a judicial process or trespassed for criminal activity will not be permitted to return to the Development, including common areas, or other dwelling units in the Development for any reason.
- K. The Authority shall provide Tenant a reasonable opportunity to examine, at Tenant's request received by the Authority, before a grievance hearing or a court trial concerning a termination of tenancy or eviction, any documents, including records and regulations, which are in the possession of the Authority, and which are directly relevant to the termination or tenancy or eviction. The Tenant may obtain a copy of any such document at Tenant's expense. If the Authority does not make documents available for examination upon the request of Tenant received by the Authority, then the Authority shall not proceed with any eviction proceedings until such documents are made available.

**XVI. Grievance Procedures.** All disputes concerning the obligations of Tenant or the Authority shall be processed and resolved in accordance with the Authority's grievance procedure pursuant to 24 Code of Federal Regulations Part 966, Subpart B

- A. **Exceptions of Grievances.** These grievance procedures are not applicable to any lease termination or eviction that involves:

1. Any criminal activity or other activity that threatens the health, safety, or right to peaceful enjoyment of the Development of any other resident in the Development, or any employee or contractor of the Authority, or any person residing in the immediate vicinity of Tenant's premises;
2. Any violent or drug-related criminal activity on or off the premises or the Development; or
3. Any activity resulting in a felony conviction.

**B. Selection of the Hearing Officer [24 CFR §966.4(n)(2)]**

1. The grievance hearing will be conducted by an impartial person or persons appointed by the PHA, other than the person who made or approved the PHA action under review, or a subordinate of such person. Such individual or individuals do not need legal training. PHAs must describe their policies for selection of a hearing officer in their lease forms as required by 24 CFR §966.4.
2. PHA grievance hearings will be conducted by a single hearing officer and not a panel. The PHA will contract a hearing officer.
3. The PHA will appoint a person who has been selected in the manner required under the grievance procedure. Efforts will be made to assure that the person selected is neither a friend, nor enemy, of the complainant that they do not have a personal stake in the matter under dispute and will otherwise not appear to lack impartiality.

**C. Conducting the Hearing [PIH 2020-32]**

A copy of the Grievance/Hearing Procedures are included in this Lease by reference and are available upon request.

A copy of the Grievance/Hearing Procedures are included in this Lease by reference and are available upon request

1. The PHA has the sole discretion regarding the method used to conduct a hearing in any step of the grievance process. The PHA may determine to conduct all hearings via a remote online process. The notice of hearing will include the date, time, location and method of conducting the hearing.

**XVIII. Lease Amendment.** The Lease shall be amended or modified by a written rider to the Lease signed by both parties, except for the following:

- A. Changes concerning the amount of rent, size or type of the dwelling unit, household composition, eligibility for public housing or any other matters arising under Section VII of the Lease or as a result of any re-determination made pursuant to that section of the Lease;
- B. Changes in policies, rules, regulations, schedules and standards provided by or established by the Authority and incorporated by reference into the Lease; and

- B. Changes required by applicable state or federal law and/or regulation, where written modification or amendment is proposed to Tenant by the Authority, but Tenant fails or refuses to sign after a reasonable time is provided to do so.

**XIX. Incorporation by reference.** The policies, rules, regulation, schedules and standards expressly referenced in the Lease or which are otherwise established by the Authority, as adopted

and as may be amended from time to time, are incorporated herein by reference. Included without limitation, are the following: Schedule of Maintenance Charges; Admissions and Occupancy Policy; Development Rules and Regulation; Grievance Procedure; Housekeeping Standards; House Rules; Pet Policy.

**XX. Waiver.** The acceptance of rental by the Authority for the period or periods after a lease violation by Tenant shall not be deemed a waiver of the violation, or the right to terminate the Lease therefore, unless the Authority shall so intend and shall so advise Tenant in writing. No waiver by the Authority of any lease violation by Tenant shall be construed to be or act as a waiver of any subsequent lease violation by Tenant. If any lease violation is cured by Tenant prior to the Authority giving a notice of termination, it shall not thereafter be used by the Authority as a ground for termination of the Lease.

**XXI. Interpretation and Severability.** This Lease shall be construed as a whole according to its fair meaning and not strictly for or against either party. Whenever possible, each provision shall be interpreted in such a manner as to be valid under applicable law, but if any provision of the Lease is deemed invalid or unenforceable, such provision shall be deemed severed from the Lease, and the Lease shall otherwise remain in force and effect.

**XXII. Discrimination Prohibited.** The Authority shall not discriminate based upon race, color, religion, national origin, sex, handicap, or familial status, and shall comply with all nondiscrimination requirements of Federal, State and local law.

**XXIII. Attachments to the Lease.** The Tenant certifies that they have received a copy of the following attachments to this Lease, and understands that these Attachments are part of this Lease.

**Attachments (Policies):** Scattered Site Landscape Policy (if applicable), Community Service Requirement Policy (if applicable), Vehicle Policy, VAWA Policy, Assistance Animal Policy (if applicable) Pet Policy, Bed Bug Policy, House Rules and Smoke-Free Policy, ACOP Chapter 14, Grievance and Appeals.

**Additional Policies:** The Tenant understands that they are also responsible to adhere to additional policies and requirements included in the Admissions and Continued Occupancy Policy (ACOP), as well as all federal requirements that apply to the program.



**Signatures:**

WHEREFORE, the Authority, Tenant and Co-Tenants, if any, have executed the Lease on the dates set forth below. The signature of Tenant and any Co-Tenants as set forth below is their acknowledgment that they have received and reviewed the Lease and that the terms and conditions of the Lease have been thoroughly explained to them.

_____	_____
Head of Household Signature	Date

_____	_____
Other Adult Household Member Signature	Date

_____	_____
Other Adult Household Member Signature	Date

_____	_____
Other Adult Household Member Signature	Date

_____	_____
Other Adult Household Member Signature	Date

_____	_____
Other Adult Household Member Signature	Date

THE CITY OF CHANDLER, an Arizona municipal corporation, by and through its Housing and Redevelopment Division, acting as the Housing Authority of the City of Chandler:

By: _____	DATE: _____
Its: Housing Assistance Senior Program Manager	



## Maintenance Policy

The City of Chandler Housing and Redevelopment's (the "City's Housing Office") maintenance section is responsible for managing the maintenance function in the most cost effective manner possible while maximizing the useful life of housing properties and providing the best service to tenants. The following policy statements are designed to establish the structure of an effective and efficient maintenance system:

### 1.0 COMPONENTS OF A MAINTENANCE SYSTEM

The maintenance system shall include certain components:

- A. A system of priorities for work requests;
- B. Comprehensive working procedures;
- C. Performance goals;
- D. A work order system;
- E. A skills training program;
- F. Safety program; and
- F. A long-range planning system.

By developing a maintenance system that has these components in place, the City's Housing Office will have the tools it needs to control the performance of maintenance work.

### 1.1 PRIORITY SYSTEM

The work priorities adopted exemplify the philosophy of delivering maintenance services. This priority system ensures that the most important maintenance work is done at a time it can be performed most cost-effectively. Minimizing vacancy loss is part of the cost-effectiveness calculation. The maintenance priorities are the following:

- A. Emergencies;
- B. Scheduled Operations and Services;
- C. Vacancy Preparation; and
- D. Tenant Generated Work Order Requests

Placing planned maintenance and vacancy preparation work ahead of tenant work requests does not indicate that tenant requests are unimportant. It emphasizes the importance of maintaining control of the maintenance work by performing scheduled routine and preventive work first. By doing it will decrease tenant generated work orders and maintain the property in a manner that will keep and attract good tenants.

## **1.2 DEVELOP PROCEDURES**

The Maintenance Supervisor will ensure that there are sufficient clear procedures in place to allow staff to implement this maintenance policy statement. All procedures will include the following:

- A. A statement of purpose;
- B. The job title(s) of the staff member(s) responsible for carrying out the activities in the procedure;
- C. Any forms needed to carry out the activities; and
- D. The frequency of any specified activities.

After their adoption, maintenance procedures will be reviewed and updated as needed.

## **1.3 DEVELOP PERFORMANCE STANDARDS AND GOALS**

The Maintenance Supervisor will establish measures that will allow the effectiveness of maintenance systems and activities to be evaluated. In establishing these standards the Maintenance Supervisor will take into consideration certain factors:

- A. Local housing codes;
- B. Uniform Physical Condition Standards (UPCS);
- C. City of Chandler job descriptions.

Nothing in the documents listed above will prevent the City's Housing Office from setting a standard that is higher than that contained in the documents.

These standards and goals will be used to evaluate current operations and performance and to develop strategies to improve performance and meet the standards that have been set.

## **1.4 WORK ORDER SYSTEM**

The City's Housing Office shall have a comprehensive work order system that includes all work request information: source of work, description of work, priority, cost to complete, days to complete, and hours to perform. This information is required to plan for the delivery of maintenance services as well as evaluate performance. To obtain the greatest effectiveness from the work order system, all work requests and activities performed by maintenance staff must be recorded on work orders.

Work orders will contain, at a minimum, the following information:

- A. Preprinted number
- B. Source of request (tenant or internal.)
- C. Priority assigned
- D. Location of work
- E. Date and time received
- F. Worker(s) assigned
- H. Description of work requested
- I. Description of work performed

- J. Actual time to complete
- K. Materials used to complete work
- L. Tenant charge
- M. Tenant signature (if available)
- N. Staff signature when complete

## **1.5 TRAINING**

In order to allow its staff members to perform to the best of their abilities, the City's Housing Office recognizes the importance of providing the staff with opportunities to refine technical skills, increase and expand craft skills, and learn new procedures. Each employee must participate in at least eight (8) hours of training annually.

The Maintenance Supervisor is responsible for developing a training curriculum for the maintenance staff and working with personnel department staff to identify the means of delivering the training.

## **1.6 SAFETY PROGRAM**

Safety is a core value of the City's Housing Office. Each employee considers safety their personal responsibility as an integral part of every job, task and assignment. Maintenance staff shall follow the City's Safety and Occupational Health Division's Safety Plan when performing maintenance activities.

## **1.7 LONG-RANGE PLANNING**

The City's Housing Office will put in place a long-range maintenance planning capability in order to ensure the most cost-effective use of housing resources and the maximum useful life of housing properties.

The Maintenance Supervisor will develop a property-specific long-range planning process that includes the following components:

- A. A property maintenance standard;
- B. An estimate of the work required bringing the property to the maintenance standard;
- C. An estimate of the work required keeping the property at the maintenance standard including routine and preventive maintenance workloads, vacant unit turn-around, inspection requirements and tenant on-demand work;
- D. An estimate of the on-going cost of operating the property at the maintenance standard;
- E. A market analysis of the properties;
- F. A cost estimate to provide the specified capital improvements.

By developing a work plan, the City's Housing Office will be able to anticipate its staff, equipment and materials needs. It will also be possible to determine need for contracting particular services.

## 2.0 MAINTAINING THE PROPERTY

All maintenance work performed at the properties can be categorized by the source of the work. Each piece of work originates from a particular source: An emergency, the routine maintenance schedule, the preventive maintenance schedule, a unit inspection, a unit turnover, or a tenant request.

### 2.1 RESPONDING TO EMERGENCIES (PIH Notice 2018-19)

Emergencies are the highest priority source of work and will be completed or mitigated within twenty-four (24) hours. The City's Housing Office will consider a work item to be an emergency if the following occur:

A. The deficiency that poses an immediate threat to life, health/or safety of a tenant or staff or that is related to fire safety and includes:

- Unhealthy or undrinkable water supply,
- Gas leak,
- Broken/blocked sanitary sewer line,
- Absence of a working heating system when outside temperature is below 55 degrees Fahrenheit (except for Kingston Arms and/or families who have a medical condition that require heating), (PIH Notice 2018-19)

- **HUD MINIMUM HEATING STANDARDS** - the PHA shall use the following minimum heating requirements for public housing dwelling units in order to comply with Section 111 of HOTMA:

- Minimum Temperature: If PHA-controlled, the minimum temperature in each unit must be at least 68 degrees Fahrenheit.
- If tenant-controlled, then the heating equipment must have the capability of heating to at least 68 degrees Fahrenheit.
- Minimum Temperature Capability: PHAs are allowed flexibility in maintenance of the indoor temperature when the outdoor temperature approaches the designated day temperature.
- 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:
  - The outside temperature reaches or drops below the design day temperature, or
  - The outside temperature is within five degrees Fahrenheit of the design day temperature for more than two continuous days.

- **COOLING, LOCAL STANDARDS** (Not controlled by HUD standards or policy.)
  - If the PHA controls the temperature, the minimum cooling temperature in each unit must be at least 82 degrees Fahrenheit.
  - If the resident controls the temperature, the cooling equipment must have the capability of cooling to at least 82 degrees Fahrenheit.

- If the unit is cooled by an evaporative cooler only, the minimum cooling temperature is 86 degrees Fahrenheit.
  - **DESIGN DAY TEMPERATURE** - Temperature measurements must be taken three feet above the floor and two feet from an exterior wall in a habitable room.
  - Absence of a working air conditioner
  - Any condition that jeopardizes the security of the unit,
  - Major plumbing leaks or flooding causing damage to property, waterlogged ceiling or floor in imminent danger of falling,
  - Hazardous electrical system such as burnt outlets, exposed wires, or smell of burnt wires,
  - Inoperable smoke detector and carbon monoxide (CO) detector,
  - Absence of a functioning toilet in the unit,
  - Exposure to toxic materials.
- B. The deficiency will cause serious damage to the property structure or systems if not repaired or mitigated within twenty-four (24) hours.

If a staff member is unsure whether or not a situation is an emergency, he or she will consult with the Maintenance Supervisor. If a supervisor is not available, the employee will use his or her best judgment to make the decision.

For emergencies that occur after regular working hours, the City's Housing Office shall have a twenty-four (24) emergency response system in place. This response system includes the designation of a maintenance employee to be on call after hours and weekends as well as a list of qualified pre-approved contractors, open purchase orders for obtaining required supplies or equipment, and access to materials and supplies. The designated employee shall prepare a work order and report on any emergency within twenty-four (24) hours after abatement of the emergency.

## 2.2 PREPARE VACANT UNITS FOR REOCCUPANCY

It is the policy of the City's Housing Office to reoccupy vacant units as soon as possible. This policy allows the City's Housing Office to maximize the income produced by its properties and operates attractive and safe properties.

The Maintenance Supervisor is responsible for developing and implementing a system that ensures an average turn-around time of ten (10) business days. In order to do so, he or she must have a system that can perform the following tasks:

- A. Forecast unit preparation needs based on prior years' experience;
- B. Estimate both the number of units to be prepared and the number of hours it will take to prepare them; and
- C. Control work assignments to ensure prompt completion.

The maintenance procedure for reoccupying vacant units relies on the prompt notification by management of the vacancy, fast and accurate inspection of the unit, ready availability of workers and materials, and good communication with those responsible for leasing the unit.

If vacant units require additional repairs that exceed the average turn-around time, the Maintenance Supervisor has the ability to create special teams for vacancy turnaround or to hire contractors to meet goals.

## **2.3 PREVENTIVE MAINTENANCE PROGRAM**

Preventive maintenance is part of the planned or scheduled maintenance program. The purpose of the scheduled maintenance program is to anticipate maintenance requirements and make sure it can be addressed in the most cost-effective manner. The preventive maintenance program focuses on the major systems that keep the properties operating. Major systems include heating and air conditioning, electrical, life safety, roofs, and plumbing.

### **A. General Operating Systems**

The heart of any preventive maintenance program is a schedule that calls for the regular servicing of all systems. The development of this schedule begins with the identification of each system or item that must be checked and serviced, the date it must be serviced, and the individual responsible for the work. The servicing intervals and tasks for each system must be included in the schedule. The completion of all required tasks is considered a high priority and based on available funding.

The systems covered by the preventive maintenance program include but are not limited to:

1. Retention basins,
2. Emergency lighting,
3. Play structures,
4. HVAC systems,
5. Exhaust fans,
6. Exterior lights,
7. Fire extinguishers and other life safety systems,
8. Smoke and CO detectors in units,
9. Mechanical equipment,
10. Sanitary drains,
11. Domestic water,
12. Parking areas.

### **B. Roof Repairs/ Replacement**

Maintenance of roofs requires regular inspections by knowledgeable personnel to ensure that there is no unauthorized access to roof surfaces and that there is good drainage and prompt discovery of any deficiencies.

The Maintenance Supervisor and Housing Project Coordinator are responsible for the development of a roof maintenance plan that includes these features:

1. The type, area, and age of roof
2. Warranties and/or guarantees in effect
3. Company that installed the roof

4. Expected useful life of roof
5. History of maintenance and repair
6. Inspection schedule

The City's Housing Office maintenance staff will usually undertake only minor roof repairs. Upon a determination by the Maintenance Supervisor, a roofing contractor may be used for roof repairs that are not considered minor.

C. Vehicle/Equipment Maintenance

The City's Housing Office will protect the investment it has made in vehicles and other motorized equipment by ensuring that all equipment is serviced on a regular schedule developed by the City's Fleet Services Division. The vehicles and equipment to be covered include:

1. Cars, trucks and vans
2. Tractors
3. Chain saws
4. Hedge trimmers
5. Leaf blowers
6. Weed cutters
7. Lawn Mowers

The City's Fleet Services Division will inform the Housing Maintenance Supervisor of minimal routine service as well as servicing for seasonal use. Serviceable components for each vehicle or piece of motorized equipment will be listed in the plan along with the type and frequency of service required.

The Maintenance Supervisor shall also maintain a system to ensure that any employee that operates a vehicle or piece of motorized equipment has the required license or certification as required by City's Risk Management Division.

D. Lead-Based Paint

Maintenance staff shall follow the City's Lead Hazard Control Plan when performing maintenance activities that may disturb lead based paint. The Maintenance Supervisor shall coordinate such work with the City's Environmental Management Division and Safety and Occupational Health Division.

E. Asbestos

Maintenance staff shall follow the City's Asbestos Management Plan when performing maintenance activities that may disturb asbestos containing building materials (ACBM). The Maintenance Supervisor shall coordinate such work with the City's Environmental Management Division and Safety and Occupational Health Division.

F. Mold

Maintenance staff shall follow the City's Mold Hazard Control Plan when performing mold remediation activities. The Maintenance Supervisor shall coordinate such work



with the City's Environmental Management Division and Safety and Occupational Health Division.

G. Life Safety Systems

The City's Housing Office adheres to life safety systems and frequently reviews standards to ensure compliance with the National Fire Protection Association shall have a comprehensive program for maintenance of life safety systems to ensure that they will be fully functional in the case of an emergency. The Maintenance Supervisor is notified by the City's third party fire protection contractor of the schedule that includes the inspection, servicing and testing of this equipment. The equipment to be included in the plan includes the following:

Commercial (Head Start, Family Investment Center, Community Buildings, Maintenance Office)

1. Fire alarms and fire alarm systems
2. Fire extinguishers
3. Emergency lighting
4. Smoke detectors
5. Sprinkler systems

The schedule will include the required testing and servicing as required by manufacturer's recommendations.

## 2.4 INSPECTION PROGRAM

The City's Housing Office goals of efficiency and cost-effectiveness are achieved through a carefully designed and rigorously implemented inspection program. This program calls for the inspection of the following areas: The dwelling units, the grounds and building exteriors, and major service systems.

A. Dwelling Unit Inspections

The unit inspection system has two primary goals:

1. To assure that all dwelling units comply with standards set by HUD and local codes; and
2. To assure that the staff knows at all times the condition of each unit for which it is responsible.

The achievement of these goals may require more than the annual HUD required inspection. The Maintenance Supervisor and the Housing Quality Standards Inspector are responsible for developing a unit inspection program that schedules inspections at the frequency required.

For all non-emergency inspections, the tenant shall be given at least 48 hour written notice of the inspection.

The maintenance staff or the Housing Quality Standards Inspector shall perform the unit inspection program. During each inspection, the staff shall perform specified preventive and routine maintenance tasks. Any other work items noted at the time of the inspection will be documented on inspection form. All uncompleted work items shall be converted to a work order within twenty-four hours of the completion of the inspection. The maintenance staff shall endeavor to complete all inspection-generated work items within 25 days of the inspection.

All maintenance staff is responsible for monitoring the condition of dwelling units. Whenever a maintenance staff member enters a dwelling unit for any purpose, such as completing a tenant request for service or accompanying a contractor, he or she shall record on an inspection form any required work he or she sees while in the apartment. These work items shall also be converted to a service request within twenty-four hours of discovery.

B. Verification of the Use of an Additional Bedroom as a 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 a disability to have an equal opportunity to use and enjoy a dwelling.**

An additional bedroom may be approved as a reasonable accommodation to provide a sleeping room for a live-in aide, or to store medical equipment, unless the equipment can be stored in another room in the unit without causing overcrowding

When an additional bedroom is approved for a reasonable accommodation, HUD PIH Notice 2014-25 states that the intended use of the additional room must be verified annually.

As the maintenance team is responsible for monitoring the condition of dwelling units when they enter one for work orders, etc., they will check the additional bedroom and document the current use.

Documented use should be reported to the public housing specialist to review.

C. Building and Grounds Inspections

Regular inspections of the property grounds and building exteriors are required to maintain the curb appeal of the property. This curb appeal is required to maintain the attractiveness of the property for both current and prospective tenants. The inspection procedure will specify the desired condition of the areas to be inspected. This defined condition will include any HUD or locally required standards. The existence of these standards shall not prevent the City’s Housing Office from setting a higher standard that will make the property more competitive in the local market.

Building and grounds inspections must cover these areas:

1. Community room and other common space
2. Laundry facilities

3. Common entries
4. Grounds
5. Parking lots
6. Sidewalks and fences
7. Lawns, shrubs and trees
8. Trash collection areas
9. Building foundations

A HUD inspection form also includes common areas and building exteriors and grounds. The staff member responsible for the inspection shall note all deficiencies on the form and ensure that these deficiencies are recorded on work order within twenty-four hours of the inspection. The maintenance staff will complete all inspection-generated work items within 25 days of the inspection.

Nothing in this policy shall prevent any City employee from reporting any needed work that they see in the regular course of their daily activities. Such work items shall be reported to the City's Housing Office.

D. Systems Inspections

The regular inspection of all major systems is fundamental to a sound maintenance program. The major systems inspection program overlaps with the preventive maintenance program in some areas. To the extent that inspections, in addition to those required for scheduled service intervals, are needed, they will be a part of the inspection schedule. Any work items identified during an inspection shall be converted to a work order within twenty-four (24) hours and completed within thirty (30) days.

## **2.5 SCHEDULED ROUTINE MAINTENANCE**

Included in this work category are all tasks that can be anticipated and put on a regular timetable for completion. Most of these routine tasks are those that contribute to the curb appeal and marketability of the property.

A. Pest Control/Extermination

The City's Housing Office will make all efforts to provide a healthy and pest-free environment for its tenants. It will determine which, if any, pests infest its properties and will then provide the best possible treatment for the eradication of those pests.

The Maintenance Supervisor will determine the most cost-effective way of delivering the treatments -- whether by contractor or licensed/certified housing personnel.

The Integrated Pest Management Plan will begin with an analysis of the current condition at each property. The Maintenance Supervisor shall make sure that an adequate schedule for treatment is developed to address any existing infestation. Special attention shall be paid to cockroaches. The schedule will include frequency and locations of treatment. Different schedules may be required for each property.

Tenant cooperation with the extermination plan is essential. All apartments in a building must be treated for the plan to be effective. Tenants will be given information about the extermination program at the time of move-in. All tenants will be informed at least one week before treatment. The notification will be in writing and will include instructions that describe how to prepare the unit for treatment. If necessary, the instructions shall be bilingual to properly notify the tenant population.

B. Landscaping and Grounds

The Maintenance Supervisor will prepare a routine maintenance schedule for the maintenance of the landscaping and grounds of its properties that will ensure their continuing attractiveness and marketability. The Supervisor will approve service contracts for landscaping.

Routine grounds maintenance includes numerous activities:

1. Litter control
2. Lawn care
3. Maintenance of driveways, sidewalks and parking lots
4. Care of flower and shrubbery beds and trees
5. Maintenance of playgrounds, benches and fences

The Maintenance Supervisor shall be responsible for the development of a routine maintenance schedule that shall include the following:

1. A clearly articulated standard of appearance for the grounds that acknowledges but is not limited to HUD and local code standards;
2. A list of tasks that are required to maintain that standard and the frequency with which the tasks must be performed;
3. The equipment, materials, and supplies required to perform the tasks and a schedule for their procurement; and

C. Building Exteriors and Interior Common Areas

The appearance of the outside of housing buildings as well as their interior common areas is important to their marketability. Therefore, the Maintenance Supervisor has established a routine maintenance schedule to ensure that they are always maintained in good condition. The components to be maintained include:

1. Family Investment Center Lobby
2. Public restrooms
3. Lighting fixtures
4. Common rooms and community spaces
5. Fences/Patios
6. Building walls
7. Windows

The Maintenance Supervisor is responsible for the development of a routine maintenance schedule for building exterior and interior common areas. The schedule shall be based on the following:

1. A clearly articulated standard of appearance for the building
2. A list of tasks required to maintain that standard
3. The frequency with which the tasks must be performed
4. A list of materials, equipment and supplies required performing the tasks.

D. Interior and Exterior Painting

The appearance and condition of the paint within each unit is important to unit condition and tenant satisfaction. Accordingly, the Maintenance Supervisor will develop a plan to ensure that interior paint in tenant dwelling units is satisfactorily maintained.

As part of this plan painting standards will be developed that include:

1. Surface preparation
2. Protection of non-painted surfaces
3. Color and finish
4. Paint quality
5. Methods of application approved

The plan will set out the conditions for the consideration of a painting request. These standards include the period of time that has elapsed since the last time the unit was painted. Alternatives for performance of the work will be included including the conditions under which a tenant will be allowed to paint his or her own unit.

## **2.6 TENANT GENERATED WORK ORDERS**

This category of work refers to all tenant generated work requests that fall into no other category. These are non-emergency calls made by tenants seeking maintenance service. These requests for service cannot be planned in advance or responded to before the tenant calls.

It is the policy of the City's Housing Office to complete these work requests within three (3) to seven (7) days. However, unless the request is an emergency or entails work that compromises the habitability of the unit, these requests will be given a priority above scheduled routine and preventive maintenance. By following this procedure, the City's Housing Office believes it can achieve both good tenant service and a maintenance system that completes the most important work first and in the most cost effective manner.

## **3.0 CONTRACTING FOR SERVICES**

The City's Housing Office will contract for maintenance services when it is in the best interests to do so. When the maintenance staff has the time and skills to perform the work at hand, they will be the first choice to perform a given task. When the maintenance staff has the skills to do the work required, but there is more work than there is time available to complete it, the City's Housing Office will determine whether it is more cost effective to use a contractor to complete the work. If the maintenance staff does not have the skills to complete the work, a contractor will

be chosen. In the last instance, the City's Housing Office will decide whether it will be cost effective to train a staff member to complete the work.

Once the decision has been made to hire a contractor, the process set out in the City's Procurement Policy will be used. These procedures vary depending on the expected dollar amount of the contract. The Housing Manager and the Maintenance Supervisor will work with the City's Purchasing Division to facilitate the contract award. The most important aspect of the bid documents will be the specifications or statement of work. The clearer the specifications, the easier it will be for the City's Housing Office to get the work product it requires.

#### **4.0 MAINTENANCE CHARGES**

1. Routine maintenance (labor charges) performed by maintenance staff during regular business hours 8:00 A.M. 4:00 P.M., Monday – Friday is charged at a rate of \$42.00 per hour. A minimum labor charge of \$21.00 is charged for all service calls.
2. Maintenance performed by maintenance staff (labor charges) after hours (other than the normal posted business hours) is charged at a rate of \$63.00 per hour.
3. Maintenance charges for afterhours service requests that require an outside contractor or vendor will be charged at the rate the contractor charges plus the cost of materials.
4. Charges to clean yards, alleys, or the area of responsibility around residences will be charged at the rate the contractor charges plus the cost of materials, or the hourly staff costs and charges as referenced in #1 above.
5. Lockouts during regular business hours will be billed at a rate of \$42.00 per hour with a minimum charge of \$21.00. After hours lockouts will be billed at time and a half rate of \$63.00 per hour, with a minimum charge of \$63.00. Material charges may be additional.
6. Lock changes are billed at \$26.07 per core, plus labor.
7. Repairs for broken windows will be charged the rate the contractor charges for labor and materials if done by a contractor, or the appropriate hourly maintenance rate plus the cost of materials if the work performed is done by the maintenance staff.
8. Refusal or inaccessibility to perform monthly pest control service will result in a \$60.00 rescheduling fee plus cost of materials.
9. Labor charges related to damages and repairs cost for items found not to be normal wear and tear at the time of move out will be charged at the standard maintenance charge per hour for labor plus the cost of materials. Contractor costs (if any) will be charged at the actual contractor invoice amount.
10. The cost of materials in all cases will be the actual cost of the materials plus a 10% fee for handling. (This includes taxes and postage/handling/trip fees.)

11. Charges for materials or repairs caused by tenant misuse or abuse will be charged at the standard maintenance hourly rate plus the cost of materials if done by city staff or the actual cost charged by an outside vendor if not done by city staff.

## 5.0 KEY INFORMATION AND CHARGES

### **Key Information**

Tenants will receive two (2) keys at move-in and when the door has to be rekeyed by installing a different core (recore).

### **Additional Keys**

The cost for each additional key is \$6.75.

### **Additional Keys with No Recore Request**

If a tenant requests additional keys because of a lost key and refuses to have their unit locks re-cored, the tenant will be required to sign a "*Liability Wavier*" prior to the additional key being issued.

### **Lost Keys**

If the tenant loses their key and request to change the locks the charges are as follows:

# of Locks	Total Cost
2	\$ 91.14
3	\$ 117.21
4	\$ 153.78
5	\$ 179.85
6	\$ 205.92
7	\$ 242.49
8	\$ 268.56
9	\$ 305.13

$$\text{Total Core Charge} + \text{Trip Charge/Labor} + \text{Total Key Cost} = \text{Total Cost}$$

### **Bedroom Door Locks**

If the tenant is requesting a bedroom door lock be installed, the tenant must fill out the proper request for the approval of the modifications. If approved, the tenant will be informed that it is a one-time non-refundable rental fee covering the lock, core, keys, and installation of one bedroom door.

The amount charged (rental) to the tenant will be \$ 53.00 per bedroom door.

### **Payment**

Keys must be paid in advance

## 6.0 TEMPORARY RELOCATION ASSISTANCE AND TRANSFERS

Families residing in Chandler Public Housing may be asked to temporarily relocate for reasons that may include maintenance, capital improvements, or on a case-by-case basis for emergency purposes. This list is not all inclusive.

Depending upon the circumstances for relocation, the City's Housing Office may find it necessary to permanently move a family to a different unit.

The City's Housing Office will work closely with the Housing Specialist, Housing Supervisor, Housing Maintenance, and the assisted family to ensure the family is relocated in a timely manner, to an available unit that best suits the family's needs.

Please refer to the following for additional detail and forms for relocation and transfers:

- COCHRD'S Admissions and Continued Occupancy (ACOP) Policy, chapter 12;
- COCHRD's Temporary Relocation Forms Policy
- COCHRD's VAWA Emergency Transfer Plan



## Pet Policy

The terms of this policy apply to the City of Chandler Housing and Redevelopment Division (the "City's Housing Office) Conventional Public Housing Program. This policy does not apply to previously approved and registered animals that are used to assist, support or provide service to persons with disabilities, or to service animals that visit public housing developments (See Assisted/Service Animal Policy).

A pet will not be approved to reside in a unit or on the leased property until registration requirements are met and a pet agreement is executed and approved.

**A. Registration of Pet:** Registration includes the following:

1. A completed and signed pet permit (attached);
2. Documentation signed by a licensed veterinarian or state/local authority that the pet has been spayed or neutered as applicable or in the case of underage animals within 30 days of the pet reaching 6 months of age;
3. Documentation signed by a licensed veterinarian that the pet has received all inoculations required by state or local law;
4. Documentation signed by a licensed veterinarian or state/local authority that the pet has no communicable disease(s) and is pest-free;
5. Documentation that the pet is licensed in accordance with state or local law; and
6. One photograph of the pet.

Registration must be renewed annually and will be coordinated with the annual reexamination date.

**B. Pet Standards:** All residents permitted to keep a pet under this policy shall comply with the following standards:

1. Only one pet, except fish, per household will be permitted.
2. A *common household pet* means a domesticated animal, such as a cat, dog (maximum adult weight: 20 pounds full grown), fish, and bird that are traditionally recognized as a companion animal and is kept in the home for pleasure rather than for commercial purposes. The City's Housing Office also permits a hamster, gerbil, guinea pig or a turtle. The size of the aquarium may not exceed 10 gallons. In the case of fish, residents may keep no more than can be maintained in a safe and healthy manner in

a tank holding up to 10 gallons. Such a tank or aquarium will be counted as one (1) pet.

3. The following pets are not considered common household pets and will not be allowed:
  - i. Vicious or exotic, reptiles, insects (e.g., ant farms), arachnids (tarantulas), wild animals or feral animals, pot-bellied pigs, animals used for commercial breeding and/or intimidating pets.

### **C. Pet Deposits and Fees**

#### **1. Pet Deposits and Fees in the Family Developments:**

- i. Resident/Pet owners of a dog or cat that meet the standards are required to pay a \$250 deposit before the pet is brought on the premises. \$100 is refunded when the resident vacates the premises and the property has no damages caused by the pet. \$150 is a non-refundable pet sanitation fee.
- ii. Resident/Pet owners, who have a dog or a cat that meet the standards, are required to pay a non-refundable pet fee of \$10 per month.

#### **2. Pet Deposits and Fees in the Elderly Designated Development:**

- i. Resident/Pet owners of a dog or cat that meet the standards are required to pay a \$250 deposit before the pet is brought on the premises. The \$250 pet deposit is refunded when the resident vacates the premises and the property has no damages caused by the pet.
- ii. Resident/Pet owners, who have a dog or a cat that meet the standards, are not required to pay a non-refundable pet fee or a sanitation fee.

#### **3. Sanitation fee for unauthorized pets:**

Residents who have a dog or cat without the written permission of the City's Housing Office will be charged a \$150 sanitation fee and must remove the animal from the premises within 48 hours.

### **D. Other Charges During Occupancy**

1. Pet Related Damages During Occupancy: All reasonable expenses incurred by the City's Housing Office as a result of damages directly attributable to the presence of the pet in the property will be the responsibility of the resident, including but not limited to:
  - i. The cost of repairs and replacement to the resident's dwelling unit
  - ii. Fumigation of the dwelling unit
  - iii. Repairs to common areas of the property
  - iv. Elimination of fleas

2. Pet Waste Removal Charge: A separate pet waste removal charge of \$21.00 (a minimum labor charge) per occurrence will be assessed against the resident/pet owners who fail to remove pet waste in accordance to this policy.
- E. **Pet Rules:** Resident/Pet owners must maintain pets responsibly, in accordance with the City's Housing Office policies, and in compliance with applicable state and local public health, animal control, and animal cruelty laws and regulations.
1. All permitted pets must be maintained within the resident's unit. When outside of the unit (within the building or on the grounds) dogs and cats must be kept on a leash not to exceed six feet in length and must be under the control of the resident or other responsible individual at all times. Birds, hamsters, and gerbils must be confined to a cage at all times. Resident/Pet owners who reside in Scattered Sites are permitted to have the dog in the back yard.
  2. Pets are not permitted in the following common areas including but not limited to: lobbies, community rooms, playgrounds and basketball areas.
  3. The Resident/Pet owner shall be responsible for the removal of waste by placing it in a sealed plastic bag and disposing of it in a suitable covered trash container.
  4. The resident/pet owner shall take adequate precautions to eliminate any pet odors within or around the unit and to maintain the unit in a sanitary condition at all times.
  5. The waste from litter boxes should be disposed of promptly and it must be maintained in a sanitary manner. Litter shall not be disposed of by being flushed through a toilet and litter boxes shall be kept inside the resident's dwelling unit.
  6. Resident/Pet owners shall not alter their unit, patio, premises or common areas to create an enclosure for any pet. The installation of pet doors is prohibited.
  7. Resident/Pet owners shall not permit their pet to disturb, interfere or diminish the peaceful enjoyment of neighbors. The term "disturb, interfere and diminish" shall include but not be limited to loud or continuous barking, howling, whining, chirping, biting, scratching, and other like activities. Complaints of disturbances or reactions of this nature shall constitute a violation of the lease and may result in the revocation of the pet permit, termination of the lease agreement, or both.
  8. No animals may be tethered or chained inside or outside the dwelling unit at any time.
  9. Resident/Pet owners will be required to designate two responsible parties for the care of the pet if the health or safety of the pet is threatened by death or incapacity of the resident/pet owner, or by other factors that render the resident/pet owner unable to care for the pet.
  10. If the pet is left unattended for a period of twenty-four (24) hours or more, the City's Housing Office may authorize entrance to the dwelling unit, removal of the pet and transfer of the pet by proper authorities, subject to provision of Arizona law and local ordinances. The City's Housing Office accepts no responsibility for the animal under such circumstances.

11. Residents are prohibited from feeding or harboring stray animals. The feeding of stray animals shall constitute having a pet without the written permission of the City's Housing Office.
12. Residents are prohibited from having a pet without the written permission of the City's Housing Office. This includes but not limited to a visiting pet or pet sitting.
13. Resident/Pet owners are responsible for the safety and health of their pet and to secure the pet during those scheduled occasions when the dwelling unit is being treated for control of pests or inspected.
14. Anchors that attach to the building, dog kennel or drill into the ground are not allowed.

#### F. **Pet Rule Violations**

All complaints of cruelty and all dog/cat bites will be referred to animal control or an applicable agency for investigation and enforcement.

If a PHA determination is made on objective facts supported by written statements received by an eye witness, that a resident/pet owner is in violation, the City's Housing Office may serve a written notice of lease violation(s) to the resident/pet owner. The resident/pet owner will have 3 business days from the effective date of the notice to correct the violation(s) or make a written request for a meeting to discuss the violation(s).

The resident/pet owner's failure to correct the violation(s), request a meeting, or appear at the requested meeting will result in the resident/pet owner being served a written lease counseling/termination warning. Any resident/pet owners who have a dog or cat without the written permission of the City's Housing Office will also be charged a sanitation fee listed in paragraph C and monthly pet fee for the months the dog or cat was in the unit.

The resident/pet owner's failure to correct the violation(s) after receiving the written lease counseling/termination warning will result in the initiation of procedures in paragraph H.

#### G. **Pet Removal**

1. If the death or incapacity of the resident/pet owner threatens the health or safety of the pet, or other factors **occur that render the owner unable to care for the pet, the situation will be reported to the** responsible party designated by the resident/pet owner.
2. If the responsible party is unwilling or unable to care for the pet, or if the City's Housing Office, after reasonable efforts, cannot contact the responsible party, City's Housing Office may contact the appropriate state or local agency and request the removal of the pet.
3. In the event of the death of a pet, the resident/pet owner shall properly and immediately remove and dispose of the remains. The remains shall not be placed in any container on the grounds of the property or in a container on the property grounds.

4. The privilege of maintaining a pet in a unit owned and/or operated by the City's Housing Office shall be subject to the requirements set forth in paragraph E, above. This privilege may be revoked at any time, subject to the grievance procedures.
5. If the pet is removed as a result of any aggressive act on the part of the pet, the pet will not be allowed back on the premises.

#### **H. Termination of Tenancy**

1. The City's Housing Office may initiate procedures for termination of tenancy based on a pet rule violation if:
  - i. The resident/pet owner failed to remove the pet or correct the pet rule violation within the time period specified, or
  - ii. The resident/pet owner has repeated violations of the pet agreement.



## Pet Permit

Application for written permission to keep the following pet in a dwelling unit operated under the City of Chandler Housing and Redevelopment Public Housing program is hereby made:

Type of Animal:

---

Description of Animal:

---

Aquarium Size: \_\_\_\_\_ gallon\*\*

**The size of the aquarium may not exceed 10 gallons.**

I have attached the following:

- ☐ Documentation signed by a licensed veterinarian or state/local authority that the pet has been spayed or neutered as applicable or, in the case of underage animals, within 30 days of the pet reaching 6 months of age;
- ☐ Documentation signed by a licensed veterinarian that the pet has received all inoculations required by state or local law;
- ☐ Documentation signed by a licensed veterinarian or state/local authority that the pet has no communicable disease(s) and is pest-free;
- ☐ Documentation that the pet is licensed in accordance with state or local law; and
- ☐ One photograph of the pet.

I designate the following two responsible parties for the care of my pet if the health or safety of my pet is threatened by death or my incapacity, or by other factors that render that I am unable to care for the pet.

---

Name of Responsible Party

---

Phone

---

Name of Responsible Party

---

Phone

## Pet Ownership Certification

**I certify to the following:**

- I have a pet;
- I have received a copy, read and understand the above policy provisions;
- I agree to abide by those provisions, and
- I also understand that this policy is an attachment to my Lease and that a noncompliance with this policy may result in the withdrawal of the approval or termination of tenancy.

---

Head of Household Signature

---

Date

---

Tenant Address

**I certify to the following:**

- I do **not** have a pet;
- I have received a copy, read and understand the above policy provisions;
- I agree to abide by those provisions, and
- I also understand that this policy is an attachment to my Lease and that a noncompliance with this policy may result in termination of tenancy.

---

Head of Household Signature

---

Date

---

Tenant Address

# **City of Chandler Housing and Redevelopment's Strategic Plan**

Attachment Q

## **An Updated Vision for Affordable Housing in Chandler**

**2020-2025**





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## **I. Purpose of the Strategic Plan**

The City of Chandler Housing and Redevelopment Division (a.k.a. the Chandler Housing Authority) has historically served the housing needs of persons whose income is low and very low in the City of Chandler through HUD funded low rent public and Section 8 housing. COCHRD has provided “decent, safe, and sanitary” low-income public housing to Chandler’s citizens since 1972. Throughout the decades the needs of our community have changed, and our agency needs a strategic plan to meet the changing needs proactively.

The City of Chandler Housing and Redevelopment Division (COCHRD) is poised to transition from a provider of decent, safe, and sanitary housing to the provider of affordable housing that meets a higher community vision. This transition involves the potential disposition, demolition, or conversion of properties that no longer meets COCHRD’s and City of Chandler viability and community standards. Strategies include redevelop opportunities through HUD’s repositioning strategies to leverage a public private partnership. In order to facilitate this challenging and lofty agenda, COCHRD will pursue leveraging some of its limited resources to develop a creative plan that may allow COCHRD to fund and execute the change. We must consider doing some things we have never done before.

The planning and achievement of our updated vision will result in the delivery of higher quality, affordable housing for our residents and applicants and the utilization of staff intellectual resources to effectively direct the assets of the Chandler Housing Authority. Staff comprised of resources positioned in the Central Cost Center will investigate and potentially function more as a quasi-enterprise entity to become financially stronger and less dependent on unreliable HUD funding. This is one of the principal purposes of our Strategic Plan.

The Public Housing Authority Commission (the governing Board), the Housing and Redevelopment Manager, and staff of the COCHRD envision an evolving affordable housing product to better serve the modern needs of the City of Chandler. The older “Public Housing” product has served the needs of our community but has become outdated and lacks modern design and functionality to fit the needs of our family residents. Meeting the needs is a challenging objective that significantly impacts the lives of our residents and the future of the community. To systematically transition our housing assets from the current federally funded “Low Rent and Section 8 Public Housing” to a product of mixed-income affordable housing products will take the coordination and cooperation of the COCHRD, residents, City of Chandler, and the federal government.

## II. The Vision Statement

### **Vision Statement:**

Creating and sustaining healthy, diverse neighborhood housing opportunities that promote individual responsibility, economic growth, human dignity, and hope for the future.

## III. The Mission Statement

### **Mission Statement:**

The City of Chandler Housing and Redevelopment Division (COCHRD), together with our community partners, work to maintain safe, decent, and affordable housing for low-income individuals and families within our community.

## IV. Strategic Goals and Objectives:

### **COCHRD Goals are as follows:**

- Goal One: Assist the availability of affordable, decent, safe, and affordable housing.
- Goal Two: Improve community quality of life and economic vitality.
- Goal Three: Promote self-sufficiency and asset development of families and individuals.
- Goal Four: Ensure Equal Opportunity in Housing for all Americans.

### **COCHRS Objectives to meet these goals are to:**

#### **1) Manage the Housing Choice Voucher and Public Housing programs in an efficient and fiscally sustainable manner that will result in compliance and excellent customer service**

Continue to meet all criteria as a Standard Performing public housing authority in HUD's Public Housing Assessment System (PHAS) and Section Eight Management Assessment Program (SEMAP) evaluations. Promote a work environment that is motivating, dynamic, and innovative. Provide staff training to keep pace with changing federal housing programs. Maintain policies and procedures in compliance with current HUD regulations and standards.

#### **2) Maintain and strengthen financial viability**

Work to achieve positive cash flow within each managed program and asset. This includes continuing to increase the sources of nonfederal and federal funding. This may require several years of transition to accomplish. The Administrative and Management center may also look for opportunities to manage or acquire other affordable housing units and added them to the portfolio. When developing, HUD income streams may involve developing partnerships with private or nonprofit entities using tax credits and project-based vouchers

as well as other innovative financing vehicles. It may also include revenues from fee for service based professional property management services.

### **3) Improve public housing through demolition, disposition, or a combination of redevelopment and demolition, to transition our residents into more modern affordable housing family developments**

Upgrade and modernize public housing developments by developing a variety of housing options including preserving current public housing, and/or reposition public housing into public/private partnership. Evaluate and implement rehabilitation of existing housing or replace existing stock with new construction, when feasible to increase livability and sustainability of our community.

The Rental Assistance Demonstration (RAD), Section 18 (disposition), and other innovative approaches (i.e. financed with low income housing tax credits, federal home loan bank, federal and other sources) enhances the quality of life and promotes responsibility and accountability of our residents. Through HUD's repositioning strategy options, consider increasing existing multi-family units count, reduce the number of existing multi-family sites to maximize operation efficiency, increase the number of units for seniors, consider mixed income housing; construct new rental housing developments, and provide homeownership.

### **4) Reposition the Scattered Site (nonfederal and federal) housing stock**

Through rehabilitation, disposition, (sale of properties) reposition assets to more multi-family style properties that are consolidated and less costly to manage. Utilize the proceeds from the sale of any assets to support and develop new rental units and a self-sustaining community enhancing homeownership program.

### **5) Continue to expand case management for our housing residents and participants and link to other human and social service providers**

Target and acquire available grants for continued development of innovative approaches for aiding responsible residents to achieve increased family self-sufficiency. Continue to increase the Family Self Sufficiency

To determine how to identify the different tenant population types that utilize our affordable housing products and examine how to best serve those individuals and families to aid them to become self-sufficient or less reliant on the safety net programs. Connect with the transportation, family support services and other business community to increase self-sufficiency.

The challenge is to find resources to evaluate, match and link tenants/families that have social/human services needs with providers that can assist our families. Tenant self-sufficiency will free up existing affordable housing for others to use. This will bend the curve for the growing need for more affordable housing.

**6) Require greater accountability for participants and landlords of all HCV programs**

Educate and train staff, participating and potential landlords in how existing HCV program regulations support stricter lease enforcement by landlords and lease compliance by participants to ensure that responsible and respectful participants are welcomed in every neighborhood. Expand Chandler's family self-sufficiency participation to demonstrate increased responsibility of participants to the community as more become self-supporting and free of all sources of subsidy.

**7) Achieve greater accountability for public housing residents through strengthened lease enforcement and lease provisions as well as enhanced monitoring and training.**

Develop, revise, and refine lease provisions, administrative rules and supporting policies and procedures to create an enforceable lease that will sustain challenges through the hearing and court processes. Link appropriate infractions to a fee structure. Allocate staff time and resources to the timely processing of lease and rule enforcement.

**8) Continue to improve efficiency and effectiveness of our work force through targeted training programs, ongoing evaluations, and hiring/retention practices.**

Key staff and leadership positions will be retiring and leaving the Housing and Redevelopment Division over the next five years. Recruitment and retention of qualified staff will become critical as the Division transitions to new leadership in all key supervisory positions. Training and elevation of qualified existing Housing staff will be necessary as long-term experienced staff leave the Division. Consultants and on-site training may become necessary as vacancies occur.

**9) Continue to focus on curb appeal of the exterior and interior of all our developments.**

Focus staff on the importance of attention to detail in improving resident and public perception as well as our ability to effectively market our buildings. Monitor Housing Division Performance Indicators within the Central Cost Center and report to the Housing and Human Services Commissioners.

**10) Provide a safe environment for our residents.**

Utilize lease enforcement, pre-lease screening, as well as city security efforts to screen or remove from tenancy those who are irresponsible and / or disrespectful with respect to the lease, vision and mission objectives. All programmatic efforts for families are to be focused on measures that will aid families to develop abilities necessary to move up and out of public housing.

**11) Develop and implement a streamlined online application and waiting list process.**

Utilize an online process for applicants to submit applications and update applicant

information without having to complete and submit a paper form.

## **12) Utilize a random lottery system for wait list placement.**

Utilize a lottery system for pre-applicant placement on the waitlist to be determined by a random lottery system to include preferences, thereby allowing all applicants with preferences the opportunity for an eligibility appointment no matter the place on the list.

## **V. Guiding Principles:**

1) Partnership and continued relationship and participation in Chandler's housing programs is contingent upon the partner maintaining alignment with Chandler's Vision and Mission quality criteria. This guiding principle applies to existing and future landlords, development partners, and recipients of housing assistance.

2) Affordable housing exists and Chandler may develop, and/or acquire affordable housing that delivers an income mix ratio to the maximum extent feasible with the following targets: (+/- 10 percent tolerance of):

- a. 80% - Low-Income/Public Housing/Housing Choice Voucher - Section 8
- b. 15 % - Affordable Housing /Tax Credit
- c. 5% - Market Rate or Near Market Rate income

3) For strategic planning purposes, planning term lengths shall be as follows:

- a. **Short Term** - 1 Year or Less.
- b. **Mid Term** - Greater than 1 Year and less than 3 Years.
- c. **Long Term** - Greater than 3 years

4) Homeownership – Chandler will seek to develop appropriate homeownership opportunities to assist in transitioning residents who demonstrate capacity to independently own and manage a home.

5) The Housing Division staff will build capacity for development, acquisition, and management of new/rehabilitated units through the Operating/Capital Fund Leveraging, Tax Credits, Acquisition, Partnership, and other affordable housing opportunities with developers whose products align with our vision and mission.

8) Develop, acquire, or rehabilitate affordable housing utilizing energy efficient building practices and environmentally friendly building designs/products to the maximum extent feasible.

## **Progress Report on Five-Year Plan (FY2020-2025)**

The City of Chandler Housing and Redevelopment Division (COCHRD) has worked toward achieving the goals outlined in the Five-Year Strategic Plan 2020-2025.

Goal One: Assist the availability of affordable, decent, safe, and affordable housing.

Goal Two: Improve community quality of life and economic vitality.

Goal Three: Promote self-sufficiency and asset development of families and individuals.

Goal Four: Ensure Equal Opportunity in Housing for all Americans.

Staff and Public Housing Authority Commission (PHAC) have embraced the challenging steps involved in working toward promoting affordable housing, creating opportunities for economic self-sufficiency and the availability of an affordable living environment free from discrimination.

### **Below is the progress towards each goal in the five-year plan ending FY2023 (June 30, 2023) – Year Four**

Goal One: Assist the availability of affordable, decent, safe, and affordable housing.

Goal Two: Improve community quality of life and economic vitality.

Goal Three: Promote self-sufficiency and asset development of families and individuals.

Goal Four: Ensure Equal Opportunity in Housing for all Americans.

#### **Goal One: Assist the availability of affordable, decent, safe and affordable housing.**

**Objective 1: Manage the Housing Choice Voucher and Public Housing programs in an efficient and fiscally sustainable manner that will result in compliance and excellent customer service.**

Progress: COCHRD continues to meet all criteria as a Standard Performing public housing authority in HUD's PHAS and SEMAP assessment. PHA Score for Fiscal Year 2020 was 92, in 2021 and 2022 it was N/A due to COVID waiver, however, recently REAC inspection was conducted in 2023 and we received a score of 38/40 for Physical ( final report is not yet available). SEMAP scores SEMAP score was Standard Performer and COCHRD will continue working towards a high performer rating.

The waiting list for Public Housing and HCV is currently closed.

COCHRD continues to operate and provide customer service to housing residents through housing programs, to include 495 HCV, 303 public housing, 28 emergency housing vouchers, 11 affordable housing, 25 Tenant Based Rental Assistance (TBRA), and 10 Veterans Affairs Supportive Housing (VASH) vouchers.

The global pandemic of the Corona Virus (COVID-19) caused COCHRD to adopt another customer service option to include touchless administration of services. COCHRD implemented an online (WaitWhile software on the website) as well as the call-in to front desk phone to request for appointments. The HUD approved waivers related to the operations of the agency were posted on the website and included in the PHA plan. However, most of the waivers expired Dec 31, 2022. In January 2022, COCHRD requested a waiver to increase 2022 Payment Standards which was

approved by HUD. In January 2024, COCHRD maintained payment standards to 119 percent of the Fair Market Rent (FMR). Early 2024 estimates appear to show a leveling of rents and an uptick landlord interest in HCV program with some retention of leased participants in their current unit. COCHRD continues to work with our housing software vendor to improve efficiency and maximize usage of the software systems. In 2021, COCHRD upgraded our housing software systems and implemented Compliance Exchange to add to the RENTCafe and the landlord portal (resident and landlord portal) for HCV and public housing programs. The Housing Drop Box located outside our office continues to be available for all residents to allow residents/participants to hand deliver documents as an alternative.

Public housing vacancy rate continued to remain steady, with only approximately a 1.0 percent vacancy rate over the preceding annual term between July 1, 2023 and June 30, 2024. Staff continues to monitor this area daily to turn units around and fill vacancies as quickly as possible.

Other housing programs include owning and operating eleven (11) affordable housing (two townhomes – HOME funded, three condos, four scattered senior housing single-family homes, and two duplexes). The affordable housing stock will continue to be rented at below market rents that will be affordable to families that make between 50%-80% of area medium income with rents between \$1,102 and \$875. The occupancy rate is 98% for this last year.

Tenant based rental assistant (TBRA) HOME program has a total of 25 formally homeless clients and uses coordinated support service provided by in-house Housing Stability Specialist. In 2022, COCHRD transitioned from the local non-profit AZCEND to the City providing the case management services for the TBRA program.

Outreach and community involvement is required as per federal requirements. COCHRD established a Resident Advisory Board (RAB) comprised of both Public Housing residents and HCV Program participants to review the Annual PHA Plan and provide comments to program policies. The comment period was between January 19 and March 5, 2024. A Public Hearing was held on Feb. 7, 2024. There were no public comments. RAB meetings were held on December 14, 2023, and January 17, 2024, with Spanish translation available at the meetings.

## **Objective 2: Maintain and strengthen financial viability**

Progress: COCHRD operates in a fiscally prudent manner. The City of Chandler general fund contributes \$405,511 in annual ongoing funding to support and help shore up the HUD Public Housing and Section 8 Programs. Our current Public Housing reserve is over two million dollars. These actions have helped to stabilize our financial conditions and maintain an excellent level of operations.

Management staff is keeping an eye towards diversifying financial interests in our HUD portfolio. Staff completed the initial phase of exploring and researching the Rental Assistance Program and is pursuing in partnership with a co-developer the first public housing repositioning project. Further information is available under Objective 3.



In 2022, the COCHRD was successful in keeping our elderly Kingston Arms Apartments designated for the elderly. The renewal of Kingston Elderly Designation is due August 2023.

Chandler has expanded the housing programs stock through the creation of housing location maps, landlord outreach, and by consistently monitoring the payment standard for the Housing Choice Voucher program. Our Housing Division adjusted the payment standards effective Jan. 2024 to accommodate the recent increases in our local market rents.

### **Housing Choice Voucher Payment Standards Effective Jan. 1, 2024**

Bedroom Size	Payment Standard
0	\$1,599
1	\$1,746
2	\$2,071
3	\$2,839
4	\$3,232
5	\$3,717
6	\$4,202

We have set systems in place to maintain a high voucher utilization rate and plan to work within the HUD guidelines to maximize the utilization of the Housing Choice Voucher program vouchers and/or budget. HCV utilized close to 85 percent of the vouchers HUD has allocated to Chandler during this period and utilized 100% of funding. However, maintaining our utilization rate will continue to be a challenge in 2024, as we work to maintain our ability to service those in need with the peculiar demands of managing varying costs within a budget-based system of funding.

#### **Goal Two: Improve community quality of life and economic vitality.**

#### **Objective 3: Improve public housing through demolition, disposition, or a combination of redevelopment and demolition, to transition our residents into more modern affordable housing family developments.**

Progress: Rental Assistance Demonstration (RAD) and or Section 18 Demo/Dispo programs to encourage redevelopment of 303 public housing units. In addition, Tax Credit projects, tax exempt bonds or other grants may play a role in transforming COCHRD revenue stream in this year. In 2020, COCHD procured a solicitation for a co-developer to assist in repositioning public housing. A Request for Qualification (RFQ) and Request for Proposal (RFP) was issued to assist the COCHRD to build an affordable housing project on a City-owned vacant site. To increase the capacity and serve more low-income residents, the City purchased voluntarily a privately owned 14-unit apartment complex adjacent to the City owned property. COCHRD provided relocation services and financial assistance as required per the Uniform Relocation Assistance and Real

Property Acquisition Policies Act of 1970, as amended, 42 U.S.C. 4601, and the department of Transportation's implementing regulations, 49 CFR part 24, that apply to this activity. City also hired a professional relocation firm to notify, relocate and provide moving and rental assistance.

On 7/14/2022, City Council approved to create a new affordable housing project to serve as a new site of a family and senior multifamily housing project, with approximately 157 units of housing, including a mix of 1, 2, 3, 4 and 5 bedroom units, community space and park area (the "Trails End Project") now referred to as Villas on McQueen. The City's PHA consulted with real estate professional and concluded that it is both feasible and, in the City's, best interest to submit a RAD Program application and pursue the redevelopment of the Chandler Public Housing Portfolio. Villas on McQueen (formerly known as Trails End) site was identified as a site to transfer residents on the new constructed site to limit relocation of residents. The City of Chandler Council approved Resolution 5640 on 10/2022 to co-develop the Villas on McQueen project. and Public Housing Authority (PHAC) approved to submit a RAD application and COCHRD submitted a RAD application in February 2023 to HUD. Received conditional funding for Villas on McQueen with over \$11M in soft funding and solidified LIHTC and State tax credit investor. Anticipated close date of Villas on McQueen approximately \$56M project will close May/June 2024.

When developing the remaining public housing portfolio, HUD income streams may involve developing partnerships with private or nonprofit entities through the use of tax credits and project-based vouchers as well as other innovative financing vehicles to include Section 18 demolition/disposition. COCHRD is looking to continue to utilize Rental Assistance Demonstration (RAD) or Section 18 to convert public housing to project-based Section 8.

In addition to submitting a letter of intent and RAD application for HUD's RAD program in 2020, Starting in 2020, COCHRD had resident meetings requesting input from residents regarding RAD and had two resident meetings in 2023 and will continue to schedule meetings throughout the RAD process.

COCHRD issued an RFQ and RFP for the future development opportunities at the two public housing sites and will research and pursue local non-profit partnership or other P3 for possibility of obtaining special purpose vouchers and/or project-based vouchers at an existing apartment community.

**Goal Four: Reposition the Scattered Site (nonfederal and federal) housing stock.**

COCHRD may decide to implement this strategy but has not at this time.

**Goal Three: Promote self-sufficiency and asset development of families and individuals.**

**Goal Five: Continue to expand case management for our housing residents and participants and link to other human and social service providers.**

Progress: COCHRD has annually applied for and received a Public Housing/Housing Choice

Voucher Family Self-Sufficiency Coordinator grant in 2022. This program strengthens our existing Housing Choice Voucher and Public housing programs and provides additional links to accredited higher education and job training skills. Currently, 120 families participate in the FSS programs.

Most discretionary policies and programs are created to promote self-sufficiency of tenants through a system of comprehensive supportive programs. Staff works to assist housing residents that need assistance by matching resources to promote tenant education and self-sufficiency. Our principal mission is “affordable, decent, safe, and sanitary housing” in conjunction with meeting HUD rules and policies augmented with preferential local controls. We support this mission through other social service/educational programs, which include the Housing Youth Center, Youth Recreation Program, the Capital Improvement Program, and Social Service partnerships with other social service providers.

The Public Housing Youth Staff main hub is the Housing Youth Center (HYC), Housing Youth Program return to its normal hours and programing after school Monday-Friday 3:30-7:15 at each of the four (4) family public housing sites.

COCHRD continues as Book Rich Environment (BRE) Public Housing Authority. COCHRD brings vibrant culture of books to public housing residents. In 2021, COCHRD received another delivery of free, high quality books to children and families, engage our local library, and build literacy partners in our community. The COCHRD is paused the Read to Succeed tutoring program. Volunteers tutor from referred by the library has been difficult because of the effects of COVID-19.

We also work closely with nonprofit homeownership programs and our Family Self-Sufficiency (FSS) Program to create Individual Development Account opportunities and FSS Escrow accounts to provide both financial and education support to prospective new homeowners.

**Goal Six: Require greater accountability for participants and landlords of all HCV programs.**

Progress: In an economic environment and limited available landlords accepting HCV, has presented our programs with uncertainties in leasing, however, the Housing Choice Voucher program families served has been fairly steady. The Housing Choice Voucher program budget is consistently managed to assure that Chandler has the best chance to utilize all 495 vouchers.

**Goal Seven: Achieve greater accountability for public housing residents through strengthened lease enforcement and lease provisions as well as enhanced monitoring and training.**

Progress: Chandler continues to be smoke-free housing since December 2017 for all public housing sites. Staff continues to provide resources and counseling letters for residents that may need assistance in cessation of smoking. Housekeeping and pest control services remain a priority for public housing. General emails and notices over the past year have been distributed to remind residents of lease provisions.

**Goal Eight: Continue to improve efficiency and effectiveness of our work force through targeted training programs, ongoing evaluations, and hiring/retention practices.**

Progress: COCHRD provided staff training through the City of Chandler HR department some of the trainings include mentorship program, emotional intelligence, fair housing training, Nan McKay and Associates certifications, and the AZNAHRO annual conference.

**Goal Nine: Continue to focus on curb appeal of the exterior and interior of all of our developments.**

Progress: Although COVID restricted construction activities within the public housing units, improvements were made to the exterior of the units such cabinet replacement, Roofing, Refrigerator replacement, shower/bath upgrades with capital fund which adds to the aesthetic appeal of the units. Our flat rent program encourages higher income residents to stay or join the public housing program. Our partnership with the Chandler Police Department also provides a direct link to their resources to help screen all tenants and to address and mitigate problems as they arise. We continue to have our resident council involvements to include our resident beautification participants.

**Goal Ten: Provide a safe environment for our residents.**

Progress: COCHRD is assigned a Housing Investigator from the Chandler Police Department to assist in positive community engagement with residents Average of 60 complaints were reviewed and investigated. The complaints are originated by residents and can reported as anonymous.

**Goal Four: Ensure Equal Opportunity in Housing for all Americans.**

**Goal Eleven: Develop and implement a streamlined online application and waiting list process.**

Progress: The waiting list for Public Housing and the Housing Choice Voucher is currently closed. The last time HCV was opened Jan. 27, 2020 to Feb. 10, 2020. The last time Public Housing opened Oct. 7-14, 2022.

**Goal Twelve: Utilize a random lottery system for wait list placement.**

Progress: The waiting lists for Public Housing and the Housing Choice Voucher are currently closed.



## House Rules for Public Housing

The House Rules ("Rules") of the City of Chandler Housing and Redevelopment Division (the "City's Housing Office") are incorporated into the Lease by reference. Tenants agree to comply with the Rules, Admissions and Continued Occupancy Policy (ACOP) and Lease. These Rules are reasonably related to the safety, care and cleanliness of the building, and the safety, comfort and convenience of the tenants. Failure to comply may lead to lease termination.

### I. CITY OF CHANDLER'S HOUSING RESPONSIBILITIES:

- A. These Rules will be applied fairly and uniformly to all tenants.
- B. City's Housing staff and representatives/designees of the U.S. Department of Housing and Urban Development ("HUD") will inspect each unit at least annually to determine compliance with Uniform Physical Conditions Standards ("UPCS"). Upon completion of an inspection, Housing staff will inform the tenant the specific correction(s) required for unit compliance. If the first inspection finds areas of non-compliance, Housing staff will inform the tenant that training is available if needed for compliance. Housing staff will schedule a second inspection within a reasonable period of time. Failure of a second inspection constitutes a serious violation of the Lease. Housing staff has the right to inspect as many times as it deems necessary, with appropriate notice to the tenant.

### II. TENANT'S RESPONSIBILITIES:

- A. The tenant is required to abide by these Rules. Failure to abide by the Rules may result in termination of the Lease.
- B. **OUTSIDE THE UNIT, the tenant must:**
  - 1) Keep the yard free of debris and trash. Exterior walls should be free of graffiti. Grease shall not be dumped on the exterior walls or grounds.
  - 2) Not damage the lawns or landscaping on the premises.
  - 3) Keep the front and rear patios, concrete slabs and steps clean and free of hazards. Any items stored on the patio must not impede access to the unit.
  - 4) Keep the sidewalks clean and free of hazards.
  - 5) Ensure that doors, windows and walls are kept clean and are not defaced.
  - 6) Not hang clothes and other items from trees, windows, bushes, patios, railings, etc., but only from designated clotheslines.
  - 7) Not hang or allow to be hung, wires or ropes from the windows, trees, or any other structure near a building.
  - 8) Obtain prior approval from the housing office, before installing a satellite dish, cable, telephone or internet. If approval was not obtained, the tenant will be responsible for all

damages and any charges associated with the removal, rerouting or repair from housing or the service provider. If approval is obtained, the tenant will refer to the installation guidelines for specific instructions.

- 9) Not to nail door wreaths into apartment doors. Tenants must use appropriate hangers, suction devices, or tape that will not damage the door finish.
- 10) Remove all seasonal decorations within three weeks after the celebrated holiday.
- 11) Not to place trampolines in the yards.
- 12) Not to place, use, keep, store, or maintain any upholstered furniture not manufactured for outdoor use, including, without limitation, upholstered chairs, upholstered couches, and mattresses, in any outside areas. Patio furniture must be in good condition.
- 13) Not have pools on any City's Housing property due to insurance restrictions.
- 14) Not use fire pits, fireplaces or chimneys (chimineas) on property.
- 15) Not have bounce houses or large inflatable play structures on any COCHRD property.
- 16) Not to place, use, keep, store, or maintain any inoperable outside cooking devices. Operable outside cooking devices must be used at a safe distance from the building to avoid any potential fire hazards. Outside cooking devices must not be stored in the common areas.
- 17) Not to use trees or gas meters for bike racks. Do not tie, lock, or attach bikes to a tree or a gas meter.
- 18) Not to use gas meter for any purpose. Do not use the gas meter or pipes to hang towels, rags, mops, brooms, etc.
- 19) Not to have garage/yard/patio sales.
- 20) Not to have more than four (4) potted plants. Each container shall not exceed a circumference of 12" and no taller than 12" (applicable only to family sites).
- 21) Not to make any alterations to the exterior of the building.
- 22) (Kingston Arms only) Keep the laundry area clean and neat. This includes removing lint from dryers and washers after each use. The equipment may only be used to wash and dry clothing or bedding. No other uses are permitted such as dyeing of fabric, etc.

**C. INSIDE THE UNIT, the tenant must:**

- 23) Not to make any alterations to the interior of the unit, this includes installing carpeting, painting, or alteration of walls, cabinets or other items without prior written consent.
- 24) Maintain the interior conditions of the unit by the following housekeeping standards:
  - a) Walls and baseboards: should be clean, free of dirt, grease, holes, and cobwebs
  - b) Floors: should be clean, dry and free of hazards, litter, and dirty clothes.
  - c) Ceilings: should be clean and free of cobwebs.
  - d) Windows: should be clean. Curtain hardware, shades and blinds should be intact.
  - e) Woodwork: should be clean, free of dust, gouges, or scratches.
  - f) Doors: should be clean, free of grease, gouges and scratches. Locks must all work.
  - g) Return air grille should be cleaned monthly.
  - h) Trash must be disposed of properly when the trash can(s) are full and not be left in the unit.
  - i) Entire unit should be free of rodent or insect infestation.

j) Kitchen—

- (i) Stove/Oven/Countertops: should be clean and free of food and grease.
- (ii) Refrigerator and Freezer: should be clean.
- (iii) Cabinets: should be clean and neat. Cabinet surfaces and countertop should be free of grease and spilled food. Cabinets shall not be overloaded. Storage under the sink should be limited to small number of lightweight items to permit access for repairs. Heavy pots and pans must not be stored under the sink.
- (iv) Range Hood/Exhaust Fan: should be free of grease, food particles, and dust.
- (v) Sink: should be clean, free of grease and garbage. Dirty dishes must be washed and promptly put away.
- (vi) Floor: should be free of spills from food and liquids. Floor must be clean including the bottom edge under the cabinets and appliances.
- (vii) Food storage areas: should be neat and clean and free from spilled food.
- (viii) Trash/garbage: must be stored in a covered container until removed to the disposal area.

k) Bathroom—

- (i) Toilet and tank: should be clean and odor free.
- (ii) Tub and shower: should be clean and free of excessive mildew and mold. Shower curtains should be in place, and of adequate length to prevent damage by moisture.
- (ii) Bathroom sink: should be clean
- (i) Exhaust fans: should be free of dust.
- (ii) Floor should be clean and dry including baseboard areas.

l) Storage Areas—

- (i) Linen closet: should be neat, organized and clean.
- (ii) Other closets: should be neat, organized and clean.
- (iii) Other storage areas: should be neat, organized, clean and free of hazards.

25) Highly flammable materials must not be stored in the unit.

26) Tenants must not install a waterbed, except for documented medical requirements related to a specific disability. In such case, the tenant must provide proof of insurance and will be held responsible for all damages to COCHRD property resulting from water leak or other defects.

27) Tenants must not block emergency exits.

**D. OUTSIDE THE FAMILY SCATTERED SITE UNIT:**

The standards in Section D apply to scattered site developments only:

- 1) Patios (front and rear): no items are to be stored on the patio.
- 2) Fences: Must be kept free of vegetation and debris.
- 3) Cut and trim the grass or shrubbery in a timely manner pursuant to the Landscaping Policy.

**E. BUSINESS ESTABLISHMENT ON THE PREMISES:**

The tenant must not have any business or display signs of any type on the premises without the prior written approval of CCHRD.

**F. NOISE:**

Tenants must exercise good judgment and thoughtfulness for others while playing musical instruments, recording devices, radios, TV, computers and other audio equipment. Any noise disturbance identified within 20 feet of a tenant's apartment shall constitute a violation of the lease.

**G. PEST CONTROL:**

City's Housing staff provides regularly scheduled treatment for common pests. A refusal of service will result in a charge to the tenant. Resident pet owners are responsible for the safety and health of their pets, and to secure the pet during the pest control treatment. Unsecured pets may result in a charge to the tenant.

Tenants are encouraged to inspect secondhand items before bringing the items home.

Tenants are asked to notify the City's Housing Office if pest control treatment is needed. When treatment is scheduled, the tenant must remove items from cabinets, etc. as requested and follow all instructions of City's Housing staff or other pest control applicators. If a pest control problem is found by Housing staff during a unit inspection, Housing staff may declare that an emergency condition exists and immediately perform pest control in the dwelling unit without further notice to the tenant. If the unit is determined to be uninhabitable due to infestation, City's Housing Office will immediately contact the tenant.

If tenant allows a severe infestation to develop or fails to fully cooperate with the treatment plan will be considered a health and safety violation and cause for termination.

**H. NO TRESPASS NOTICES:**

The head of the household, household members, guests or visitors must not permit persons who have received a "No Trespass" notice from City's Housing Office to be in the unit. Housing staff will send a copy of the "No Trespass" notice to the head of the household and all adult members on the Lease at the same time it sends the letter to the person who is being warned about trespassing.

**I. REFUSE AND TRASH:**

Tenants must place all garbage, trash, and food waste in containers approved or provided by City's Housing Office and maintained in a sanitary and safe manner. Tenants must not set garbage outside units in non-garbage areas or containers at any time.

- 4) Scattered Site Development Only: Tenants who have trash cans/containers must keep the trash cans stored away from public view. Tenants must keep the doors to any shed or garage closed when they are not in use.
- 5) Tenants must refrain, and assure that household members and guests refrain, from littering or leaving trash and debris in any common areas, including all door stoops, patios, yards and dumpster enclosure areas.



**J. CURFEW:**

- 1) City of Chandler City Code, Section 11.1.1 – Curfew Hours – For Minors, *Offenses*:
  - (A) 10:00 p.m. to 5:00 a.m (of the following day). - Minors under the age of sixteen (16) years are not allowed to be in, about, or upon any place in the City away from the property where the youth resides
  - (B) 12:00 a.m. and 5:00 a.m. (of the following day). Minors, age sixteen (16) years to under eighteen (18) years, are not allowed to be in, about, or upon any place in the City away from the property where the youth resides.
  - (C) It is unlawful for a parent or guardian of a minor to knowingly permit, or by insufficient control, allow a minor to violate subsection 11-1.1.

**K. MISCELLANEOUS:**

- 1) The tenant must:
  - (i) Not waste or use unreasonable amounts of water that the City Housing Office pays for. Car washing is prohibited on the properties located at 130 North Hamilton, 210 North McQueen, 73 South Hamilton, 127 North Kingston and 660 South Palm Lane.
  - (ii) Be held strictly responsible for any loss or damage to his/her and other units resulting from overflow of sinks, bathtubs or basins in his/her unit. Tenants are responsible for the condition of their units.
  - (iii) Immediately report to the housing office any accident, damage or loss of any kind to water pipes, toilets, drains, fixtures or other City's Housing property, and any mold or mildew.
  - (iv) Not use a stove or oven to heat the unit.
- 2) Not duplicate any unit keys. The head of the household is responsible for all keys City's Housing Office issues to them. The head of the household must make the request, if any household member needs extra keys.
- 3) Not receive mail addressed to persons who are not named in the Lease. Residents are not allowed to let anyone who is not an approved family member to use the address for any purpose, including receiving mail or deliveries.
- 4) Not install any dead bolts, door chains, or door guards.
- 5) Keep the water heater closet free of debris, motor vehicle parts, tires, and flammable materials, including lighter fluid, gasoline, or kerosene, and their containers. All stored items must have a 12 inch clearance from the hot water heater. Tenants in violation of this rule will receive a written warning for a first offense. Upon a second offense, City's Housing staff will not permit tenant access to the hot water heater closet.
- 6) Purchase a mailbox key for the cluster box located at their location from the post office within 30 days of the move in date in order to receive mail.

**I/We have read and understand these House Rules and agree to abide by them during my/our residency.**

**SIGNATURE(S):**

Address: \_\_\_\_\_

\_\_\_\_\_  
Head of Household Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Other Adult Household Member Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Other Adult Household Member Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Other Adult Household Member Signature

\_\_\_\_\_  
Date



## Radon Policy

**Purpose.** To establish the City's Public Housing Authority (PHA) policy in public housing facilities.

**Background.** Radon is a naturally occurring radioactive gas produced by the breakdown, or decay, of uranium in soil and rock. The health risk associated with radon is the increased risk of lung cancer. Radon may be found in both outdoor and indoor environments across the United States.

Radon may accumulate in homes by entering beneath the building (soil and rock), through the foundation, and into the building. Radon is colorless, tasteless, and odorless. Testing is required to detect radon in the indoor air of a building. The amount of radon gas in the air is typically measured in picocuries per liter of air (pCi/L).

The U.S. Environmental Protection Agency (EPA) published guidance for reducing airborne radon exposure in residences and schools. EPA recommends reducing radon levels to the greatest extent feasible. EPA recommends mitigation for residences with radon concentrations at or above 4 picocuries per liter of air (pCi/L).

The U.S. Department of Housing and Urban Development (HUD) established guidance in 24 CFR 50.3(i) and 58.5(i)(2) that requires all property to be free of contamination where a hazard could affect the health and safety of occupants or conflict with the intended use of the property. Section 50.3(i) states, "It is HUD policy that all property proposed for use in HUD programs be free of hazardous materials, contamination, toxic chemicals and gasses, and radioactive substances, where a hazard could affect the health and safety of occupants or conflict with the intended utilization of the property."

**Policy.** This directive establishes the policy to maintain acceptable levels of airborne radon.

- a) **PHA action levels.** Public housing facilities are considered acceptable for occupancy when radon levels are maintained below PHA action levels of 4 pCi/L or less.
- b) **Testing.** PHA will test for radon according to the American Association of Radon Scientists and Technologists, Protocol for Conducting Radon and Radon Decay

Product Measurements in Multifamily Buildings (ANSI-AARST MAMF-2010, Section III (or similar section in the most recent addition).

- c) Mitigation. It is the responsibility of the PHA to provide notice and mitigate locations that are 4 pCi/L or higher, in accordance with ASTM E 2121-11.
- d) Notification. PHA will provide EPA Radon Information Sheet to tenants.

**Authority.**

- a) U.S. Department of Housing and Urban Development Notice H 2013-03.
- b) 24 CFR Part 50, "Protection and Enhancement of Environmental Quality".
- c) Protocol for Conducting Radon and Radon Decay Product Measurements in Multifamily Buildings (ANSI-AARST MAMF-2010, Section III.

Attachment T

## Memorandum for Record

Date: April 1, 2024

Re: Certification of Public Hearing for 2024 Annual Plan and Capital Fund, and Resident Advisory Board Comments

The City of Chandler Housing and Redevelopment Division (COCHRD) conducted a public hearing for the 2024 Annual Plan and Capital Fund on Feb. 7, 2024, in compliance with 24 CFR Part 605. The 45-day comment period began Jan. 19, 2024, through March 5, 2024.

Policy and plan documents were made available on the website at [chandleraz.gov/affordablehousing](http://chandleraz.gov/affordablehousing) and in the Housing Office located at 235 S. Arizona Ave., Chandler AZ 85225. No public comments were received during the public hearing comment period.

COCHRD conducted two resident meeting held Dec. 14, 2023, and Jan. 17, 2024, where the plan and policy materials were discussed. No resident comments were received regarding the plan at the resident meetings.

Respectfully submitted by,

Amy Jacobson  
Housing and Redevelopment Senior Manager

## **PUBLIC HOUSING SECURITY DEPOSIT AMOUNTS**

### **Effective July 1, 2024**

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#### ***Public Housing Development – Family Sites & Kingston***

<b>Bedroom Size</b>	<b>Security Deposit Amount</b>
1	\$350
2	\$400
3	\$450
4	\$500
5	\$550

#### ***Public Housing Scattered Sites – Single Family Homes***

<b>Bedroom Size</b>	<b>Security Deposit Amount</b>
2	\$525
3	\$550
4	\$600
5	\$675



## Smoke-Free Policy

The City of Chandler Housing and Redevelopment Division (COCHRD) and the United States Department of Housing and Urban Development (HUD) have become increasingly aware of the ill effects caused by secondhand smoke. These ill effects include but are not limited to (1) health concerns raised by other residents who experience secondhand smoke filtering into adjoining apartments, with resulting increased potential for lung related illnesses and disorders; (2) additional costs for maintenance such as cleaning, painting, replacing blinds and cleaning air conditioning coils; (3) safety concerns resulting from smokers disconnecting the smoke alarms in their units.

In response to these concerns and in order to provide a safe living environment for all Residents, on February 3, 2017, HUD issued a federal rule requiring all Public Housing Authorities implement a smoke-free policy. The COCHRD has adopted the following Policy:

1. Smoking is not permitted anywhere on public housing grounds, to include living units, interior and exterior common areas, outdoor areas, and in or near public housing and administrative office buildings.
2. The term "prohibited tobacco products" is defined as items that involve the ignition and burning of tobacco leaves, such as: cigarettes, cigars, pipes and water pipes (also known as hookahs).
3. The term "electronic delivery device" means any product that can be used to deliver aerosolized or vaporized nicotine, lobelia, or any other substance to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, or vape pen.
4. The term "interior common areas" include but are not limited to: hallways, rental and administrative offices, community rooms/centers, laundry rooms/centers and similar structures.
5. "Smoke" or "Smoking" means inhaling or exhaling smoke, aerosol, or vapor from any lighted or heated cigar, cigarette, pipe, electronic delivery device, or any other natural or synthetic tobacco or plant product. "Smoke" or "Smoking" also includes burning or possessing any lighted or heated cigar, cigarette, pipe, electronic delivery device, or any other natural or synthetic tobacco or plant product intended for inhalation.
6. The premises to be occupied by Resident and members of Resident's household have been

designated as a smoke-free living environment. Resident, members of Resident's household, and guests shall not smoke anywhere on the premises, including in the unit leased by Resident, interior and exterior common areas utilized by Residents and staff, and in or near the public housing buildings.

7. Residents are responsible for notifying their guests and invitees that the COCHRD has designated the property as a smoke-free property. Residents are responsible for ensuring that their guests and any and all visitors under their control fully comply with this policy.
8. Non-Smoking areas within the property include the following areas:
  - A. All Public Housing residential units.
  - B. All interior common areas.
  - C. All Public Housing grounds and buildings with no exceptions
9. Resident should promptly provide the COCHRD with a written statement of any incident where tobacco smoke is migrating into Resident's unit from sources outside Resident's unit.
10. The COCHRD will post No Smoking signs at entrances and exits, common areas, hallways and in conspicuous places at Public Housing family sites.
11. The COCHRD will take reasonable steps to enforce this Smoke-Free Policy and to make the unit smoke-free. The COCHRD is not required to take steps in response to smoking unless the COCHR knows of a violation of this Smoke-Free Policy or has been provided with written notice of any violation of this Policy.
12. A material breach of this Policy shall be a material breach of the Resident's Lease and the Rules and Regulations and grounds for termination of tenancy through a graduated enforcement approach. The COCHRD graduated enforcement framework will include:
  - A lease amendment identifying the actions that constitutes a policy violation and encourage residents to promptly provide a written statement of any incident where tobacco smoke is migrating into the resident's unit from sources outside the resident's unit.
  - If a determination is made on objective facts supported by written statements, that a tenant is in violation, the COCHRD may serve a written notice of lease violation(s) to the tenant to meet with the housing specialist to discuss the violation(s).
  - Documentation of noncompliance, if there are repeated violations (more than two) or persistent non-responsiveness will constitute a violation of the lease.
  - Eviction proceedings as a last resort.

Section XXIII of Resident's Lease refers to the Smoke-Free Policy restrictions.

13. Resident acknowledges that the COCHRD's adoption of a Smoke-Free living environment and its efforts to designate the unit as Smoke-Free do not make the COCHRD guarantor of



Resident’s health or of the smoke-free condition of Resident unit or the common areas. Resident acknowledges that the COCHRD’S adoption of a smoke-free living environment and its efforts to designate the unit as smoke-free do not in any way change the standard of care that the COCHRD has to Resident’s household to render units designated as smoke-free any safer, more habitable, or improved in terms of air quality standards than any other rental premises. The COCHRD specifically disclaims any implied or express warranties that the Resident’s premises will have any higher or improved air quality standards than any other rental units. The COCHRD cannot and does not warranty or promise that the rental premises will be free from secondhandsmoke.

- 14. Resident acknowledges that the COCHRD’S ability to police, monitor, or enforce the restrictions of this Policy is dependent in significant part on voluntary compliance by Resident and Resident’s guests and invitees. Residents with respiratory ailments, allergies, or any other physical or mental condition relating to smoke are put on notice that the COCHRD does not assume any higher duty of care to enforce this Policy than any other obligation imposed on them under the Lease or Rules and Regulations.
- 15. To assist all residents with the Smoke-Free Policy transition and to accommodate resident interest in smoking cessation, the COCHRD is committed to providing resources for cessation education and outreach.

**Please refer to the Lease Addendum and/or your Section X and XXIII of the Lease Agreement for information regarding the Smoke-Free Policy restrictions.**

By signing below, the resident acknowledges receipt of the Smoke-Free Policy.

_____ Head of Household Signature	_____ Date
_____ Other Adult Household Member Signature	_____ Date
_____ Other Adult Household Member Signature	_____ Date
_____ Other Adult Household Member Signature	_____ Date





Attachment W

Public Housing  
Utility Allowance Schedules

Effective 07/01/2024

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**Neighborhood Resources | Housing and Redevelopment**

T: 480 782 3200 | F: 480 782 3220 | Mail Stop 101, PO Box 4008, Chandler, AZ 85224-4008 | Location: 235 S. Arizona Ave., Chandler, AZ 85225 |  
chandleraz.gov/affordablehousing | National Number for Relay Service 7-1-1 | TTY 800-367-8939 | Espanol Voz. TTY 800-842-2088  



**CITY OF CHANDLER HOUSING AND  
REDEVELOPMENT DIVISION, AZ**  
**PUBLIC HOUSING**

**MONTHLY UTILITY ALLOWANCE SCHEDULE**  
**Effective Date: July 01, 2024**

**Building Type: Semi-Detached/Duplex**

<b>Kingston Arms AZ 28-1</b> <b>(All Electric)</b>	<b>1BR</b>	<b>2BR</b>	<b>3BR</b>	<b>4BR</b>	<b>5BR</b>
Electric (APS)	\$94.00	\$127.00			

**Building Type: Semi-Detached/Duplex**

<b>Casa Del Sol, Casa de Esperanza, Casa Bonita, Casa Rosas AZ 28-2, 3</b>	<b>1BR</b>	<b>2BR</b>	<b>3BR</b>	<b>4BR</b>	<b>5BR</b>
Electric (APS), Natural Gas	\$103.00	\$129.00	\$149.00	\$175.00	\$198.00

**Building Type: Detached House**

<b>Scattered Sites AZ 28-9 &amp; 28-11</b> <b>(All Electric)</b>	<b>1BR</b>	<b>2BR</b>	<b>3BR</b>	<b>4BR</b>	<b>5BR</b>
Electric (APS), Water, Sewer, Trash		\$229.00	\$285.00	\$325.00	\$365.00
Electric (SRP), Water, Sewer, Trash		\$198.00	\$230.00	\$260.00	\$290.00

**Building Type: Detached House**

<b>Scattered Sites AZ 28-9 &amp; 28-11</b> <b>(All Gas)</b>	<b>1BR</b>	<b>2BR</b>	<b>3BR</b>	<b>4BR</b>	<b>5BR</b>
Electric (APS), Natural Gas, Water, Sewer, Trash		\$219.00	\$255.00	\$285.00	\$317.00
Electric (SRP), Natural Gas, Water, Sewer, Trash		\$220.00	\$250.00	\$276.00	\$305.00



# CITY OF CHANDLER HOUSING AND REDEVELOPMENT DIVISION, AZ PUBLIC HOUSING

## MONTHLY UTILITY ALLOWANCES Effective July 01, 2024

### Building Type: Semi-Detached/Duplex

<b>Kingston Arms AZ-28-1 (All Electric)</b> (EE Equip: Win,H,WH,Ins,CFL)	<b>1BR</b>	<b>2BR</b>	3BR	4BR	5BR
Electricity (L&A,A/C,H,WH,C) (APS)	<b>\$94.00</b>	<b>\$127.00</b>			

### Building Type: Semi-Detached/Duplex

<b>Casa del Sol, Casa de Esperanza, Casa Bonita, Casa Rosas AZ-28-2, 3 (EE Equip: Win,WH,Ins,CFL)</b>	<b>1BR</b>	<b>2BR</b>	<b>3BR</b>	<b>4BR</b>	<b>5BR</b>
Electricity (L&A,A/C) (APS)	\$46.00	\$59.00	\$73.00	\$92.00	\$107.00
Natural Gas (H,WH,C)	\$57.00	\$70.00	\$76.00	\$83.00	\$91.00
<b>Totals</b>	<b>\$103.00</b>	<b>\$129.00</b>	<b>\$149.00</b>	<b>\$175.00</b>	<b>\$198.00</b>

A monthly average cost of the summer and winter adjustments were used for the electric and natural gas costs where applicable.

L&A= Lights & Appliances

A/C=Air Conditioning

H= Space Heating

WH= Water Heating

C= Cooking

EE Equip= Energy Efficient Equipment

Win= Windows

Ins= Insulation

CFL= 100% Fluorescent Lighting

APS= AZ Public Service

SRP= Salt River Project

**Note: Public Housing utility allowances are calculated similar to method of utility providers. These allowances are not calculated by end use (like Section 8), but by total usage for each utility type.**

**CITY OF CHANDLER HOUSING AND  
REDEVELOPMENT DIVISION, AZ**  
**PUBLIC HOUSING**

**MONTHLY UTILITY ALLOWANCES**  
**Effective July 01, 2024**

**Building Type: Detached House**

<b>Scattered Sites AZ-28-9, 28-11</b> <b>(All Electric)</b> <b>(EE Equip: Win,H,WH,Ins,CFL)</b>					
	<b>1BR</b>	<b>2BR</b>	<b>3BR</b>	<b>4BR</b>	<b>5BR</b>
Electricity (L&A,A/C,H,WH,C) <i>(APS)</i>		\$162.00	\$214.00	\$250.00	\$286.00
Electricity (L&A,A/C,H,WH,C) <i>(SRP)</i>		\$131.00	\$159.00	\$185.00	\$211.00
Water		\$19.00	\$23.00	\$27.00	\$31.00
Sewer		\$28.00	\$28.00	\$28.00	\$28.00
Trash Collection		\$20.00	\$20.00	\$20.00	\$20.00
<b>Totals with APS</b>		<b>\$229.00</b>	<b>\$285.00</b>	<b>\$325.00</b>	<b>\$365.00</b>
<b>Totals with SRP</b>		<b>\$198.00</b>	<b>\$230.00</b>	<b>\$260.00</b>	<b>\$290.00</b>

**Building Type: Detached House**

<b>Scattered Sites AZ-28-9, 28-11</b> <b>(All Gas) (EE Equip: Win,WH,Ins,CFL)</b>					
	<b>1BR</b>	<b>2BR</b>	<b>3BR</b>	<b>4BR</b>	<b>5BR</b>
Electricity (L&A,A/C) <i>(APS)</i>		\$60.00	\$81.00	\$99.00	\$116.00
Electricity (L&A,A/C) <i>(SRP)</i>		\$61.00	\$76.00	\$90.00	\$104.00
Natural Gas (H,WH,C)		\$92.00	\$103.00	\$111.00	\$122.00
Water		\$19.00	\$23.00	\$27.00	\$31.00
Sewer		\$28.00	\$28.00	\$28.00	\$28.00
Trash Collection		\$20.00	\$20.00	\$20.00	\$20.00
<b>Totals with APS</b>		<b>\$219.00</b>	<b>\$255.00</b>	<b>\$285.00</b>	<b>\$317.00</b>
<b>Totals with SRP</b>		<b>\$220.00</b>	<b>\$250.00</b>	<b>\$276.00</b>	<b>\$305.00</b>



## Housing Choice Voucher

## Utility Allowance Schedules Effective

07/01/2024

# Utility Allowance Schedule

See Public Reporting and Instructions on back.

**U.S. Department of Housing and  
Urban Development**

Office of Public and Indian Housing

OMB Approval No. 2577-0169

(exp. 04/30/2026)

The following allowances are used to determine the total cost of tenant-furnished utilities and appliances.

Locality/PHA <b>City of Chandler Housing &amp; Redevelopment Division, AZ</b>		Unit Type: <b>Apartment</b>					Date (07/01/2024)	
Utility of Service	Fuel Type	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	
Heating	Natural Gas	\$26.00	\$31.00	\$33.00	\$35.00	\$38.00	\$40.00	
	Bottle Gas							
	Electric <b>(APS)</b>	\$11.00	\$12.00	\$15.00	\$17.00	\$20.00	\$22.00	
	Electric Heat Pump <b>(APS)</b>	\$9.00	\$11.00	\$12.00	\$14.00	\$16.00	\$17.00	
	Fuel Oil							
Cooking	Natural Gas	\$7.00	\$7.00	\$12.00	\$14.00	\$19.00	\$21.00	
	Bottle Gas							
	Electric <b>(APS)</b>	\$6.00	\$7.00	\$11.00	\$14.00	\$17.00	\$20.00	
Other Electric	<b>(Includes Monthly Charges)(APS)</b>	\$36.00	\$40.00	\$51.00	\$63.00	\$74.00	\$85.00	
Air Conditioning	<b>(APS)</b>	\$22.00	\$25.00	\$35.00	\$45.00	\$55.00	\$65.00	
Water Heating	Natural Gas	\$14.00	\$16.00	\$24.00	\$31.00	\$38.00	\$45.00	
	Bottle Gas							
	Electric <b>(APS)</b>	\$14.00	\$16.00	\$21.00	\$25.00	\$30.00	\$34.00	
	Fuel Oil							
Water		\$14.00	\$14.00	\$15.00	\$17.00	\$18.00	\$20.00	
Sewer		\$11.00	\$11.00	\$11.00	\$11.00	\$11.00	\$11.00	
Trash Collection		\$19.00	\$19.00	\$19.00	\$19.00	\$19.00	\$19.00	
<b>Other specify: Natural Gas Charge \$10.81</b>		\$11.00	\$11.00	\$11.00	\$11.00	\$11.00	\$11.00	
Range /Microwave		\$11.00	\$11.00	\$11.00	\$11.00	\$11.00	\$11.00	
Refrigerator		\$12.00	\$12.00	\$12.00	\$12.00	\$12.00	\$12.00	
<b>Actual Family Allowances-</b> May be used by the family to compute allowance while searching for a unit.					Utility/Service/Appliance	Allowance		
					Heating			
Head of Household Name					Cooking			
					Other Electric			
					Air Conditioning			
					Water Heating			
Unit Address					Water			
					Sewer			
					Trash Collection			
					Other			
					Range/Microwave			
Number of Bedrooms					Refrigerator			
					Total			



adapted from form HUD-52667

(04/2023)

# Utility Allowance Schedule

See Public Reporting and Instructions on back.

U.S. Department of Housing and  
Urban Development

Office of Public and Indian Housing

OMB Approval No. 2577-0169

(exp. 04/30/2026)

The following allowances are used to determine the total cost of tenant-furnished utilities and appliances.

Locality/PHA <b>City of Chandler Housing &amp; Redevelopment Division, AZ</b>		Unit Type: <b>Row House/Townhouse/ Semi-Detached/Duplex</b>				Date (07/01/2024)	
Utility of Service	Fuel Type	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR
Heating	Natural Gas	\$35.00	\$42.00	\$45.00	\$47.00	\$52.00	\$54.00
	Bottle Gas						
	Electric <b>(APS)</b>	\$16.00	\$18.00	\$21.00	\$24.00	\$27.00	\$30.00
	Electric Heat Pump <b>(APS)</b>	\$11.00	\$13.00	\$15.00	\$17.00	\$19.00	\$21.00
	Fuel Oil						
Cooking	Natural Gas	\$7.00	\$7.00	\$12.00	\$14.00	\$19.00	\$21.00
	Bottle Gas						
	Electric <b>(APS)</b>	\$6.00	\$7.00	\$11.00	\$14.00	\$17.00	\$20.00
Other Electric	<b>(Includes Monthly Charges)(APS)</b>	\$42.00	\$48.00	\$62.00	\$76.00	\$90.00	\$104.00
Air Conditioning	<b>(APS)</b>	\$21.00	\$25.00	\$43.00	\$61.00	\$79.00	\$104.00
Water Heating	Natural Gas	\$16.00	\$21.00	\$28.00	\$38.00	\$47.00	\$57.00
	Bottle Gas						
	Electric <b>(APS)</b>	\$17.00	\$20.00	\$26.00	\$32.00	\$37.00	\$43.00
	Fuel Oil						
Water		\$14.00	\$14.00	\$15.00	\$17.00	\$18.00	\$20.00
Sewer		\$11.00	\$11.00	\$11.00	\$11.00	\$11.00	\$11.00
Trash Collection		\$19.00	\$19.00	\$19.00	\$19.00	\$19.00	\$19.00
<b>Other specify: Natural Gas Charge \$10.81</b>		\$11.00	\$11.00	\$11.00	\$11.00	\$11.00	\$11.00
Range /Microwave		\$11.00	\$11.00	\$11.00	\$11.00	\$11.00	\$11.00
Refrigerator		\$12.00	\$12.00	\$12.00	\$12.00	\$12.00	\$12.00
<b>Actual Family Allowances</b> -May be used by the family to compute allowance while searching for a unit.					Utility/Service/Appliance	Allowance	
					Heating		
Head of Household Name					Cooking		
					Other Electric		
					Air Conditioning		
Unit Address					Water Heating		
					Water		
					Sewer		
					Trash Collection		
					Other		
Number of Bedrooms					Range/Microwave		
					Refrigerator		
					Total		



adapted from form HUD-52667

(04/2023)



# Utility Allowance Schedule

See Public Reporting and Instructions on back.

**U.S. Department of Housing and  
Urban Development**

Office of Public and Indian Housing

OMB Approval No. 2577-0169

(exp. 04/30/2026)

The following allowances are used to determine the total cost of tenant-furnished utilities and appliances.

Locality/PHA <b>City of Chandler Housing &amp; Redevelopment Division, AZ</b>		Unit Type <b>Detached House</b>				Date (07/01/2024)	
Utility of Service	Fuel Type	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR
Heating	Natural Gas	\$33.00	\$39.00	\$44.00	\$46.00	\$50.00	\$52.00
	Bottle Gas						
	Electric <b>(APS)</b>	\$20.00	\$23.00	\$26.00	\$29.00	\$32.00	\$34.00
	Electric Heat Pump <b>(APS)</b>	\$13.00	\$15.00	\$18.00	\$20.00	\$22.00	\$24.00
	Fuel Oil						
Cooking	Natural Gas	\$7.00	\$7.00	\$11.00	\$13.00	\$17.00	\$20.00
	Bottle Gas						
	Electric <b>(APS)</b>	\$6.00	\$7.00	\$11.00	\$14.00	\$17.00	\$20.00
Other Electric	<b>(Includes Monthly Charges)(APS)</b>	\$47.00	\$54.00	\$70.00	\$87.00	\$102.00	\$129.00
Air Conditioning	<b>(APS)</b>	\$17.00	\$20.00	\$44.00	\$69.00	\$100.00	\$127.00
Water Heating	Natural Gas	\$15.00	\$20.00	\$26.00	\$35.00	\$44.00	\$52.00
	Bottle Gas						
	Electric <b>(APS)</b>	\$17.00	\$20.00	\$26.00	\$32.00	\$37.00	\$43.00
	Fuel Oil						
Water		\$17.00	\$17.00	\$20.00	\$23.00	\$25.00	\$28.00
Sewer		\$28.00	\$28.00	\$28.00	\$28.00	\$28.00	\$28.00
Trash Collection		\$20.00	\$20.00	\$20.00	\$20.00	\$20.00	\$20.00
<b>Other specify: Natural Gas Charge \$11.92</b>		\$12.00	\$12.00	\$12.00	\$12.00	\$12.00	\$12.00
Range /Microwave		\$11.00	\$11.00	\$11.00	\$11.00	\$11.00	\$11.00
Refrigerator		\$12.00	\$12.00	\$12.00	\$12.00	\$12.00	\$12.00
<b>Actual Family Allowances</b> -May be used by the family to compute allowance while searching for a unit.					Utility/Service/Appliance	Allowance	
					Heating		
Head of Household Name					Cooking		
					Other Electric		
					Air Conditioning		
					Water Heating		
Unit Address					Water		
					Sewer		
					Trash Collection		
					Other		
					Range / Microwave		
Number of Bedrooms					Refrigerator		
					Total		



adapted from form HUD-52667

(04/2023)

# Utility Allowance Schedule

See Public Reporting and Instructions on back.

U.S. Department of Housing and  
Urban Development

Office of Public and Indian Housing

OMB Approval No. 2577-0169

(exp. 04/30/2026)

The following allowances are used to determine the total cost of tenant-furnished utilities and appliances.

Locality/PHA <b>City of Chandler Housing &amp; Redevelopment Division, AZ</b>		Unit Type <b>Mobile Home</b>				Date (07/01/2024)	
Utility of Service	Fuel Type	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR
Heating	Natural Gas	\$28.00	\$33.00	\$37.00	\$39.00	\$41.00	
	Bottle Gas						
	Electric <b>(APS)</b>	\$22.00	\$26.00	\$27.00	\$27.00	\$28.00	
	Electric Heat Pump <b>(APS)</b>	\$11.00	\$13.00	\$15.00	\$17.00	\$19.00	
	Fuel Oil						
Cooking	Natural Gas	\$7.00	\$7.00	\$11.00	\$13.00	\$17.00	
	Bottle Gas						
	Electric <b>(APS)</b>	\$6.00	\$7.00	\$11.00	\$14.00	\$17.00	
Other Electric	<b>(Includes Monthly Charges)(APS)</b>	\$47.00	\$54.00	\$70.00	\$87.00	\$102.00	
Air Conditioning	<b>(APS)</b>	\$20.00	\$24.00	\$41.00	\$58.00	\$75.00	
Water Heating	Natural Gas	\$15.00	\$20.00	\$26.00	\$35.00	\$44.00	
	Bottle Gas						
	Electric <b>(APS)</b>	\$17.00	\$20.00	\$26.00	\$32.00	\$37.00	
	Fuel Oil						
Water		\$17.00	\$17.00	\$20.00	\$23.00	\$25.00	
Sewer		\$28.00	\$28.00	\$28.00	\$28.00	\$28.00	
Trash Collection		\$20.00	\$20.00	\$20.00	\$20.00	\$20.00	
<b>Other specify: Natural Gas Charge \$11.92</b>		\$12.00	\$12.00	\$12.00	\$12.00	\$12.00	
Range Microwave		\$11.00	\$11.00	\$11.00	\$11.00	\$11.00	
Refrigerator		\$12.00	\$12.00	\$12.00	\$12.00	\$12.00	
<b>Actual Family Allowances</b> -May be used by the family to compute allowance while searching for a unit.					Utility/Service/Appliance	Allowance	
					Heating		
Head of Household Name					Cooking		
					Other Electric		
					Air Conditioning		
					Water Heating		
Unit Address					Water		
					Sewer		
					Trash Collection		
					Other		
Number of Bedrooms					Range / Microwave		
					Refrigerator		
					Total		



adapted from form HUD-52667

(04/2023)

# Utility Allowance Schedule

See Public Reporting and Instructions on back.

**U.S. Department of Housing and  
Urban Development**

Office of Public and Indian Housing

OMB Approval No. 2577-0169

(exp. 04/30/2026)

The following allowances are used to determine the total cost of tenant-furnished utilities and appliances.

Locality/PHA <b>City of Chandler Housing &amp; Redevelopment Division, AZ</b>		Unit Type: <b>Apartment</b>				Date (07/01/2024)	
Utility of Service	Fuel Type	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR
Heating	Natural Gas	\$26.00	\$31.00	\$33.00	\$35.00	\$38.00	\$40.00
	Bottle Gas						
	Electric <b>(SRP)</b>	\$7.00	\$9.00	\$10.00	\$12.00	\$14.00	\$15.00
	Electric Heat Pump <b>(SRP)</b>	\$6.00	\$7.00	\$9.00	\$10.00	\$11.00	\$12.00
	Fuel Oil						
Cooking	Natural Gas	\$7.00	\$7.00	\$12.00	\$14.00	\$19.00	\$21.00
	Bottle Gas						
	Electric <b>(SRP)</b>	\$5.00	\$6.00	\$9.00	\$11.00	\$14.00	\$16.00
Other Electric	<b>(SRP)</b>	\$19.00	\$22.00	\$31.00	\$40.00	\$48.00	\$57.00
Air Conditioning	<b>(SRP)</b>	\$20.00	\$23.00	\$32.00	\$41.00	\$50.00	\$59.00
Water Heating	Natural Gas	\$14.00	\$16.00	\$24.00	\$31.00	\$38.00	\$45.00
	Bottle Gas						
	Electric <b>(SRP)</b>	\$11.00	\$13.00	\$17.00	\$20.00	\$24.00	\$28.00
	Fuel Oil						
Water		\$14.00	\$14.00	\$15.00	\$17.00	\$18.00	\$20.00
Sewer		\$11.00	\$11.00	\$11.00	\$11.00	\$11.00	\$11.00
Trash Collection		\$19.00	\$19.00	\$19.00	\$19.00	\$19.00	\$19.00
<b>Other specify: Electric Charge \$21.81 (SRP)</b>		\$22.00	\$22.00	\$22.00	\$22.00	\$22.00	\$22.00
<b>Other specify: Natural Gas Charge \$10.81</b>		\$11.00	\$11.00	\$11.00	\$11.00	\$11.00	\$11.00
Range /Microwave		\$11.00	\$11.00	\$11.00	\$11.00	\$11.00	\$11.00
Refrigerator		\$12.00	\$12.00	\$12.00	\$12.00	\$12.00	\$12.00
<b>Actual Family Allowances</b> -May be used by the family to compute allowance while searching for a unit.					Utility/Service/Appliance	Allowance	
					Heating		
Head of Household Name					Cooking		
					Other Electric		
					Air Conditioning		
					Water Heating		
Unit Address					Water		
					Sewer		
					Trash Collection		
					Other		
					Range/Microwave		
Number of Bedrooms					Refrigerator		
					Total		



adapted from form HUD-52667

(04/2023)

**The Nelrod Company 11/2023 Update**

# Utility Allowance Schedule

See Public Reporting and Instructions on back.

U.S. Department of Housing and Urban

Development

Office of Public and Indian Housing

OMB Approval No. 2577-0169

(exp. 04/30/2026)

The following allowances are used to determine the total cost of tenant-furnished utilities and appliances.

Locality/PHA <b>City of Chandler Housing &amp; Redevelopment Division, AZ</b>		Unit Type: <b>Row House/Townhouse/ Semi-Detached/Duplex</b>				Date (07/01/2024)	
Utility of Service	Fuel Type	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR
Heating	Natural Gas	\$35.00	\$42.00	\$45.00	\$47.00	\$52.00	\$54.00
	Bottle Gas						
	Electric <b>(SRP)</b>	\$11.00	\$13.00	\$15.00	\$17.00	\$19.00	\$21.00
	Electric Heat Pump <b>(SRP)</b>	\$8.00	\$9.00	\$10.00	\$12.00	\$13.00	\$14.00
	Fuel Oil						
Cooking	Natural Gas	\$7.00	\$7.00	\$12.00	\$14.00	\$19.00	\$21.00
	Bottle Gas						
	Electric <b>(SRP)</b>	\$5.00	\$6.00	\$9.00	\$11.00	\$14.00	\$16.00
Other Electric	<b>(SRP)</b>	\$24.00	\$28.00	\$39.00	\$50.00	\$61.00	\$72.00
Air Conditioning	<b>(SRP)</b>	\$20.00	\$23.00	\$39.00	\$56.00	\$72.00	\$88.00
Water Heating	Natural Gas	\$16.00	\$21.00	\$28.00	\$38.00	\$47.00	\$57.00
	Bottle Gas						
	Electric <b>(SRP)</b>	\$14.00	\$16.00	\$21.00	\$26.00	\$30.00	\$35.00
	Fuel Oil						
Water		\$14.00	\$14.00	\$15.00	\$17.00	\$18.00	\$20.00
Sewer		\$11.00	\$11.00	\$11.00	\$11.00	\$11.00	\$11.00
Trash Collection		\$19.00	\$19.00	\$19.00	\$19.00	\$19.00	\$19.00
<b>Other specify: Electric Charge \$21.81 (SRP)</b>		\$22.00	\$22.00	\$22.00	\$22.00	\$22.00	\$22.00
<b>Other specify: Natural Gas Charge \$10.81</b>		\$11.00	\$11.00	\$11.00	\$11.00	\$11.00	\$11.00
Range /Microwave		\$11.00	\$11.00	\$11.00	\$11.00	\$11.00	\$11.00
Refrigerator		\$12.00	\$12.00	\$12.00	\$12.00	\$12.00	\$12.00
<b>Actual Family Allowances</b> -May be used by the family to compute allowance while searching for a unit.					Utility/Service/Appliance	Allowance	
					Heating		
Head of Household Name					Cooking		
					Other Electric		
					Air Conditioning		
					Water Heating		
Unit Address					Water		
					Sewer		
					Trash Collection		
					Other		
					Range/Microwave		
					Refrigerator		
Number of Bedrooms					Total		



adapted from form HUD-52667

(04/2023)

# Utility Allowance Schedule

See Public Reporting and Instructions on back.

U.S. Department of Housing and Urban  
Development

Office of Public and Indian Housing

OMB Approval No. 2577-0169  
(exp. 04/30/2026)

The following allowances are used to determine the total cost of tenant-furnished utilities and appliances.

Locality/PHA <b>City of Chandler Housing &amp; Redevelopment Division, AZ</b>		Unit Type <b>Detached House</b>				Date (07/01/2024)	
Utility of Service	Fuel Type	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR
Heating	Natural Gas	\$33.00	\$39.00	\$44.00	\$46.00	\$50.00	\$52.00
	Bottle Gas						
	Electric <b>(SRP)</b>	\$14.00	\$16.00	\$18.00	\$20.00	\$22.00	\$24.00
	Electric Heat Pump <b>(SRP)</b>	\$9.00	\$10.00	\$12.00	\$14.00	\$15.00	\$17.00
	Fuel Oil						
Cooking	Natural Gas	\$7.00	\$7.00	\$11.00	\$13.00	\$17.00	\$20.00
	Bottle Gas						
	Electric <b>(SRP)</b>	\$5.00	\$6.00	\$9.00	\$11.00	\$14.00	\$16.00
Other Electric	<b>(SRP)</b>	\$28.00	\$33.00	\$45.00	\$58.00	\$71.00	\$84.00
Air Conditioning	<b>(SRP)</b>	\$15.00	\$18.00	\$41.00	\$63.00	\$85.00	\$108.00
Water Heating	Natural Gas	\$15.00	\$20.00	\$26.00	\$35.00	\$44.00	\$52.00
	Bottle Gas						
	Electric <b>(SRP)</b>	\$14.00	\$16.00	\$21.00	\$26.00	\$30.00	\$35.00
	Fuel Oil						
Water		\$17.00	\$17.00	\$20.00	\$23.00	\$25.00	\$28.00
Sewer		\$28.00	\$28.00	\$28.00	\$28.00	\$28.00	\$28.00
Trash Collection		\$20.00	\$20.00	\$20.00	\$20.00	\$20.00	\$20.00
<b>Other specify: Electric Charge \$21.81 (SRP)</b>		\$22.00	\$22.00	\$22.00	\$22.00	\$22.00	\$22.00
<b>Other specify: Natural Gas Charge \$11.92</b>		\$12.00	\$12.00	\$12.00	\$12.00	\$12.00	\$12.00
Range /Microwave		\$11.00	\$11.00	\$11.00	\$11.00	\$11.00	\$11.00
Refrigerator		\$12.00	\$12.00	\$12.00	\$12.00	\$12.00	\$12.00
<b>Actual Family Allowances</b> -May be used by the family to compute allowance while searching for a unit.					Utility/Service/Appliance	Allowance	
					Heating		
Head of Household Name					Cooking		
					Other Electric		
					Air Conditioning		
Unit Address					Water Heating		
					Water		
					Sewer		
					Trash Collection		
					Other		
Number of Bedrooms					Range / Microwave		
					Refrigerator		
					Total		



adapted from form HUD-52667  
(04/2023)

# Utility Allowance Schedule

See Public Reporting and Instructions on back.

U.S. Department of Housing and Urban  
Development

Office of Public and Indian Housing

OMB Approval No. 2577-0169  
(exp. 04/30/2026)

The following allowances are used to determine the total cost of tenant-furnished utilities and appliances.

Locality/PHA <b>City of Chandler Housing &amp; Redevelopment Division, AZ</b>		Unit Type <b>Mobile Home</b>				Date (07/01/2024)	
Utility of Service	Fuel Type	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR
Heating	Natural Gas	\$28.00	\$33.00	\$37.00	\$39.00	\$41.00	
	Bottle Gas						
	Electric <b>(SRP)</b>	\$15.00	\$18.00	\$18.00	\$19.00	\$19.00	
	Electric Heat Pump <b>(SRP)</b>	\$8.00	\$9.00	\$10.00	\$12.00	\$13.00	
	Fuel Oil						
Cooking	Natural Gas	\$7.00	\$7.00	\$11.00	\$13.00	\$17.00	
	Bottle Gas						
	Electric <b>(SRP)</b>	\$5.00	\$6.00	\$9.00	\$11.00	\$14.00	
Other Electric	<b>(SRP)</b>	\$28.00	\$33.00	\$45.00	\$58.00	\$71.00	
Air Conditioning	<b>(SRP)</b>	\$19.00	\$22.00	\$38.00	\$53.00	\$69.00	
Water Heating	Natural Gas	\$15.00	\$20.00	\$26.00	\$35.00	\$44.00	
	Bottle Gas						
	Electric <b>(SRP)</b>	\$14.00	\$16.00	\$21.00	\$26.00	\$30.00	
	Fuel Oil						
Water		\$17.00	\$17.00	\$20.00	\$23.00	\$25.00	
Sewer		\$28.00	\$28.00	\$28.00	\$28.00	\$28.00	
Trash Collection		\$20.00	\$20.00	\$20.00	\$20.00	\$20.00	
<b>Other specify: Electric Charge \$21.81 (SRP)</b>		\$22.00	\$22.00	\$22.00	\$22.00	\$22.00	
<b>Other specify: Natural Gas Charge \$11.92</b>		\$12.00	\$12.00	\$12.00	\$12.00	\$12.00	
Range Microwave		\$11.00	\$11.00	\$11.00	\$11.00	\$11.00	
Refrigerator		\$12.00	\$12.00	\$12.00	\$12.00	\$12.00	
<b>Actual Family Allowances</b> -May be used by the family to compute allowance while searching for a unit.					Utility/Service/Appliance		Allowance
					Heating		
Head of Household Name					Cooking		
					Other Electric		
					Air Conditioning		
					Water Heating		
Unit Address					Water		
					Sewer		
					Trash Collection		
					Other		
					Range / Microwave		
					Refrigerator		
Number of Bedrooms					Total		



adapted from form HUD-52667  
(04/2023)

# Utility Allowance Schedule

See Public Reporting and Instructions on back.

U.S. Department of Housing and Urban  
Development

Office of Public and Indian Housing

OMB Approval No. 2577-0169

(exp. 04/30/2026)

The following allowances are used to determine the total cost of tenant-furnished utilities and appliances.

Locality/PHA <b>City of Chandler Housing &amp; Redevelopment Division, AZ</b>		Unit Type: <b>Row House/Townhouse/ Semi-Detached/Duplex</b>					Date (07/01/2024)	
Utility of Service <i>HOME Funds</i>	Fuel Type	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	
Heating	Natural Gas							
	Bottle Gas							
	Electric							
	Electric Heat Pump <b>(APS)</b>			\$15.00	\$17.00			
	Fuel Oil							
Cooking	Natural Gas							
	Bottle Gas							
	Electric <b>(APS)</b>			\$11.00	\$14.00			
Other Electric	<b>(Includes Montly Charges)(APS)</b>			\$62.00	\$76.00			
Air Conditioning	<b>(APS)</b>			\$43.00	\$61.00			
Water Heating	Natural Gas							
	Bottle Gas							
	Electric <b>(APS)</b>			\$26.00	\$32.00			
	Fuel Oil							
Water				\$15.00	\$17.00			
Sewer				\$11.00	\$11.00			
Trash Collection				N/A	N/A			
Range /Microwave				\$11.00	\$11.00			
Refrigerator				\$12.00	\$12.00			
<b>Actual Family Allowances</b> -May be used by the family to compute allowance while searching for a unit.					Utility/Service/Appliance		Allowance	
					Heating			
Head of Household Name					Cooking			
					Other Electric			
					Air Conditioning			
					Water Heating			
Unit Address					Water			
					Sewer			
					Trash Collection			
					Other			
Number of Bedrooms					Range/Microwave			
					Refrigerator			
					Total			



adapted from form HUD-52667

(04/2023)



## **Violence Against Women Act Addendum to FY 2024-2025 PHA Plan**

The City of Chandler Housing and Redevelopment Division (COCHRD) has adopted a policy to implement applicable provisions of the Violence Against Women and Department of Justice Reauthorization Act of 2013 (Pub. L. 109-162) (VAWA). Goals, objectives, and policies enable the COCHRD to serve the needs of victims of domestic violence, dating violence, sexual assault, and stalking, as defined in VAWA, are stated below. This addendum reflects policy changes consistent with the Federal Register titled, The Violence Against Women Reauthorization Act of 2013 (FR-5720-F-03).

COCHRD is a division of the City of Chandler. COCHRD is located within the city limits of the City of Chandler in Arizona. All services provided by the City of Chandler Police Department (Chandler PD) are available to all residents of the City of Chandler Public Housing communities and Section 8 Housing Choice Voucher-assisted families residing within the City of Chandler, just as they are to all City of Chandler residents.

### **A. Activities, services, or programs provided by COCHRD, directly or in partnership with other service providers, to victims of domestic violence, dating violence, sexual assault or stalking.**

The Chandler Police Department Victim Services Unit provides assistance to victims and witnesses of crime in the City of Chandler. Victim Services provides services to enhance the victim centered support for crime victims and survivors, aiding in their recovery and assisting them through the criminal justice system process.

The Victim Services Unit supports victims of threatened or actual crime during the investigative and judicial processes. Chandler Police Department Victim Services Program cannot provide legal advice.

#### **Services Provided by Chandler PD to:**

- Victims of sexual assault
- Victims of family and relationship violence
- Victims of violent crime
- Victims of stalking
- Surviving families of homicide victims
- Victims of non-family assaults/violence
- Families of youth that are missing or have run away
- Surviving families of suicide

#### **Types of Services Provided by Chandler PD:**

- Education on victim's rights
- Education about the criminal justice process
- Liaison services with patrol officers and detectives



- Liaison services with Property & Evidence
- Support during the criminal investigation
- Assistance with Orders of Protection
- Assistance with Injunctions Against Harassment
- Assistance with police reports
- Assistance with Crime Victim Compensation claims
- Information and referral to community resource
- 9-1-1 Phone Loan Program
- Transportation, as appropriate
- Assistance with emergency needs

**B. Activities, services, or programs provided or offered that helps victims of domestic violence, dating violence, sexual assault, or stalking to obtain or maintain housing.**

COCHRD has revised its Section 8 Housing Choice Voucher Administrative Plan and its Conventional Public Housing Admissions and Continued Occupancy Policy to comply with and support the Violence Against Women Act (VAWA) by establishing policies to support victims of domestic violence, dating violence, sexual assault, or stalking from being denied assistance evicted or terminated from housing assistance programs on the basis that the applicant or tenant is or has been a victim of a VAWA crime (FR-5720-F-03, pg. 80728).

COCHRD includes HUD's Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation form, form HUD 5382, and the Notice of Occupancy Rights, and a notice advising families of their protections upon being admitted to a rental assistance program, if denied assistance, and in all negative action letters.

An applicant who has been a victim of domestic violence, dating violence, sexual assault, or stalking shall not be denied admission into the program if they are otherwise qualified.

COCHRD will not terminate a tenant's assistance who is the victim of domestic violence, dating violence, sexual assault, or stalking based on activity associated with the act of domestic violence, dating violence, sexual assault, or stalking as long as the victim tenant provides the required documentation that validates the victim's claim within 14 business days of receipt of the written request by COCHRD. An extension may be granted if COCHRD determines that an extension is warranted.

Actual and imminent threats of abuse will not be construed as serious or repeated violations of the lease or other "good cause" for termination of the assistance, tenancy or occupancy rights of a victim.

Criminal activity directly relating to abuse, engaged in by a member of a tenant's household or any affiliated individual, guest or other person under the tenant's control, shall not be cause for termination of assistance, tenancy, or occupancy rights of the tenant; or if an immediate member of the tenant's family, or an affiliated individual is the victim or threatened victim of that abuse.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

A "tenant", or "lawful occupant", does not include affiliated individuals who are neither tenants nor lawful occupants. Affiliated individuals are not themselves afforded protections or remedies under VAWA 2013 or HUD's VAWA regulations. However, a tenant may be entitled to VAWA protections because an affiliated individual of that tenant is or was a victim of a VAWA crime. However, an affiliated individual cannot seek remedies from the housing provider.

The public housing lease includes residents' VAWA rights and responsibilities.

Section 8 HCV landlords/owners/managers are notified of their rights and responsibilities under VAWA.

Section 8 HCV participants and Public Housing residents are notified of their rights and responsibilities under VAWA.

Definitions of domestic violence, dating violence, sexual assault, and stalking have been included in the Section 8 Housing Choice Voucher Administrative Plan and the Conventional Public Housing Admissions and Continued Occupancy Policy.

At the tenant's request, COCHRD will contact Chandler PD, to assist the victim with determination of the best action and for referral to community services.

If damages to public housing property occur and is directly related to an act of domestic violence, dating violence, sexual assault, or stalking, COCHRD will not charge the victim resident with costs to repair if the tenant takes the steps necessary to protect against the perpetrator (police, court, counseling, etc.) and provides the required documentation that proves the claim of violence. If the victim takes the necessary steps and COCHRD waives any maintenance charges associated with damage due to domestic violence, dating violence, sexual assault, or stalking and the victim allows the perpetrator back into the unit, the tenant will be charged the full cost of the repair/replacement.

\*\* COCHRD will review and take into consideration all circumstances to remove a person from the household. If warranted, COCHRD will issue a 24 hour notice of removal/trespassing, if allowed by court action or upon law enforcement advice/guidance. COCHRD provides an exception to the prohibition against a family moving under portability in violation of the lease in the Section 8 program. Within public housing, COCHRD will consider allowing a family to move if it is to protect a member of the family, or an affiliated individual who is a victim under VAWA and the only basis for the denial is that the family is violating the lease agreement.

**C. Activities, services, or programs provided by COCHRD to prevent domestic violence, dating violence, sexual assault and stalking, or to enhance victim safety in assisted families.**

Briefing packet and lobby notice explaining VAWA and the protections available to victims who are either applicants or participants to housing assistance through COCHRD.

COCHRD will also consider transfer between units to offer additional safety for the victim.

Section 8 voucher portability for a victim will be considered a priority action in order to remove the family as soon as possible from an imminent threat of harm. In such instances, at the request of the tenant, COCHRD will work with the landlord/owner/manager for a mutual rescission, or bifurcation of the lease.

COCHRD works directly with Chandler PD to enforce policy on reported instances of domestic violence, dating violence, sexual assault, and stalking on the public housing rental community properties. If the required documentation that proves the claim of violence is timely submitted, COCHRD will review for termination of assistance for the abuser, and Chandler PD will review for the possibility of trespassing the abuser from the public housing property, along with all other protections offered to the residents of the City of Chandler, such as orders of protection, etc.

For the Section 8 HCV program, COCHRD works directly with the Chandler Police Department and landlords/owners/managers on reported instances of domestic violence, dating violence, sexual assault, and stalking. If the required documentation is completed and timely submitted, COCHRD will review for termination of assistance for the abuser without terminating assistance or otherwise penalizing the victim.

COCHRD does not have in-house counseling staff and does not provide activities, services, or programs directly. COCHRD works closely with Chandler PD. If the Police Department was not called at the time of the incident, COCHRD will offer the victim assistance by contacting Chandler PD who, together with the Chandler Family Advocacy Center, from the Chandler Victim Assistance Program.

Chandler Police Department is called to counsel victims of domestic violence, dating violence, sexual assault, or stalking to inform the victim of all services available.

All of these programs and policies form a network of services that provide or offer activities, services, or programs that help child and adult victims of domestic violence, dating violence, sexual assault, or stalking, to obtain or maintain housing, or to enhance victim safety in assisted families. \*\* If COCHRD bifurcates the lease and terminates the assistance of the perpetrator of the VAWA crime, or terminates the perpetrator's Section 8 assistance, and the remaining family members allow the tenant to move back into the unit, the remaining family members are in violation of the lease for unauthorized occupants.

If the victim of the VAWA crime allows the perpetrator onto the property, and if the presence of the perpetrator on the property will endanger others, or if COCHRD can demonstrate an actual and imminent threat to other tenants, or those employed at or providing services to the property, COCHRD will evict or terminate assistance of a victim of a VAWA crime (pg. 80731).

#### **Crisis/ Helpline**

- Shelter Hotline – 602-263-8900 or (800) 799-7739
- EMPACT/ Suicide Prevention Center Crisis Line – 480-784-1500
- Crisis Line – 602-222-9444 or (800) 631-1314
- Teen Lifeline – (800)248-8366
- Senior Helpline – 602-264-4357 or (888) 264-2258
- Veterans Crisis Line – 800-273-8255

#### **Online Resources for Victim's Rights**

- Arizona Attorney General's Office
- Arizona Voice for Crime Victims
- Department of Public Safety
- Maricopa County Attorney's Office
- Maricopa County Crime Victim Compensation Application (English/Spanish)
- Office for Victims of Crime
- U.S Immigration and Customs Enforcement (ICE) Victim Notification Program

#### **Online Community Resources**

##### ***Counseling/Peer Support:***

- A New Leaf – Helping Families...Changing Lives
- Catholic Charities Community Services
- Child Crisis Center
- Compassionate Friends – Supporting Families After a Child Dies
- Fresh Start Women's Foundation Resource
- Parents of Murdered Children
- Southern Arizona Center Against Sexual Assault
- Survivors of Suicide

##### ***Directories:***

- Child Care Resource and Referral

- Community Information & Referral
- Department of Economic Security (DES)
- Directory of Crime Victim Services

***Information for Survivors***

- Arizona Coalition to End Sexual and Domestic Violence
- Darkness To Light – Prevent Child Sexual Abuse
- End Stalking in America

***Legal Assistance:***

- Community Legal Services
- Family Lawyers Assistance Project (FLAP)
- Voice for Crime Victims



## City of Chandler Housing and Redevelopment Division

### ***EMERGENCY TRANSFER PLAN*** **FOR VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

#### **Public Housing Program**

##### **Emergency Transfers**

The City of Chandler Housing and Redevelopment Division (COCHRD) is concerned about the safety of its tenants, and such concern extends to tenants who are victims of domestic violence, dating violence, sexual assault, or stalking. In accordance with the Violence Against Women Act (VAWA), COCHRD allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's current unit to another unit. The ability to request a transfer is available regardless of sex, gender identity, or sexual orientation. The ability of COCHRD to honor such request for tenants currently receiving assistance, however, may depend upon a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether COCHRD has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

This plan identifies tenants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance to tenants on safety and security. This plan is based on a model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD), the federal agency that oversees that the **public housing and housing choice voucher (HCV) programs** are in compliance with VAWA.

##### **Eligibility for Emergency Transfers**

A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD's regulations at 24 CFR part 5, subpart L, is eligible for an emergency transfer if the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit. If the tenant is a victim of sexual assault, the tenant may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer.

A tenant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan.

Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

### **Emergency Transfer Request Documentation**

To request an emergency transfer, the tenant shall notify the PHA's management office and submit a written request for a transfer to **any PHA office**. The PHA will provide reasonable accommodations to this policy for individuals with disabilities. The tenant's written request for an emergency transfer should include either:

1. A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under the PHA's program; OR
2. A statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant's request for an emergency transfer.

### **Confidentiality**

The PHA will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives the PHA written permission to release the information on a time-limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person or persons that committed an act of domestic violence, dating violence, sexual assault, or stalking against the tenant. See the Notice of Occupancy Rights under the Violence against Women Act for All Tenants for more information about the PHA's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

### **Emergency Transfer Timing and Availability**

The PHA cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. The PHA will, however, act as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit. If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred. The PHA may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

If the PHA has no safe and available units for which a tenant who needs an emergency transfer is eligible, the PHA will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move. At the tenant's request, the PHA will also assist tenants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

### **Emergency Transfers: Public Housing (PH) Program**

If you are a public housing resident and request an emergency transfer as described in this plan, the PHA will attempt to assist you in moving to a safe unit quickly. The PHA will make exceptions as required to policies restricting moves.

Emergency transfers for which you are not required to apply for assistance include the following:

- Public housing unit in a different development
- Public housing unit in the same development, if you determine that the unit is safe

At your request, the PHA will refer you to organizations that may be able to further assist you.

You may also request an emergency transfer to the following programs for which you are required to apply for assistance:

- HCV tenant-based program
- HCV project-based assistance
- Other programs administered by the PHA (such as state housing programs)

Emergency transfers will not take priority over waiting list admissions for these types of assistance. At your request, the PHA will refer you to organizations that may be able to further assist you.

### **Safety and Security of Tenants**

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe.

Tenants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

Tenants who have been victims of sexual assault may call the Rape, Abuse, and Incest National Network's National Sexual Assault Hotline at 1-800-656-HOPE, or visit the online hotline at <https://ohl.rainn.org/online/>. Tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

**EMERGENCY TRANSFER  
REQUEST FOR CERTAIN  
VICTIMS OF DOMESTIC  
VIOLENCE, DATING VIOLENCE,  
SEXUAL ASSAULT, OR STALKING**

**U.S. Department of Housing  
and Urban Development**

OMB Approval No. 2577-0286  
Exp. 06/30/2017

**Purpose of Form:** If you are a victim of domestic violence, dating violence, sexual assault, or stalking, and you are seeking an emergency transfer, you may use this form to request an emergency transfer and certify that you meet the requirements of eligibility for an emergency transfer under the Violence Against Women Act (VAWA). Although the statutory name references women, VAWA rights and protections apply to all victims of domestic violence, dating violence, sexual assault or stalking. Using this form does not necessarily mean that you will receive an emergency transfer. See your housing provider's emergency transfer plan for more information about the availability of emergency transfers.

**The requirements you must meet are:**

**(1) You are a victim of domestic violence, dating violence, sexual assault, or stalking.** If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation. In response, you may submit Form HUD-5382, or any one of the other types of documentation listed on that Form.

**(2) You expressly request the emergency transfer.** Submission of this form confirms that you have expressly requested a transfer. Your housing provider may choose to require that you submit this form, or may accept another written or oral request. Please see your housing provider's emergency transfer plan for more details.

**(3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

**OR**

**You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you submit this form or otherwise expressly request the transfer.

**Submission of Documentation:** If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you should submit that documentation to your housing provider if it is safe for you to do so. Examples of third party documentation include, but are not limited to: a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom you have sought assistance; a current restraining order; a recent court order or other court records; a law enforcement report or records; communication records from the perpetrator of the violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts.



**Confidentiality:** All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking, and concerning your request for an emergency transfer shall be kept confidential. Such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections or an emergency transfer to you. Such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

**TO BE COMPLETED BY OR ON BEHALF OF THE PERSON REQUESTING A TRANSFER**

1. Name of victim requesting an emergency transfer: \_\_\_\_\_
2. Your name (if different from victim's) \_\_\_\_\_
3. Name(s) of other family member(s) listed on the lease: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
4. Name(s) of other family member(s) who would transfer with the victim: \_\_\_\_\_  
\_\_\_\_\_
5. Address of location from which the victim seeks to transfer: \_\_\_\_\_  
\_\_\_\_\_
6. Address or phone number for contacting the victim: \_\_\_\_\_  
\_\_\_\_\_
7. Name of the accused perpetrator (if known and can be safely disclosed):  
\_\_\_\_\_
8. Relationship of the accused perpetrator to the victim: \_\_\_\_\_
9. Date(s), Time(s) and location(s) of incident(s): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
10. Is the person requesting the transfer a victim of a sexual assault that occurred in the past 90 days on the premises of the property from which the victim is seeking a transfer? \_\_\_\_\_  
If Yes,, skip question 11. If no, fill out question 11.
11. Describe why the victim believes they are threatened with imminent harm from further violence if they remain in their current unit. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

12. If voluntarily provided, list any third-party documentation you are providing along with this notice:

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This is to certify that the information provided on this form is true and correct to the best of my knowledge, and that the individual named above in Item 1 meets the requirement laid out on this form for an emergency transfer. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

**Signature** \_\_\_\_\_ **Signed on (Date)** \_\_\_\_\_



## City of Chandler Housing and Redevelopment Division Notice of Occupancy Rights Under the Violence Against Women Act (VAWA)

### **To all Tenants and Applicants**

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women, but are available equally to all individuals regardless of sex, gender identity, or sexual orientation. The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees that **public housing and housing choice voucher** is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA."

### **Protections for Applicants**

If you otherwise qualify for assistance under **public housing or housing choice voucher**, you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

### **Protections for Tenants**

If you are receiving assistance under **public housing or housing choice voucher**, you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights under **public housing or housing choice voucher** solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

### **Removing the Abuser or Perpetrator from the Household [PIH 2017-08]**

The City of Chandler Housing and Redevelopment Division (COCHRD) may divide (bifurcate) your lease in order to evict the individual or terminate the assistance of the individual who has engaged in criminal activity (the abuser or perpetrator) directly relating to domestic violence, dating violence, sexual assault, or stalking.

If the COCHRD chooses to remove the abuser or perpetrator, COCHRD may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, COCHRD must allow the tenant who is or has been a victim and other household members to remain in the unit for a period of time, in order to establish

eligibility under the program or under another HUD housing program covered by VAWA, or, find alternative housing.

PIH Notice 2017-08 states that the VAWA Final Rule at 24 CFR 5.2009(b) establishes a reasonable time to establish eligibility under the covered housing program or find alternative housing following lease bifurcation in situations where the individual who was evicted or whom assistance was terminated was the eligible tenant. This would only be an issue for mixed families, where assistance is being provided to the perpetrator and the victim is a member of the household who hasn't contended eligible immigration status:

- HUD clarified in the VAWA Final Rule that the 90-day time period does not apply to the HCV and Public Housing programs.
- Assistance is limited to 30 days if the remaining family member has not submitted documentation evidencing a satisfactory immigration status or a pending appeal of a verification determination of the family member's immigration status.

In removing the abuser or perpetrator from the household, COCHRD must follow Federal, State, and local eviction procedures. In order to divide a lease, COCHRD may, but is not required to, ask you for documentation or certification of the incidences of domestic violence, dating violence, sexual assault, or stalking.

### **Moving to Another Unit**

Upon your request, COCHRD may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, COCHRD may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking. If the request is a request for emergency transfer, the housing provider may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA. The criteria are:

1. **You are a victim of domestic violence, dating violence, sexual assault, or stalking.** If COCHRD does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, COCHRD may ask you for such documentation, as described in the documentation section below.
2. **You expressly request the emergency transfer.** COCHRD may choose to require that you submit a form, or may accept another written or oral request.
3. **You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

**OR**

**You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you expressly request the transfer.

COCHRD will keep confidential requests for emergency transfers by victims of domestic violence, dating violence, sexual assault, or stalking, and the location of any move by such victims and their families.

COCHRD's emergency transfer plan provides further information on emergency transfers, and COCHRD must make a copy of its emergency transfer plan available to you if you ask to see it.

**Documenting You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking**

The COCHRD can, but is not required to, ask you to provide documentation to "certify" that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Such request from COCHRD must be in writing, and COCHRD must give you at least 14 business days (Saturdays, Sundays, and Federal holidays do not count) from the day you receive the request to provide the documentation. The COCHRD may, but does not have to, extend the deadline for the submission of documentation upon your request.

You can provide one of the following to COCHRD as documentation. It is your choice which of the following to submit if the COCHRD asks you to provide documentation that you are, or have been, a victim of domestic violence, dating violence, sexual assault, or stalking:

- A complete HUD-approved certification form, *CERTIFICATION OF DOMESTIC VIOLENCE DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, AND ALTERNATE DOCUMENTATION*, form HUD 5382, given to you by COCHRD with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. The form will ask for your name, the date, time, and location of the incident of domestic violence, dating violence, sexual assault, or stalking, and a description of the incident. The certification form provides for including the name of the abuser or perpetrator if the name of the abuser or perpetrator is known and is safe to provide.
- A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others.
- A statement, which you must sign, along with the signature of an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional (collectively, "professional") from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that he or she believes that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.
- Any other statement or evidence that the COCHRD has agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, the COCHRD does not have to provide you with the protections contained in this notice.

If the COCHRD receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser or perpetrator), COCHRD has the right to request that you provide third-party documentation within thirty 30 calendar days in order to resolve the conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, the COCHRD does not have to provide you with the protections contained in this notice.

Given the possible consequences to both the victim and the alleged perpetrator of domestic violence, dating violence, sexual assault, or stalking, it is important that any allegations made by one individual against another are made with the understanding that there are consequences if the allegations are false.

- (In this regard, form HUD-5382 advises that the submission of false information may be a basis for denial of admission, termination of assistance, or eviction.) (PIH Notice 2017-08)

### **Immigration Status/Self-Petitioner (PIH Notice 2017-02)**

A “Self-Petitioner” is a category of battered noncitizens seeking legal permanent resident status without the cooperation or knowledge of their abusive relative. A “VAWA Self-Petitioner” is a category of battered noncitizens seeking VAWA-related relief and other VAWA-related petitions or applications for lawful permanent resident status.

PIH Notice 2017-02 explains the procedures that COCHRD must follow when an applicant or resident/tenant requests admission or continued residency as a result of being a VAWA self-petitioner

- A. In accordance with Section 214 of the Housing and Community Development Act of 1980, HUD may not allow financial assistance to ineligible non-citizens, but assistance must not be denied while verifying immigration status or appeal of a determination as to satisfactory immigration status is pending.
- B. HUD has determined that self-petitioners can indicate that they are in “satisfactory immigration status” when applying for assistance or continued assistance from Section 214 covered housing providers. “Satisfactory immigration status” means an immigration status which does not make the individual ineligible for financial assistance. After verifying such immigration status in the Department of Homeland Security (DHS) Systematic Alien Verification for Entitlements (SAVE) System, the COCHRD will make a final determination as to the self-petitioner’s eligibility for assistance.
- C. COCHRD will not deny, reduce, or terminate the assistance of a VAWA Self-Petitioner who claims “satisfactory immigration status”. COCHRD will verify that the applicant or participant is a self-petitioner by utilizing the SAVE system to verify immigration status.
- D. All protections afforded under VAWA apply to the self-petitioner throughout the verification process.
- E. Not every noncitizen victim who has been subjected to battery or extreme cruelty will qualify under these procedures. In order to qualify, the noncitizen victim must have been battered or subjected to extreme cruelty by their spouse or parent, who is a U.S. citizen or LPR. COCHRD may receive a petition at any time, but submissions will most likely be related to a request for VAWA protections pursuant to 24 CFR Part 5 Subpart L (e.g. with a request for an emergency transfer or family breakup resulting from domestic violence, dating violence, sexual assault, or stalking).
- F. COCHRD will follow the steps outlined in PIH Notice 2017-02 to complete verification.

### **Confidentiality**

The COCHRD must keep confidential any information you provide related to the exercise of your rights under VAWA, including the fact that you are exercising your rights under VAWA.

The COCHRD must not allow any individual administering assistance or other services on behalf of COCHRD (for example, employees and contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.

The COCHRD must not enter your information into any shared database or disclose your information to any other entity or individual. The COCHRD, however, may disclose the information provided if:

- You give written permission to COCHRD to release the information on a time limited basis.

- The COCHRD needs to use the information in an eviction or termination proceeding, such as to evict your abuser or perpetrator or terminate your abuser or perpetrator from assistance under this program.
- A law requires COCHRD or your landlord to release the information.

VAWA does not limit COCHRD's duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

### **Reasons a Tenant Eligible for Occupancy Rights under VAWA May Be Evicted or Assistance May Be Terminated**

You can be evicted and your assistance can be terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking committed against you. However, COCHRD cannot hold tenants who have been victims of domestic violence, dating violence, sexual assault, or stalking to a more demanding set of rules than it applies to tenants who have not been victims of domestic violence, dating violence, sexual assault, or stalking.

The protections described in this notice might not apply, and you could be evicted and your assistance terminated, if COCHRD can demonstrate that not evicting you or terminating your assistance would present a real physical danger that:

1. Would occur within an immediate time frame, and
2. Could result in death or serious bodily harm to other tenants or those who work on the property.

If COCHRD can demonstrate the above, COCHRD should only terminate your assistance or evict you if there are no other actions that could be taken to reduce or eliminate the threat.

### **Other Laws**

VAWA does not replace any Federal, State, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

### **Non-Compliance with The Requirements of This Notice**

You may report COCHRD's for violations of these rights and seek assistance, if needed, by contacting or filing a complaint with Amy Jacobson, Housing and Redevelopment Manager or HUD's Phoenix field office.

### **For Additional Information**

You may view a copy of HUD's final VAWA rule at [gpo.gov/fdsys/pkg/FR-2016-11-16/pdf/2016-25888.pdf](https://www.gpo.gov/fdsys/pkg/FR-2016-11-16/pdf/2016-25888.pdf). Additionally, COCHRD must make a copy of HUD's VAWA regulations available to you if you ask to see them. For questions regarding VAWA, please contact your housing specialist.

For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY). You may also contact 2-1-1 within Arizona or at <https://211arizona.org/domestic-violence/>

For tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>. For help regarding sexual assault, you may contact 2-1-1 within Arizona or at [211arizona.org/domestic-violence](https://211arizona.org/domestic-violence).

Victims of stalking seeking help may contact 2-1-1 within Arizona or at [211arizona.org/domestic-violence](https://211arizona.org/domestic-violence).

**NOTICE OF OCCUPANCY RIGHTS UNDER THE VIOLENCE AGAINST WOMEN ACT, FORM HUD-5380**

**The Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation, Form HUD-5382**

**I have received a copy of the above-named HUD forms.**

\_\_\_\_\_

**Physical Address**

APPLICANT/TENANT PRINTED NAME: \_\_\_\_\_

APPLICANT/TENANT SIGNATURE: \_\_\_\_\_

DATE SIGNED: \_\_\_\_\_

\_\_\_\_\_  
Other Adult Household Member Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Other Adult Household Member Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Other Adult Household Member Signature

\_\_\_\_\_  
Date



**CERTIFICATION OF  
DOMESTIC VIOLENCE,  
DATING VIOLENCE,  
SEXUAL ASSAULT, OR STALKING,  
AND ALTERNATE DOCUMENTATION**

**U.S. Department of Housing  
and Urban Development**

OMB Approval No. 2577-0286  
Exp. 06/30/2017

**Purpose of Form:** The Violence Against Women Act ("VAWA") protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

**Use of This Optional Form:** If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:

- (1) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, "professional") from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of "domestic violence," "dating violence," "sexual assault," or "stalking" in HUD's regulations at 24 CFR 5.2003.
  - (2) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency;
- OR**
- (3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

**Submission of Documentation:** The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation, if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

**Confidentiality:** All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

**TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

1. Date the written request is received by victim: \_\_\_\_\_

2. Name of victim: \_\_\_\_\_

3. Your name (if different from victim's): \_\_\_\_\_

4. Name(s) of other family member(s) listed on the lease: \_\_\_\_\_

5. Residence of victim: \_\_\_\_\_

6. Name of the accused perpetrator (if known and can be safely disclosed): \_\_\_\_\_

7. Relationship of the accused perpetrator to the victim: \_\_\_\_\_

8. Date(s) and times(s) of incident(s) (if known): \_\_\_\_\_

10. Location of incident(s): \ \_\_\_\_\_

In your own words, briefly describe the incident(s). If you need more room, please use the back of this form or another piece of paper:

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature \_\_\_\_\_ Signed on (Date) \_\_\_\_\_

**Public Reporting Burden:** The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

## Vehicle Policy

### Family Apartment Sites

The following rules govern the use of parking areas at the City of Chandler Public Housing properties located at 130 North Hamilton, 210 North Hamilton, 73 South Hamilton and 660 South Palm Lane.

#### **NUMBER OF VEHICLES**

Each apartment leased by a tenant/family allows one (1) vehicle to be registered to park on the property. Tenants with more than one (1) vehicle must park off the site on the public street not in visitor parking spaces. Any tenant, who parks more than one (1) vehicle on the property, will be noticed, fined, and/or the unauthorized vehicle will be towed. Each parking violation will be considered a violation of the Lease. Multiple parking tickets may be considered a repeated violation of a material term of the Lease ((XV(B)).

#### **ASSIGNED PARKING SPACES**

Each apartment will be assigned a numbered parking space corresponding with their apartment. Tenants may park only in their assigned space with a current decal attached to their vehicle. All vehicles will park head-in. No vehicles will be backed into a parking space. All tenants will park between the marked lines of the parking space and the vehicle or load/mirrors may not extend past the interior of the parking stripes/area.

The Housing Youth Center (HYC) parking lots are reserved for HYC related parking only, as is Head Start designated parking areas. Tenants are not to use these locations in place of their assigned space or for additional vehicles. Any tenant, who parks in another tenant's assigned space will be noticed, fined, and/or towed.

#### **REGISTERING OF VEHICLES**

Each tenant wishing to park a vehicle on the property will register that vehicle with the City's Housing Office. Commercial vehicles, with the exception of standard size passenger vehicle and a standard size pick-up truck, are not allowed to be registered or parked on the apartment site. The vehicle should be properly registered with the Motor Vehicle Division and be properly insured. Any driver of a registered vehicle should be properly licensed.

#### **PARKING DECAL**

The tenant will receive a parking decal, along with a copy and explanation of the policy, rules and regulations. All vehicles must have an appropriate decal to park in an assigned parking space.

If, for any reason, a tenant no longer owns or operates a vehicle with a current City's Housing parking decal on it, the tenant will notify the City's Housing Office within forty-eight (48) hours of the change. If a tenant acquires a different vehicle and wishes to park the new vehicle in their assigned space, the tenant must ***first*** have a new parking decal issued for that vehicle. Failure to do so ***before*** parking on housing property will result in a notice, fine and/or tow. **Only one parking decal per apartment will be issued at any time.** The parking decal will be displayed on the driver's side of the rear window; however, the alternate location for tinted windows will be the front passenger lower right side window. The parking decal will be visible at all times. Any alterations to the decal will result in a notice

and fine and/or tow and the tenant will be required to purchase a new parking decal. The decal will be valid until the vehicle is replaced, damaged, unreadable or the lease is terminated. The cost to the tenant for a new vehicle replacement decal or damaged decal is \$5.00 per occurrence.

### **TEMPORARY PARKING**

Temporary parking in visitor spaces are at the discretion of the City's Housing Office and made on a case-by-case basis. Tenants needing temporary parking must meet with their assigned Housing Specialist.

### **LOST OR STOLEN PARKING DECALS**

If, for any reason, a parking decal that is attached to the vehicle becomes damaged or missing, the tenant will notify the City's Housing Office within forty-eight (48) hours. A replacement decal will then be issued. The cost of the replacement decal will be \$5.00.

### **VISITOR PARKING**

Tenants are responsible for communicating the vehicle policy rules to their guests and service providers. Tenant's visitors will park only in marked "Visitor" spaces. If there are no visitor spaces available, the visitor will be required to park off the property. Visitors will not park in the spaces assigned to tenants. Visitors may not park in a visitor space for longer than twenty-four (24) hours without City's Housing Office prior approval. (**NOTE:** Tenants are required to notify the City's Housing Office regarding any visitor(s) who is staying overnight.) **Tenants are responsible for their visitors' parking.** Visitors parking policy violations may result in a lease violation, a fine, and/or towing, and will be charged to the appropriate tenant.

### **UNAUTHORIZED PARKING**

1. No parking outside or beyond the marked parking spaces or having loads or object that protrudes beyond the designated parking space.
2. No parking on sidewalks, pathways or common areas.
3. No parking on lawns or other landscaped areas, including granite/gravel areas.
4. No parking in fire lanes.
5. No boats, trailers, or campers.
6. Vehicles larger than the standard size passenger vehicle/van/pick-up truck are not permitted on the property.
7. Do not block access to dumpsters.
8. Never block entrances or exits with any vehicle.
9. Do not park in any other area designated by hash marks, and/or no parking areas.
10. Vehicles, which are determined by the City's Housing Office, to be inoperable or leaking excessive fluids or posing a threat to the safety of the tenants, shall not be stored or allowed on the property.
11. Never store or park a motorcycle, motorbike, etc. inside a building/storage unit.

A vehicle may be temporarily parked in the driveway (**EXCEPT MARKED FIRE LANES**) only for and during loading, or unloading, **and shall not be left unattended.** Vehicles parked in a driveway for loading or unloading must not block the drive, dumpsters, or any other tenant's assigned space. Any vehicle found in violation of the above policy will result in a notice and fine and/or possible towing at owner's expense.

## **VEHICLE MAINTENANCE**

Vehicle maintenance and washing of vehicles is not allowed on the property. Please take your vehicle to a car wash facility to wash your vehicle or a repair or service shop for service. Motor vehicle parts may not be left unattended, stored outside the apartments, on the common grounds or around vehicles. Such parts found unattended will be disposed of immediately by City's Housing Office personnel and the tenant will be charged for clean-up.

## **INOPERATIVE VEHICLES**

No vehicle shall be left inoperative on the property for more than forty-eight (48) hours. Tenants may be required to start up and drive a vehicle at the request of the City of Chandler Housing Police Officer or Housing Office Representative. If the vehicle fails to start, fails to move under its own power, or if the tenant refuses or otherwise fails to start up and drive a vehicle, that vehicle will be considered to be inoperable and the tenant will be noticed, fined and/or subject to towing.

## **VEHICLES THAT ARE LEAKING EXCESSIVE FLUIDS**

After notification the tenant will have twenty-four (24) hours to clean up leaking fluids because a continuous leak will result in damage to the asphalt. Clean up includes removing any material(s) used for absorbing fluids.

To avoid a ticket, cleanup charges and/or repair charges for damage or staining to the surface, tenants are highly encouraged to use a drip pan under any vehicle with gas, oil, transmission, or radiator leaks. If a drip pan will be used ensure you mark the pan with your name and unit number and clean it often.

Excessive leaking refers to any leak that creates a puddle or stain greater than four (4) inches in diameter. Pictures will be taken of vehicle causing leaks as well as the leak itself and placed in the tenant's file along with a copy of the ticket.

## **WARNINGS**

At the sole discretion of the City of Chandler Housing Police officer or City's Housing Office Representative, a warning may be issued in lieu of towing for a first time offender.

## **PARKING VIOLATION NOTICES (TICKETS)**

Parking violation notices (tickets) that result in fines will be issued by the City of Chandler Housing Police Officer or City's Housing Representative for any violation listed in this Vehicle Policy (also see Schedule of Charges). A copy of the notice (ticket) will be placed on the vehicle and a copy will be mailed to the tenant by first class mail. Tenants will have ten (10) business days from receipt of the parking violation notice to request a hearing regarding the parking violation. **Parking fines will be added to the monthly statement of charges (rent and other charges) after the violation.**

## **TOWING**

The City's Housing Office, the local Police Department or the Fire Department may tow any vehicle on the property under the following conditions:

1. Any vehicle that is in violation of any section of this vehicle parking policy or other traffic control policies.
2. Any vehicle that constitutes an emergency situation or is an immediate threat to the health or safety of tenants or staff.

Tow notices will be in the form of a tow sticker attached to the vehicle. This tow sticker will include vehicle description and the tow date. Removal of this tow sticker by the tenant will not stop a tow. Any vehicle that is towed will be done at the expense of the owner.

### **SCHEDULE OF CHARGES**

All parking policy violations will be addressed as follows:

- First Parking Violation Notice:..... \$10.00 fine and receive a parking violation notice (ticket).
- Second Parking Violation Notice: ..... \$20.00 fine, parking violation notice and counseling.
- Third Parking Violation Notice: ..... \$30.00 fine, loss of on-site parking privileges for three (3) months.
- Fourth and Subsequent Notices:..... Vehicle towed at tenant's expense and permanent loss of on-site parking privileges.

## **VEHICLE REGISTRATION**

### **Vehicle Policy**

### **Family Apartment Sites**

#### **VEHICLE INFORMATION**

**Name of Owner:** \_\_\_\_\_

**Address of Owner:** \_\_\_\_\_

**Make:** \_\_\_\_\_

**Model:** \_\_\_\_\_

**Year:** \_\_\_\_\_ **Color:** \_\_\_\_\_

**Plate #:** \_\_\_\_\_

**State of Registration:** \_\_\_\_\_

The signature of Tenant and any Co-Tenants as set forth below is their acknowledgment that they have received and reviewed the Vehicle Policy and that the terms and conditions have been thoroughly explained to them.

\_\_\_\_\_  
Head of Household Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Other Adult Household Member Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Other Adult Household Member Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Other Adult Household Member Signature

\_\_\_\_\_  
Date



## Vehicle Policy Kingston Arms Apartments

### **NUMBER OF VEHICLES**

Each apartment leased by a tenant/family allows one (1) vehicle to be registered to park on the property. Tenants with more than one (1) vehicle must park off the site on the public street not in visitor spaces. Any tenant, who parks more than one (1) vehicle on the property will be noticed, fined and/or the unauthorized vehicle will be towed. Each parking violation will be considered a violation of the Lease.

### **ASSIGNED PARKING SPACES**

Parking spaces are not assigned at Kingston Arms due to the limited amount of parking spaces. Parking is on a first come, first served basis. All vehicles will park head-in. No vehicles will be backed into a parking space. All tenants will park between the marked lines of the parking space and the vehicle or load/mirrors may not extend past the interior of the parking stripes/area.

### **REGISTERING OF VEHICLES**

Each tenant wishing to park a vehicle on the property will register that vehicle with the City's Housing Office. Commercial vehicles, with the exception of a standard size passenger vehicle and a standard size pick-up truck, are not allowed to be registered or parked on the apartment site. The vehicle should be properly registered with the Motor Vehicle Division and be properly insured. Any driver of a registered vehicle should be properly licensed.

### **PARKING DECAL**

The tenant will receive a parking decal, along with a copy and explanation of the policy, rules and regulations. All vehicles must have an appropriate decal to park in a parking space.

If, for any reason, a tenant no longer owns or operates a vehicle with a current City's Housing parking decal on it, the tenant will notify the City's Housing Office within forty-eight (48) hours of the change. If a tenant acquires a different vehicle and wishes to park the new vehicle in the parking lot, the tenant must ***first*** have a new parking decal issued for that vehicle. Failure to do so ***before*** parking on housing property will result in a notice, fine and/or tow. **Only one parking decal per apartment will be issued at any time.** The parking decal will be displayed on the driver's side of the rear window; however, the alternate location for tinted windows will be the front passenger lower right side window. The parking decal will be visible at all times. Any alterations to the decal will result in a notice and fine and/or tow and the tenant will be required to purchase a new parking decal. The decal will be valid until the vehicle is replaced, damaged and unreadable or the lease is terminated. The cost to the tenant for a new vehicle replacement decal or damaged decal is \$5.00 per occurrence.

### **LOST OR STOLEN PARKING DECALS**

If, for any reason, a parking decal that is attached to the vehicle becomes damaged or missing, the tenant will notify the City's Housing Office within forty-eight (48) hours. A replacement decal will then be issued. The cost of the replacement decal will be \$5.00.

### **VISITOR PARKING**

Tenants are responsible for communicating the vehicle policy rules to their guests and service providers. Tenant's visitors will park only in marked "*Visitor*" spaces. If there are no visitor spaces available, the visitor will be required to park off the property. Visitors will not park in the spaces available to tenants. Tenants are not to park in visitor's spaces. Visitors may not park in a visitor space for longer than twenty-four (24) hours without City's Housing Office approval. **(NOTE: Tenants are required to notify the City's Housing Office regarding any visitor(s) who is staying overnight.) Tenants are responsible for their visitors' parking.** Visitors' parking policy violations may result in a lease violation and fine and/or towing, and will be charged to the appropriate tenant.

### **UNAUTHORIZED PARKING**

1. No parking outside or beyond the marked parking spaces or having loads or object that protrudes beyond the designated parking space.
2. No parking on sidewalks, pathways or common areas.
3. No parking on lawns or other landscaped areas, including granite/gravel areas.
4. No parking in fire lanes.
5. No boats, trailers, or campers.
6. Vehicles larger than the standard size passenger vehicle/van/pick-up truck are not permitted on the property.
7. Do not block access to dumpsters.
8. Never block entrances or exists with any vehicle.
9. Do not park in any other area designated by hash marks, and/or no parking areas.
10. Vehicles, which are determined by the City's Housing Office, to be inoperable or leaking excessive fluids or posing a threat to the safety of the tenants, shall not be stored or allowed on the property.
11. Never store or park a motorcycle, motorbike, etc. inside a building/storage unit.

A vehicle may be temporarily parked in the driveway **(EXCEPT MARKED FIRE LANES)** only for and during loading or unloading, **and shall not be left unattended.** Vehicles parked in a driveway for loading or unloading must not block the drive or dumpsters. Any vehicle found in violation of the above policy will result in a notice and fine and/or possible towing at owner's expense.

### **VEHICLE MAINTENANCE**

Vehicle maintenance and washing of vehicles is not allowed on the property. Please take your vehicle to a car wash facility to wash your vehicle or a repair or service shop for service. Motor vehicle parts may not be left unattended, stored outside apartments, on the common grounds or around vehicles. Such parts found unattended will be disposed of immediately by City's Housing Office personnel and the tenant will be charged for clean up.

### **INOPERATIVE VEHICLES**

No vehicle shall be left inoperative on the property for more than forty-eight (48) hours. Tenants may be required to start up and drive a vehicle at the request of the City of Chandler Housing Police Officer or City's Housing Office Representative. If the vehicle fails to start, fails to move under its own power, or if the tenant refuses or otherwise fails to start up and drive a vehicle, that vehicle will be considered to be inoperable and the tenant will be noticed, fined and/or subject to towing.



### **VEHICLES THAT ARE LEAKING EXCESSIVE FLUIDS**

After notification the tenant will have twenty-four (24) hours to clean up leaking fluids because a continuous leak will result in damage to the asphalt. Clean up includes removing any material(s) used for absorbing fluids.

To avoid a ticket, cleanup charges and/or repair charges for damage, or staining to the surface, tenants are highly encouraged to use a drip pan under any vehicle with gas, oil, transmission, or radiator leaks. If a drip pan will be used, ensure you mark the pan with your name and unit number and clean it often.

Excessive leaking refers to any leak that creates a puddle or stain greater than four (4) inches in diameter. Pictures will be taken of vehicle causing leaks as well as the leak itself and placed in the tenant's file along with a copy of the ticket.

### **WARNINGS**

At the sole discretion of the City of Chandler Housing Police Officer or City's Housing Representative a warning may be issued in lieu of towing for a first time offender.

### **PARKING VIOLATION NOTICES (TICKETS)**

Parking violation notices (tickets) that result in fines will be issued by the City of Chandler Housing Police Officer or Housing Representative for any violation listed in this Vehicle Policy (also see Schedule of Charges). A copy of the notice (ticket) will be placed on the vehicle and a copy will be mailed to the tenant by first class mail. Tenants will have ten (10) business days from receipt of the parking violation notice to request a hearing regarding the parking violation. **Parking fines will be added to the monthly statement of charges (rent and other charges) after the violation.**

### **TOWING**

The City's Housing Office, the local Police Department or Fire Department may tow any vehicle on housing division the property under the following conditions:

1. Any vehicle that is in violation of any section of this Vehicle Policy or other traffic control policies.
2. Any vehicle that constitutes an emergency situation or is an immediate threat to the health or safety of tenants or staff.

Tow notices will be in the form of a tow sticker attached to the vehicle. This tow sticker will include vehicle description and the tow date. Removal of this tow sticker by the tenant will not stop a tow. Any vehicle that is towed will be done at the expense of the owner.

### **SCHEDULE OF CHARGES**

All parking policy violations will be addressed as follows:

- First Parking Violation Notice:..... \$10.00 fine, counseling, and a lease violation.
- Second Parking Violation Notice: ... \$20.00 fine, counseling, and a lease violation.
- Third Parking Violation Notice: ..... \$30.00 fine, loss of on-site parking privileges for three (3) months.
- Fourth and Subsequent Notices:.... Vehicle towed at tenant's expense and permanent loss of on-site parking privileges.

**VEHICLE REGISTRATION**  
**Vehicle Policy**  
**Kingston Arms Apartments**

VEHICLE INFORMATION	
Name of Owner: _____	
Address of Owner: _____	
Make: _____	
Model: _____	
Year: _____	Color: _____
Plate #: _____	
State of Registration: _____	

The signature of Tenant and any Co-Tenants as set forth below is their acknowledgment that they have received and reviewed the Vehicle Policy and that the terms and conditions have been thoroughly explained to them.

_____ Head of Household Signature	_____ Date
_____ Other Adult Household Member Signature	_____ Date
_____ Other Adult Household Member Signature	_____ Date
_____ Other Adult Household Member Signature	_____ Date



## **Vehicle Policy Scattered Site Housing**

### **NUMBER OF VEHICLES**

Each scattered site home leased by a tenant/family allows a maximum of up to four (4) vehicles to be registered to park on the property. Any tenant, who parks more vehicles, than is registered with the City's Housing Office will be noticed and fined and/or the unauthorized vehicle will be towed. If tenant wishes to park more than the number of authorized, registered vehicles, any additional vehicles must be parked off the property. Each parking violation will be considered a violation of the Lease.

### **PARKING**

Tenants will only be allowed to park on the existing concrete driveway, under the carport or in the garage, depending on the parking amenities that come with the home. Parking may also be allowed on the public street. Tenants and their visitors are not allowed to park on front, side or rear yards, sidewalks or patios. This parking restriction includes all motorized vehicles, and attachments.

### **REGISTERING OF VEHICLES**

Each tenant wishing to park a vehicle on the property will register that vehicle with the City's Housing Office. Commercial vehicles, with the exception of standard size passenger vehicles and standard size pick-up trucks, are not allowed to be registered or parked on the property. All vehicles should be properly registered with the Motor Vehicle Division and be properly insured. Any driver of a registered vehicle should be properly licensed.

### **PARKING DECAL**

The tenant will receive a parking decal, along with a copy and explanation of the policy, rules and regulations. All vehicles must have an appropriate decal to park at their residence.

If, for any reason, a tenant no longer owns or operates a vehicle with a current City's Housing parking decal on it, the tenant will notify the City's Housing Office within forty-eight (48) hours of the change. If a tenant acquires a different vehicle and wishes to park the new vehicle at their residence, the tenant must ***first*** have a new parking decal issued for that vehicle. Failure to do so ***before*** parking at the residence will result in a notice, fine and/or tow. The parking decal will be displayed on the driver's side of the rear window; however, the alternate location for tinted windows will be the front passenger lower right side window. The parking decal will be visible at all times. Any alterations to the decal will result in a notice and fine and/or tow and the tenant will be required to purchase a new parking decal. The decals will be valid until the vehicle is replaced, damaged, unreadable or the lease is terminated. The cost to the tenant for a new vehicle replacement decal or damaged decal is \$5.00 per occurrence.

### **LOST OR STOLEN PARKING DECALS**

If, for any reason, a parking decal that is attached to the tenant vehicle becomes damaged or missing, the tenant will notify the City's Housing Office within forty-eight (48) hours. A replacement decal will then be issued. The cost of the replacement decal will be \$5.00.

### **VISITOR PARKING**

Tenants are responsible for communicating the vehicle policy rules to their guests and service providers. Tenant's visitors may not park at a tenant's home for more than twenty-four (24) hours without City's Housing Office approval. **(NOTE: Tenants are required to notify the City's Housing Office regarding any visitor(s) staying overnight.) Tenants are responsible for their visitors' parking.** Visitors' parking policy violations may result in a notice and fine and/or tow, and will be charged to the appropriate tenant.

### **UNAUTHORIZED PARKING**

1. No parking on lawns or other landscaped areas.
2. No parking on sidewalks, pathways or granite/gravel areas.
3. No parking in back yards or alleys.
4. Never store or park a motorcycle, motorbike, etc. inside a home/storage unit.

Any vehicle found in violation of the above policy will result a notice and fine and/or possible towing at owner's expense.

### **VEHICLE MAINTENANCE**

Vehicle maintenance is not allowed on the property. Motor vehicle parts may not be left unattended or stored outside the home, on the driveway or around vehicles. Such parts found unattended will be disposed of immediately by City's Housing Office personnel, and the tenant will be charged for clean up.

Tenants or visitors found to be in violation of this policy will be noticed and fined and potentially charged for any clean up costs.

### **INOPERATIVE VEHICLES**

No vehicle shall be left inoperative at a tenant's home for more than forty-eight (48) hours. Tenants may be required to start up and drive a vehicle at the request of the City of Chandler Housing Police Officer or Housing Representative. If the vehicle fails to start, fails to move under its own power, or if the tenant refuses or otherwise fails to start up and drive a vehicle, that vehicle will be considered to be inoperable, and the tenant will be noticed and fined and/or subject to towing.

Storage of inoperable or "project" vehicles in also not allowed in garages, carports or on driveways. Boats, trailers, RV's, ATV's (etc.) are to be parked or stored at an off property storage facility and not parked at the residence. If accessory recreational type vehicles must be temporarily parked on property (for overnight loading or unloading), they must adhere to the previously outlined rules and they must be in good and operable condition. Boats, campers and RV's may not be used for storage purposes.

### **VEHICLES THAT ARE LEAKING EXCESSIVE FLUIDS**

After notification the tenant will have twenty-four (24) hours to clean up leaking fluids because a continuous leak will result in damage to the surface. Clean up includes removing any material(s) used for absorbing fluids.

To avoid a ticket, cleanup charges, and/or repair charges for damage or staining to the surface, tenants are highly encouraged to use a drip pan under any vehicle with gas, oil, transmission, or radiator leaks. If a drip pan will be used ensure you mark the pan with your name and clean it often.

Excessive leaking refers to any leak that creates a puddle or stain greater than four (4) inches in diameter. Pictures will be taken of vehicle causing leaks as well as the leak itself and placed in the tenant's file along with a copy of the ticket.

### **WARNINGS**

At the sole discretion of the City of Chandler Housing Police Officer or City's Housing Representative a warning may be issued in lieu of towing for a first-time offender.

### **PARKING VIOLATION NOTICES (TICKETS)**

Parking violation notices (tickets) that result in fines will be issued by the City of Chandler Housing Police Officer or a City's Housing Representative for any violation listed in this Vehicle Policy (also see Schedule of Charges). A copy of the notice (ticket) will be placed on the vehicle and a copy will be mailed to the tenant by first class mail. Tenants will have ten (10) business days from receipt of the parking violation notice to request a hearing regarding the parking violation. **Parking fines will be added to your monthly statement of charges (rent and other charges) after the violation.**

### **TOWING**

The City's Housing Office, the local Police Department or Fire Department may tow any vehicle on the property under the following conditions:

1. Any vehicle that is in violation of any section of this vehicle policy or other traffic control policies.
2. Any vehicle that constitutes an emergency or is an immediate threat to the health or safety of tenants or staff.

Tow notices will be in the form of a tow sticker attached to the vehicle. This tow sticker will include vehicle description and the tow date. Removal of this tow sticker by the tenant will not stop a tow. Any vehicle that is towed will be done at the expense of the owner.

### **SCHEDULE OF CHARGES**

All parking policy violations will be addressed as follows:

- First Parking Violation Notice:..... \$10.00 fine and receive a parking violation notice (ticket).
- Second Parking Violation Notice: ..... \$20.00 fine, parking violation notice and counseling.
- Third Parking Violation Notice: ..... \$30.00 fine, loss of on-site parking privileges for three (3) months.
- Fourth and Subsequent Notices:..... Vehicle towed at tenant's expense and permanent loss of on-site parking privileges.

**VEHICLE REGISTRATION/INFORMATION**  
**Vehicle Policy**  
**Scattered Site Housing**

VEHICLE INFORMATION	
<b>Name of Owner:</b> _____	
<b>Address of Owner:</b> _____	
<b>Make:</b> _____	
<b>Model:</b> _____	
<b>Year:</b> _____	<b>Color:</b> _____
<b>Plate #:</b> _____	
<b>State of Registration:</b> _____	

The signature of Tenant and any Co-Tenants as set forth below is their acknowledgment that they have received and reviewed the Vehicle Policy and that the terms and conditions have been thoroughly explained to them.

\_\_\_\_\_  
Head of Household Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Other Adult Household Member Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Other Adult Household Member Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Other Adult Household Member Signature

\_\_\_\_\_  
Date

PHA Board Resolution  
Approving Operating Budget

U.S. Department of Housing  
and Urban Development  
Office of Public and Indian Housing -  
Real Estate Assessment Center (PIH-REAC)

OMB No. 2577-0026  
(exp. 06/30/2022)

**Public reporting burden for** this collection of information is estimated to average **10 minutes per response**, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

This information is required by Section 6(c)(4) of the U.S. Housing Act of 1937. The information is the operating budget for the low-income public housing program and provides a summary of the proposed/budgeted receipts and expenditures, approval of budgeted receipts and expenditures, and justification of certain specified amounts. HUD reviews the information to determine if the operating plan adopted by the public housing agency (PHA) and the amounts are reasonable, and that the PHA is in compliance with procedures prescribed by HUD. Responses are required to obtain benefits. This information does not lend itself to confidentiality.

PHA Name: \*\*\*\*\*PHA Code:

PHA Fiscal Year Beginning: \*\*\*\*\*Board Resolution Number:

Acting on behalf of the Board of Commissioners of the above-named PHA as its Chairperson, I make the following certifications and agreement to the Department of Housing and Urban Development (HUD) regarding the Board's approval of (check one or more as applicable):

DATE

- ☐ Operating Budget approved by Board resolution on:
- ☐ Operating Budget submitted to HUD, if applicable, on:
- ☐ Operating Budget revision approved by Board resolution on:
- ☐ Operating Budget revision submitted to HUD, if applicable, on:

I certify on behalf of the above-named PHA that:

1. All statutory and regulatory requirements have been met;
2. The PHA has sufficient operating reserves to meet the working capital needs of its developments;
3. Proposed budget expenditure are necessary in the efficient and economical operation of the housing for the purpose of serving low-income residents;
4. The budget indicates a source of funds adequate to cover all proposed expenditures;
5. The PHA will comply with the wage rate requirement under 24 CFR 968.110(c) and (f); and
6. The PHA will comply with the requirements for access to records and audits under 24 CFR 968.110(i).

I hereby certify that all the information stated within, as well as any information provided in the accompaniment herewith, if applicable, is true and accurate.

**Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012.31, U.S.C. 3729 and 3802)

Print Board Chairperson's Name:	Signature:	Date:
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# City of Chandler Public Housing (HUD FUNDED)

**SITE ONE**

Casa de Esperanza  
4 - One Bedroom  
11 - Two Bedrooms  
25 - Three Bedrooms  
11 - Four Bedrooms  
2 - Five Bedrooms\*

Old proj. #AZ028002  
Acres: 4.4699  
Sqft: 194,713  
Parcel: 303-05-047F  
Deed #: 09517-0863  
1972

**130 N. Hamilton**

28 Buildings  
13 One Dwelling Units  
1 Community Building/Headstart  
6 Four Plex  
8 Duplex

Family Site

**53 Units****SITE TWO**

Casa del Sol  
3 - One Bedroom  
8 - Two Bedrooms  
19 - Three Bedrooms  
6 - Four Bedrooms\*  
2 - Five Bedrooms

Old proj. #AZ028002  
Acres: 3.6199  
Sqft: 157,687  
Parcel: 302-71-020A  
Deed #: 09517-0864  
1972

**210 N. McQueen**

20 Buildings  
8 One Dwelling Units  
1 Community Building  
4 Four Plex  
7 Duplex

Family Site

**38 Units****SITE THREE**

Casa Bonita  
5 - One Bedroom  
9 - Two Bedrooms  
17 - Three Bedrooms  
7 - Four Bedrooms  
2 - Five Bedrooms

Old proj. #AZ028003  
Acres: 7.419  
Sqft: 323,215  
Parcel: 303-12-003E  
Deed #: 09161-0438  
1972

71 S. Hamilton

**73 S. Hamilton**

23 Buildings (Total buildings)  
10 One Dwelling Units  
2 Housing Storage  
5 Four Plex  
5 Duplex  
1 -Housing Youth Center (Formerly- Family Investment Center)

Family Site

**40 Units****SITE FOUR**

Casa de Rosas  
6 - One Bedroom  
4 - Two Bedrooms  
14 -Three Bedrooms  
5 - Four Bedrooms  
3 - Five Bedrooms

Old proj. #AZ028003  
Acres: 5.210  
Sqft: 226,948  
Parcel: 303-03-073A  
Deed #: 08686-0219  
1972

low density 0-6, med density 6-12

**660 S. Palm Lane**

16 Buildings  
8 One Dwelling Units  
1 Community Building  
5 Four Plex  
2 Duplex

Family Site

**32 Units****SITE FIVE**

Kingston Arms  
34 - One Bedroom  
3 - Two Bedrooms

Old proj. #AZ028001  
Acres: 1.510  
Sqft: 65,818  
Parcel: 303-63-0017R  
Deed #: 09161-0439  
1972

**127 N. Kingston**

10 Buildings  
1 Community Building/Residence  
9 Four Plex

Elderly Only

**37 Units****SITE SIX**

Old project # AZ028009  
78- Scattered Site Homes  
57 - Three Bedrooms  
16- Four Bedrooms  
5 - Five Bedrooms

Avg.sq.ft. 1218  
Avg.sq.ft. 1489  
Avg.sq.ft. 1729

Old project # AZ028011  
26 New Scattered Site Homes  
12 - Two Bedrooms  
8 - Three Bedrooms  
4 - Four Bedrooms  
1 - Five Bedrooms

Scattered Sites

**103 units**

918 sq. ft  
1150 sq. ft  
1336 sq. ft  
1720 sq. ft

**Total: 303****SUMMARY****163 Family Units**

Old proj. #s AZ028002 &amp; AZ028003

Total	Square footage
18 -One Bedroom	575 sq. ft
32 -Two Bedrooms	760 sq. ft
75 -Three Bedrooms	900 sq. ft
29 -Four Bedrooms	1130 sq. ft
9 - Five Bedrooms	1340 sq. ft

**BREAKDOWN**

7 - One Bdrm	11-One Bdrm
19 - Two Bdrm	13-Two Bdrm
44 - Three Bdrm	31 -Three Bdrm
17 - Four Bdrm	12-Four Bdrm
4 - Five Bdrm	6-Five Bdrm

For Site 1 and 2:  
Constructed Approx. in 06/22/72

For Site 3 and 4:  
Constructed Approx. in 01/05/72

**103 Scattered Sites**

Old proj. #s AZ028009 &amp; AZ028011

Total
12 -Two Bedrooms
65 -Three Bedrooms
20 - Four Bedrooms
6 - Five Bedrooms

**BREAKDOWN**

0 - One Bdrm	0 - One Bdrm
0 - Two Bdrm	12 - Two Bdrm
66 - Three Bdrm	8 - Three Bdrm
17 - Four Bdrm	4 - Four Bdrm
6 - Five Bdrm	1 - Five Bdrm

78 Avg. Const. Date: 1980  
25 Constructed in 1996  
Total average square footage: 1358

**37 Elderly Units (Kingston)**

Old proj. #s AZ028001

Total
34 - One Bedroom
3 - Two Bedrooms

Constructed Approx. in 1972  
For Site 6, Apt. #37: 04/09/2001  
ACC 03/29/1971

**Grand Total of Units - 303**



**Certifications of Compliance with  
PHA Plan and Related Regulations  
(Standard, Troubled, HCV-Only, and  
High Performer PHAs)**

**U.S. Department of Housing and Urban Development**  
Office of Public and Indian Housing  
**OMB No. 2577-0226**  
**Expires 3/31/2024**

**PHA Certifications of Compliance with PHA Plan, Civil Rights, and Related Laws and Regulations  
including PHA Plan Elements that Have Changed**

*Acting on behalf of the Board of Commissioners of the Public Housing Agency (PHA) listed below, as its Chairperson or other authorized PHA official if there is no Board of Commissioners, I approve the submission of the \_\_\_ 5-Year and/or X Annual PHA Plan, hereinafter referred to as "the Plan", of which this document is a part, and make the following certification and agreements with the Department of Housing and Urban Development (HUD) for the PHA fiscal year beginning July 1, 2024, in connection with the submission of the Plan and implementation thereof:*

1. The Plan is consistent with the applicable comprehensive housing affordability strategy (or any plan incorporating such strategy) for the jurisdiction in which the PHA is located (24 CFR § 91.2).
2. The Plan contains a certification by the appropriate State or local officials that the Plan is consistent with the applicable Consolidated Plan, which includes a certification that requires the preparation of an Analysis of Impediments (AI) to Fair Housing Choice, or Assessment of Fair Housing (AFH) when applicable, for the PHA's jurisdiction and a description of the manner in which the PHA Plan is consistent with the applicable Consolidated Plan (24 CFR §§ 91.2, 91.225, 91.325, and 91.425).
3. The PHA has established a Resident Advisory Board or Boards, the membership of which represents the residents assisted by the PHA, consulted with this Resident Advisory Board or Boards in developing the Plan, including any changes or revisions to the policies and programs identified in the Plan before they were implemented, and considered the recommendations of the RAB (24 CFR 903.13). The PHA has included in the Plan submission a copy of the recommendations made by the Resident Advisory Board or Boards and a description of the manner in which the Plan addresses these recommendations.
4. The PHA provides assurance as part of this certification that:
  - (i) The Resident Advisory Board had an opportunity to review and comment on the changes to the policies and programs before implementation by the PHA;
  - (ii) The changes were duly approved by the PHA Board of Directors (or similar governing body); and
  - (iii) The revised policies and programs are available for review and inspection, at the principal office of the PHA during normal business hours.
5. The PHA made the proposed Plan and all information relevant to the public hearing available for public inspection at least 45 days before the hearing, published a notice that a hearing would be held and conducted a hearing to discuss the Plan and invited public comment.
6. The PHA certifies that it will carry out the public housing program of the agency in conformity with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4), the Fair Housing Act (42 U.S.C. 3601-19), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), title II of the Americans with Disabilities Act (42 U.S.C. 12101 et seq.), and other applicable civil rights requirements and that it will affirmatively further fair housing in the administration of the program. In addition, if it administers a Housing Choice Voucher Program, the PHA certifies that it will administer the program in conformity with the Fair Housing Act, title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, title II of the Americans with Disabilities Act, and other applicable civil rights requirements, and that it will affirmatively further fair housing in the administration of the program.
7. The PHA will affirmatively further fair housing, which means that it will take meaningful actions to further the goals identified in the Assessment of Fair Housing (AFH) conducted in accordance with the requirements of 24 CFR § 5.150 through 5.180, that it will take no action that is materially inconsistent with its obligation to affirmatively further fair housing, and that it will address fair housing issues and contributing factors in its programs, in accordance with 24 CFR § 903.7(o)(3). The PHA will fulfill the requirements at 24 CFR § 903.7(o) and 24 CFR § 903.15(d). Until such time as the PHA is required to submit an AFH, the PHA will fulfill the requirements at 24 CFR § 903.7(o) promulgated prior to August 17, 2015, which means that it examines its programs or proposed programs; identifies any impediments to fair housing choice within those programs; addresses those impediments in a reasonable fashion in view of the resources available; works with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require the PHA's involvement; and maintains records reflecting these analyses and actions.
8. For PHA Plans that include a policy for site-based waiting lists:
  - The PHA regularly submits required data to HUD's 50058 PIC/IMS Module in an accurate, complete and timely manner (as specified in PIH Notice 2011-65);

- The system of site-based waiting lists provides for full disclosure to each applicant in the selection of the development in which to reside, including basic information about available sites; and an estimate of the period of time the applicant would likely have to wait to be admitted to units of different sizes and types at each site;
  - Adoption of a site-based waiting list would not violate any court order or settlement agreement or be inconsistent with a pending complaint brought by HUD;
  - The PHA shall take reasonable measures to assure that such a waiting list is consistent with affirmatively furthering fair housing; and
  - The PHA provides for review of its site-based waiting list policy to determine if it is consistent with civil rights laws and certifications, as specified in 24 CFR 903.7(o)(1).
9. The PHA will comply with the prohibitions against discrimination on the basis of age pursuant to the Age Discrimination Act of 1975.
  10. In accordance with 24 CFR § 5.105(a)(2), HUD's Equal Access Rule, the PHA will not make a determination of eligibility for housing based on sexual orientation, gender identify, or marital status and will make no inquiries concerning the gender identification or sexual orientation of an applicant for or occupant of HUD-assisted housing.
  11. The PHA will comply with the Architectural Barriers Act of 1968 and 24 CFR Part 41, Policies and Procedures for the Enforcement of Standards and Requirements for Accessibility by the Physically Handicapped.
  12. The PHA will comply with the requirements of Section 3 of the Housing and Urban Development Act of 1968, Employment Opportunities for Low-or Very-Low Income Persons, and with its implementing regulation at 24 CFR Part 135.
  13. The PHA will comply with acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and implementing regulations at 49 CFR Part 24 as applicable.
  14. The PHA will take appropriate affirmative action to award contracts to minority and women's business enterprises under 24 CFR 5.105(a).
  15. The PHA will provide the responsible entity or HUD any documentation that the responsible entity or HUD needs to carry out its review under the National Environmental Policy Act and other related authorities in accordance with 24 CFR Part 58 or Part 50, respectively.
  16. With respect to public housing the PHA will comply with Davis-Bacon or HUD determined wage rate requirements under Section 12 of the United States Housing Act of 1937 and the Contract Work Hours and Safety Standards Act.
  17. The PHA will keep records in accordance with 2 CFR 200.333 and facilitate an effective audit to determine compliance with program requirements.
  18. The PHA will comply with the Lead-Based Paint Poisoning Prevention Act, the Residential Lead-Based Paint Hazard Reduction Act of 1992, and 24 CFR Part 35.
  19. The PHA will comply with the policies, guidelines, and requirements of 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Financial Assistance, including but not limited to submitting the assurances required under 24 CFR §§ 1.5, 3.115, 8.50, and 107.25 by submitting an SF-424, including the required assurances in SF-424B or D, as applicable.
  20. The PHA will undertake only activities and programs covered by the Plan in a manner consistent with its Plan and will utilize covered grant funds only for activities that are approvable under the regulations and included in its Plan.
  21. All attachments to the Plan have been and will continue to be available at all times and all locations that the PHA Plan is available for public inspection. All required supporting documents have been made available for public inspection along with the Plan and additional requirements at the primary business office of the PHA and at all other times and locations identified by the PHA in its PHA Plan and will continue to be made available at least at the primary business office of the PHA.
  22. The PHA certifies that it is in compliance with applicable Federal statutory and regulatory requirements, including the Declaration of Trust(s).

City of Chandler Housing and Redevelopment

AZ028

PHA Name

PHA Number/HA Code

  X   Annual PHA Plan for Fiscal Year 20  24  

       5-Year PHA Plan for Fiscal Years 20       - 20      

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate. **Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802).

Name of Executive Director	Amy Jacobson	Name Board Chairman	Mayor Kevin Hartke
Signature	Date	Signature	Date

The United States Department of Housing and Urban Development is authorized to solicit the information requested in this form by virtue of Title 12, U.S. Code, Section 1701 et seq., and regulations promulgated thereunder at Title 12, Code of Federal Regulations. Responses to the collection of information are required to obtain a benefit or to retain a benefit. The information requested does not lend itself to confidentiality. This information is collected to ensure compliance with PHA Plan, Civil Rights, and related laws and regulations including PHA plan elements that have changed.

Public reporting burden for this information collection is estimated to average 0.16 hours per year per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. HUD may not collect this information, and respondents are not required to complete this form, unless it displays a currently valid OMB Control Number.

**Certification by State or Local  
Official of PHA Plans Consistency  
with the Consolidated Plan or  
State Consolidated Plan  
(All PHAs)**

U. S Department of Housing and Urban Development

Office of Public and Indian Housing

OMB No. 2577-0226

Expires 3/31/2024

**Certification by State or Local Official of PHA Plans  
Consistency with the Consolidated Plan or State Consolidated Plan**

I, Leah Powell, the Neighborhood Resources Director  
*Official's Name* *Official's Title*

certify that the 5-Year PHA Plan for fiscal years 2020-2025 and/or Annual PHA Plan for  
fiscal year 2024 of the City of Chandler Housing and Redevelopment Division is consistent with the  
*PHA Name*

Consolidated Plan or State Consolidated Plan including the Analysis of Impediments (AI) to Fair  
Housing Choice or Assessment of Fair Housing (AFH) as applicable to the

City of Chandler  
*Local Jurisdiction Name*

pursuant to 24 CFR Part 91 and 24 CFR § 903.15.

Provide a description of how the PHA Plan's contents are consistent with the Consolidated Plan or  
State Consolidated Plan.

The PHA Plan affirmatively furthers fair housing by examining the landscape and addressing  
impediments to fair housing with a reasonable approach and adds resources to increase the supply  
of affordable housing. The PHA Plan is consistent with the Consolidated Plan based on this  
approach.

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate. **Warning:** HUD will  
prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official:	Title:
Leah Powell	Neighborhood Resources Director
Signature:	Date:

The United States Department of Housing and Urban Development is authorized to solicit the information requested in this form by virtue of Title 12, U.S.  
Code, Section 1701 et seq., and regulations promulgated thereunder at Title 12, Code of Federal Regulations. Responses to the collection of information  
are required to obtain a benefit or to retain a benefit. The information requested does not lend itself to confidentiality. This information is collected to  
ensure consistency with the consolidated plan or state consolidated plan.

Public reporting burden for this information collection is estimated to average 0.16 hours per year per response, including the time for reviewing  
instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. HUD  
may not collect this information, and respondents are not required to complete this form, unless it displays a currently valid OMB Control Number.

# DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

Approved by OMB

0348-0046

(See reverse for public burden disclosure.)

<b>1. Type of Federal Action:</b> <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance		<b>2. Status of Federal Action:</b> <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award		<b>3. Report Type:</b> <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change <b>For Material Change Only:</b> year _____ quarter _____ date of last report _____	
<b>4. Name and Address of Reporting Entity:</b> <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known:  <b>Congressional District, if known:</b>			<b>5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:</b>  <b>Congressional District, if known:</b>		
<b>6. Federal Department/Agency:</b>			<b>7. Federal Program Name/Description:</b>  CFDA Number, if applicable: _____		
<b>8. Federal Action Number, if known:</b>			<b>9. Award Amount, if known:</b> \$ _____		
<b>10. a. Name and Address of Lobbying Registrant</b> (if individual, last name, first name, MI):			<b>b. Individuals Performing Services</b> (including address if different from No. 10a) (last name, first name, MI):		
<b>11.</b> Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.			Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____		
<b>Federal Use Only:</b>				Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)	

## INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
  
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

# Certification of Payments to Influence Federal Transactions

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

OMB Approval No. 2577-0157 (Exp. 1/31/2027)

Public reporting burden for this information collection is estimated to average 30 minutes,including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The information requested is required to obtain a benefit. This form is used to ensure federal funds are not used to influence members of Congress. There are no assurances of confidentiality. HUD may not conduct or sponsor, and an applicant is not required to respond to a collection of information unless it displays a currently valid OMB control number. Comments regarding the accuracy of this burden estimate and any suggestions for reducing this burden can be sent to the Reports Management Officer, Office of Policy Development and Research, REE, Department of Housing and Urban Development, 451 7th St SW, Room 4176, Washington, DC 20410-5000. When providing comments, please refer to OMB Approval No. 2577-0157.

Applicant Name

Program/Activity Receiving Federal Grant Funding

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate. **Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official

Title

Signature

Date (mm/dd/yyyy)

# The City of Chandler Housing and Redevelopment Department

## Section 8 Housing Choice Voucher Administrative Plan

202~~4~~



Effective 07/01/202~~4~~

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**Chapter 6**  
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**Chapter 18**  
**PROJECT BASED VOUCHERS (PBV) UNDER THE**  
**RENTAL ASSISTANCE DEMONSTRATION (RAD) PROGRAM**

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**Chapter 19**  
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## Overview of the Program and Plan

### Introduction

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

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

There are three parts to this chapter:

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

**Part II: The HCV Program.** This part contains information about the Housing Choice Voucher program operation, roles and responsibilities, and partnerships.

**Part III: The HCV Administrative Plan.** This part discusses the purpose and organization of the plan and its revision requirements.

## **PART I: THE PHA**

### **1-I.A. OVERVIEW**

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

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

The Section 8 tenant-based Housing Choice Voucher (HCV) assistance program is funded by the federal government and administered by the City of Chandler Housing and Redevelopment Division for the jurisdiction of the City of Chandler.

The officials of a PHA are known as commissioners or, collectively, as the board of commissioners.

Commissioners are appointed in accordance with state housing law and generally serve in the same capacity as the directors of a corporation, establishing policies under which the PHA conducts business, ensuring that policies are followed by PHA staff and ensuring that the PHA is successful in its mission. The board is responsible for preserving and expanding the agency's resources and assuring the agency's continued viability.

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

The principal staff member of the PHA is the housing manager (ED), hired and appointed by the board of commissioners. The housing manager is directly responsible for carrying out the policies established by the board and is delegated the responsibility for hiring, training, and supervising the PHA staff in order to manage the day-to-day operations of the PHA. The housing manager is responsible for ensuring compliance with federal and state laws and directives for the programs managed. In addition, the housing manager's duties include budgeting and financial planning for the agency.

### **1-I.C. PHA MISSION**

The purpose of a mission statement is to communicate the purpose of the agency to people inside and outside of the agency. It provides guiding direction for developing strategy, defining critical success factors, searching out key opportunities, making resource allocation choices, satisfying clients and stakeholders, and making decisions.

#### **PHA Policy**

**Vision Statement:** The City of Chandler, Housing and Redevelopment Division, together with our community partners dedicate ourselves to creating and sustaining healthy, diverse neighborhood housing opportunities that promote individual responsibility, economic growth, human dignity, and hope for the future.

Having a quality living environment in a sustainable neighborhood is the foundation of society and our community. Providing the structural foundation for a quality life fosters hope and facilitates a pathway to meeting other needs and goals.

Responsible and respectful people deserve the opportunity to contribute to attaining an efficient, functional, quality home and neighborhood in which we can all have pride.

**Mission Statement:** It is the mission of the City of Chandler Housing and Redevelopment Division, together with our community partners to work in ensuring affordable and other housing opportunities are available for those families that are in need within our community.

#### **1-I.D. THE PHA’S PROGRAMS**

The following programs are included under this administrative plan:

##### **PHA Policy**

The PHA’s administrative plan is applicable to the operation of the Housing Choice Voucher program.

#### **1-I.E. THE PHA’S COMMITMENT TO ETHICS AND SERVICE**

As a public service agency, the PHA is committed to providing excellent service to HCV program participants, owners, and to the community. The PHA’s standards include:

- Administer applicable federal and state laws and regulations to achieve high ratings in performance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.
- Provide decent, safe, and sanitary housing – in compliance with program inspection standards (NSPIRE) – for very low-income families while ensuring that family rents are fair, reasonable, and affordable.
- Encourage self-sufficiency of participant families and assist in the expansion of family opportunities which address educational, socio-economic, recreational, and other human service needs.
- fair housing and the equal opportunity for very low-income families of all ethnic backgrounds to experience freedom of housing choice.
- Promote a housing program, which maintains quality service and integrity while providing an incentive to private property owners to rent to very low-income families.
- Promote a market-driven housing program that will help qualified low-income families be successful in obtaining affordable housing and increase the supply of housing choices for such families.

- Create positive public awareness and expand the level of family, owner, and community support in accomplishing the PHA's mission.
- Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.
- Administer an efficient, high-performing agency through continuous improvement of the PHA's support systems and a high level of commitment to our employees and their development.

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

## **PART II. THE HOUSING CHOICE VOUCHER (HCV) PROGRAM**

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

The intent of this section is to provide the public and staff with information related to the overall operation of the program. There have been many changes to the program since its inception in 1974 and a brief history of the program will assist the reader to better understand the program.

The United States Housing Act of 1937 (the “Act”) is responsible for the birth of federal housing program initiatives. The Act was intended to provide financial assistance to states and cities for public works projects, slum clearance, and the development of affordable housing developments for low-income residents.

The Housing and Community Development (HCD) Act of 1974 created a new federally assisted housing program – the Section 8 Existing program (also known as the Section 8 Certificate program). The HCD Act represented a significant shift in federal housing strategy from locally owned public housing to privately owned rental housing.

Under the Certificate program, federal housing assistance payments were made directly to private owners of rental housing, where this housing was made available to lower-income families. Eligible families were able to select housing in the private rental market. Assuming that the housing met certain basic physical standards of quality and was within certain HUD-established rent limitations (“fair market rents”), the family would be able to receive rental assistance in the housing unit. Family contribution to rent was generally set at 30 percent of the family’s adjusted income, with the remainder of the rent paid by the program.

Another unique feature of the Certificate program was that the rental assistance remained with the eligible family, if the family chose to move to another privately-owned rental unit that met program requirements (in contrast to the public housing program where the rental assistance remains with the unit, should the family decide to move). Consequently, the Certificate program was characterized as tenant-based assistance, rather than unit-based assistance.

The Housing and Community Development (HCD) Act of 1987 authorized a new version of tenant- based assistance – the Section 8 Voucher program. The Voucher program was very similar to the Certificate program in that eligible families were able to select housing in the private rental market and receive assistance in that housing unit.

However, the Voucher program permitted families more options in housing selection. Rental housing still had to meet the basic housing quality standards, but there was no fair market rent limitation on rent. In addition, family contribution to rent was not set at a limit of 30 percent of adjusted income. Consequently, depending on the actual rental cost of the unit selected, a family might pay more or less than 30 percent of their adjusted income for rent.

From 1987 through 1999, public housing agencies managed both the Certificate and Voucher tenant- based assistance programs, with separate rules and requirements for each. From 1994 through 1998, HUD published a series of new rules, known as “conforming” rules, to more closely combine and align the two similar housing programs, to the extent permitted by the law.

In 1998, the Quality Housing and Work Responsibility Act (QHWRA) – also known as the Public Housing Reform Act – was signed into law. QHWRA eliminated all statutory differences between the Certificate and Voucher tenant-based programs and required that the two programs be merged into a single tenant-based assistance program, now known as the Housing Choice Voucher (HCV) program.

The HCV program was modeled closely on the pre-merger Voucher program. However, unlike the pre-merger Voucher program, the HCV program requires an assisted family to pay at least 30 percent of adjusted income for rent.

The transition of assistance from the Certificate and Voucher programs to the new HCV program began in October 1999. By October 2001, all families receiving tenant-based assistance were converted to the HCV program.

### **1-II.B. HCV PROGRAM BASICS**

The purpose of the HCV program is to provide rental assistance to eligible families. The rules and regulations of the HCV program are determined by the U.S. Department of Housing and Urban Development. The PHA is afforded choices in the operation of the program, which are included in the PHA's administrative plan, a document approved by the board of commissioners of the PHA.

The HCV program offers mobility to eligible families because they may search for suitable housing anywhere in the PHA's jurisdiction and may also be eligible to move under portability to other PHAs' jurisdictions.

When a family is determined to be eligible for the program and funding is available, the PHA issues the family a housing voucher. When the family finds a suitable housing unit and funding is available, the PHA will enter into a contract with the owner and the family will enter into a lease with the owner. Each party makes their respective payment to the owner so that the owner receives full rent.

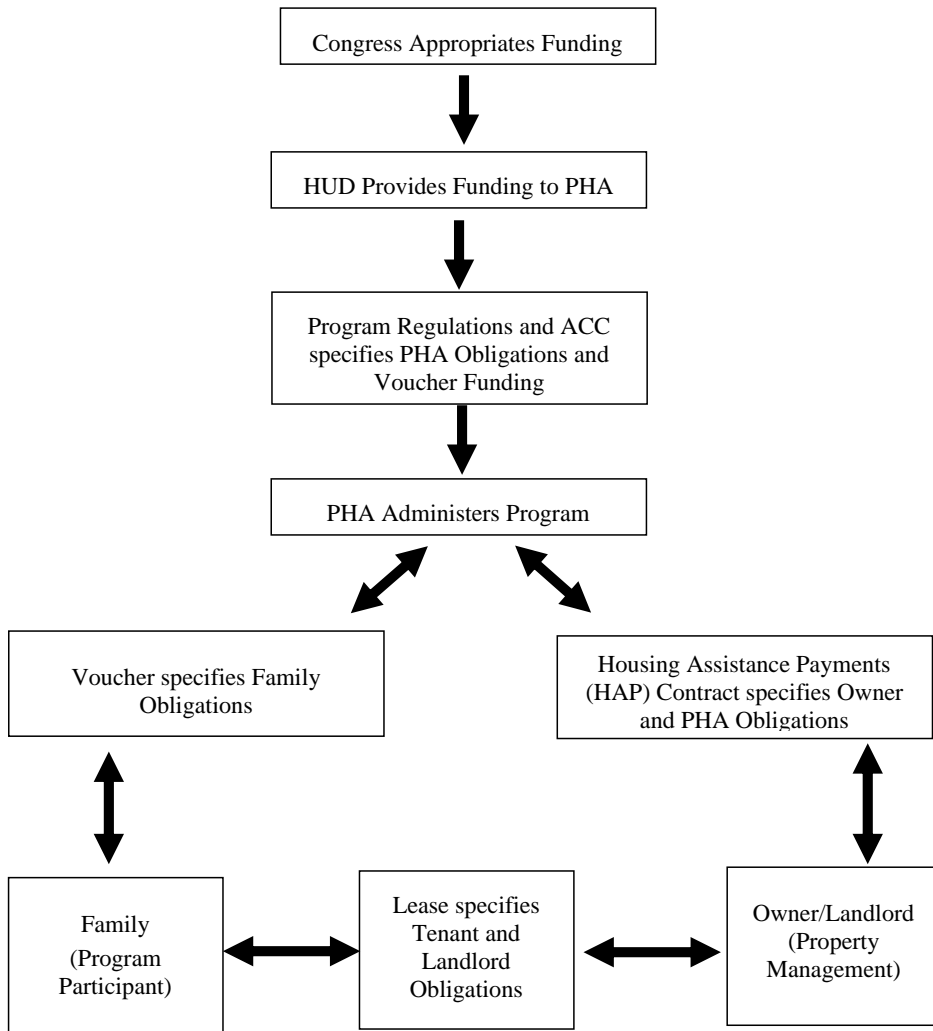
Even though the family is determined to be eligible for the program, the owner has the responsibility of approving the family as a suitable renter. The PHA continues to make payments to the owner as long as the family is eligible, and the housing unit continues to qualify under the program.

### **1-II.C. THE HCV PARTNERSHIPS**

To administer the HCV program, the PHA enters into a contractual relationship with HUD (Consolidated Annual Contribution Contract). The PHA also enters into contractual relationships with the assisted family and the owner or landlord of the housing unit.

For the HCV program to work and be successful, all parties involved – HUD, the PHA, the owner, and the family – have important roles to play. The roles and responsibilities of all parties are defined in federal regulations and in legal documents that parties execute to participate in the program. The following chart illustrates key aspects of these relationships.

**The HCV Relationships:**





### **What Does HUD Do?**

HUD has the following major responsibilities:

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

### **What Does the PHA Do?**

The PHA administers the HCV program under contract with HUD and has the following major responsibilities:

- Establish local policies to administer the program;
- Review applications from interested applicant to determine whether they are eligible for the program;
- Maintain a waiting list and select families for admission;
- Issue voucher to eligible families and provide information on how to lease a unit;
- Conduct outreach to owners, with special attention to owners outside areas of poverty or minority concentration;
- Approve the rental unit (including assuring compliance with housing quality standards and rent reasonableness), the owner, and the tenancy;
- Make housing assistance payments to the owner in a timely manner;
- Recertify families for continued eligibility under the program;
- Ensure that owners and families comply with their contractual obligations;
- Provide families and owners with prompt, professional service;
- Comply with all fair housing and equal opportunity requirements, HUD regulations and requirements, the Annual Contributions Contract, HUD-approved applications for funding, the PHA's administrative plan, and other applicable federal, state, and local laws.

### **What Does the Owner Do?**

The owner has the following major responsibilities:

- Screen families who apply for tenancy, to determine suitability as renters.
- The PHA can provide some information to the owner, but the primary responsibility for tenant screening rests with the owner.

- The owner should consider family background factors such as rent and bill-paying history, history of caring for property, respecting the rights of others to peaceful enjoyment of the property, compliance with essential conditions of tenancy, whether the family is engaging in drug-related criminal activity or other criminal activity that might threaten others.
- Comply with the terms of the Housing Assistance Payments contract, executed with the PHA;
- Comply with all applicable fair housing laws and do not discriminate against anyone;
- Maintain the housing unit in accordance with Housing Quality Standards (HQS) and make necessary repairs in a timely manner;
- Collect rent due from the assisted family and otherwise comply with and enforce provisions of the dwelling lease.

The City of Chandler Housing and Redevelopment became part of the Uniform Physical Conditions Standards

### **What Does the Family Do?**

The family has the following responsibilities:

- Provide the PHA with complete and accurate information, determined by the PHA to be necessary for administration of the program;
- Make their best and most timely efforts to locate qualified and suitable housing;
- Cooperate in attending all appointments scheduled by the PHA;
- Allow the PHA to inspect the unit at reasonable times and after reasonable notice;
- Take responsibility for care of the housing unit, including any violations of inspection standards caused by the family;
- Comply with the terms of the lease with the owner;
- Comply with the family obligations of the voucher;
- Not commit serious or repeated violations of the lease;
- Not engage in drug-related or violent criminal activity;
- Notify the PHA and the owner before moving or termination the lease;
- Use the assisted unit only for residence and as the sole residence of the family. Not sublet the unit, assign the lease, or have any interest in the unit;
- Promptly notify the PHA of any changes in family composition;
- Not commit fraud, bribery, or any other corrupt or criminal act in connection with any housing programs.

#### **1-III.D. APPLICABLE REGULATIONS**

Applicable regulations include:

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 982: Section 8 Tenant-Based Assistance: Housing Choice Voucher Program
- 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 35: Lead-Based Paint
- 24 CFR Part 100: The Fair Housing Act
- 24 CFR Part 982: Section 8 Tenant-Based Assistance: Housing Choice Voucher Program
- 24 CFR Part 983: Project-Based Vouchers
- 24 CFR Part 985: The Section 8 Management Assessment Program (SEMAP)
- Uniform Physical Conditions Standards (NSPIRE) Protocol Ver. 2.5

## **PART III: THE HCV ADMINISTRATIVE PLAN**

### **1-III.A. OVERVIEW AND PURPOSE OF THE PLAN**

The administrative plan is required by HUD. The purpose of the administrative plan is to establish policies for carrying out the programs in a manner consistent with HUD requirements and local goals and objectives contained in the PHA's agency plan. This administrative plan is a supporting document to the PHA agency plan and is available for public review as required by CFR 24 Part 903.

This administrative plan is set forth to define the PHA's local policies for operation of the housing programs in accordance with federal laws and regulations. All issues related to the HCV program not addressed in this document are governed by such federal regulations, HUD handbooks and guidebooks, notices, and other applicable law. The policies in this administrative plan have been designed to ensure compliance with the consolidated ACC and all HUD-approved applications for program funding.

The PHA is responsible for complying with all changes in HUD regulations pertaining to the HCV program. If such changes conflict with this plan, HUD regulations will have precedence.

Administration of the HCV program and the functions and responsibilities of PHA staff shall be in compliance with the PHA's personnel policy and HUD regulations as well as all federal, state and local fair housing laws and regulations.

### **1-III.B. CONTENTS OF THE PLAN [24 CFR §982.54]**

The HUD regulations at 24 CFR §982.54 define the policies that must be included in the administrative plan. They are as follows:

- 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 (Chapter 4);
- 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 (Chapter 5);
- 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 (Chapter 4);
- Occupancy policies, including definition of what group of persons may qualify as a 'family', definition of when a family is considered to be 'continuously assisted'; standards for denying admission or terminating assistance based on criminal activity or alcohol abuse in accordance with §982.553 (Chapters 3 and 12);
- Encouraging participation by owners of suitable units located outside areas of low income or minority concentration (Chapter 13);

- Assisting a family that claims that illegal discrimination has prevented the family from leasing a suitable unit (Chapter 2);
- Providing information about a family to prospective owners (Chapters 3 and 9);
- Disapproval of owners (Chapter 13);
- Subsidy standards (Chapter 5);
- Family absence from the dwelling unit (Chapter 12);
- How to determine who remains in the program if a family breaks up (Chapter 3);
- Informal review procedures for applicants (Chapter 16);
- Informal hearing procedures for participants (Chapter 16);
- The process for establishing and revising voucher payment standards including policies on administering decreases in the payment standard during the HAP contract term (Chapter 16);
- The method of determining that rent to owner is a reasonable rent (initially and during the term of a HAP contract) (Chapter 8);
- Special policies concerning special housing types in the program (e.g., use of shared housing) (Chapter 15);
- Policies concerning payment by a family to the PHA of amounts the family owes the PHA (Chapter 16);
- Interim re-determinations of family income and composition (Chapter 11);
- Restrictions, if any, on the number of moves by a participant family (Chapter 10);
- Approval by the board of commissioners or other authorized officials to charge the administrative fee reserve (Chapter 16);
- Procedural guidelines and performance standards for conducting required housing quality standards inspections (Chapter 8); and
- PHA screening of applicants for family behavior or suitability for tenancy (Chapter 3).

### **Mandatory vs. Discretionary Policy**

HUD makes a distinction between:

- Mandatory policies: those driven by legislation, regulations, current handbooks, notices, and legal opinions, and
- Optional, non-binding guidance, including guidebooks, notices that have expired and recommendations from individual HUD staff.

HUD expects PHAs to adopt local policies and procedures that are consistent with mandatory policies in the areas where HUD gives the PHA discretion. The PHA's administrative plan is the foundation of those policies and procedures. HUD's directions require PHAs to make policy choices that provide sufficient guidance to staff and ensure consistency to program applicants and participants.

Creating policies based upon HUD guidance is not mandatory but provides a PHA with a “safe harbor.” HUD has already determined that the recommendations and suggestions it makes are consistent with mandatory policies. If a PHA adopts an alternative strategy, it must make its own determination that the alternative approach is consistent with legislation, regulations, and other mandatory requirements. There may be very good reasons for adopting a policy or procedure that is different than HUD’s safe harbor, but PHAs should carefully think through those decisions.

#### **1-III.C. ORGANIZATION OF THE PLAN**

The plan is organized to provide information to users in particular areas of operation.

#### **1-III.D. UPDATING AND REVISING THE PLAN**

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

##### **PHA Policy**

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

## **Fair Housing and Equal Opportunity**

### **Introduction**

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

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

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

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

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

## **PART I: NONDISCRIMINATION**

### **2-I.A. OVERVIEW**

Federal laws require PHAs to treat all applicants and participants equally, providing the same quality of services, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, and disability. The PHA will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063 and 13988
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the *Federal Register* February 3, 2012, and further clarified in PIH Notice 2014-20.
- Violence Against Women Reauthorization Act of 2013 (VAWA)

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

Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted.

#### PHA Policy

No state or local nondiscrimination laws or ordinances apply.

### **2-I.B. NONDISCRIMINATION**

A reasonable accommodation is an adjustment made to a rule, policy, practice, or service that allows a person with a disability to have equal access to the HCV program. For example, reasonable accommodations may include making home visits, extending the voucher term, or approving an exception payment standard in order for a participant to lease an accessible dwelling unit.

Federal regulations prohibit discrimination against certain protected classes. State and local requirements, as well as PHA policies, can prohibit discrimination based on other factors.



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

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

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

#### PHA Policy

The PHA does not identify any additional protected classes.

The PHA will not use any of these factors to:

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

#### **Providing Information to Families and Owners**

The PHA must take steps to ensure that families and owners are fully aware of all applicable civil rights laws. As part of the briefing process, the PHA must provide information to HCV applicant families about civil rights requirements and the opportunity to rent in a broad range of neighborhoods [24 CFR §982.301]. The Housing Assistance Payments (HAP) contract informs

owners of the requirement not to discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability in connection with the contract.

### **Discrimination Complaints**

If an applicant or participant believes that any family member has been discriminated against by the PHA or an owner, the family should advise the PHA. The PHA should make every reasonable attempt to determine whether the applicant's or participant's assertions have merit and take any warranted corrective action. In addition, the PHA is required to provide the applicant or participant with information about how to file a discrimination complaint [24 CFR §982.304].

Upon receipt of a housing discrimination complaint, the PHA is required to:

- Provide written notice of the complaint to those alleged and inform the complainant that such notice was made;
- Investigate the allegations and provide the complainant and those alleged with findings and either a proposed corrective action or an explanation of why corrective action is not warranted; and
- Keep records of all complaints, investigations, notices, and corrective actions [PIH Notice 2014-20]

#### PHA Policy

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

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

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

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

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

## **PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES**

### **2-II.A. OVERVIEW**

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

The PHA must ensure that persons with disabilities have full access to the PHA's programs and services. This responsibility begins with the first contact by an interested family and continues through every aspect of the program.

#### **PHA Policy**

The PHA will provide for alternate format applications for persons requiring a reasonable accommodation in the online application process.

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

For applicants:

The City of Chandler Housing and Redevelopment Division is committed to fully complying with all state, federal and local laws involving non-discrimination and equal opportunity. Any person who believes he/she needs a reasonable accommodation to participate in any program for the City of Chandler Housing and Redevelopment Division should notify our office at least 24 hours prior to the date of the accommodation will be required.

For Reexamination documents and notices of adverse action by the PHA:

The City of Chandler Housing and Redevelopment Division is committed to fully complying with all state, federal and local laws involving non-discrimination and equal opportunity. Any person who believes he/she needs a reasonable accommodation to participate in any program for the City of Chandler Housing and Redevelopment Division should notify their housing specialist at least 24 hours prior to the date of the accommodation will be required.

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

### **2-II.B. DEFINITION OF REASONABLE ACCOMMODATION**

A reasonable accommodation is an adjustment made to a rule, policy, practice, or service that allows a person with a disability to have equal access to the HCV program. For example, reasonable accommodations may include making home visits, extending the voucher term, or approving an exception payment standard in order for a participant to lease an accessible dwelling unit.

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

### **Types of Reasonable Accommodations**

When needed, the PHA will modify normal procedures to accommodate the needs of a person with disabilities. Examples include:

- Permitting applications and reexaminations to be completed by mail, telephone, or walk-in. Reexaminations must be by appointment only. Walk-in applicants will be directed to the online process only during times the waitlist is open.
- Providing "large-print" forms
- Conducting home visits
- Using higher payment standards (either within the acceptable range or with HUD approval of a payment standard outside the PHA range) if the PHA determines this is necessary to enable a person with disabilities to obtain a suitable housing unit
- Providing time extensions for locating a unit, when necessary, because of lack of availability of accessible units or special challenges of the family in seeking a unit
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with PHA staff

### **2-IL.C. REQUEST FOR AN ACCOMMODATION**

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

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

If the need for the accommodation is not readily apparent or known to the PHA, the family must explain the relationship between the requested accommodation and the disability. There must be an identifiable connection, or nexus, between the requested accommodation and the individual's disability.

#### **PHA Policy**

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

### **2-IL.D. VERIFICATION OF DISABILITY**

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

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

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

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

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

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

**2-III.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION**  
**[JOINT STATEMENT OF THE DEPARTMENTS OF HUD AND JUSTICE:**  
**REASONABLE ACCOMMODATIONS UNDER THE FAIR HOUSING ACT, PIH**  
**NOTICE 2010-26]**

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

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

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

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

**PHA Policy**

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

If the PHA denies a request for an accommodation because there is no relationship or nexus found between the disability and the requested accommodations, the PHA will discuss with the family the reason for the denial. If the family cannot provide additional information to clarify the requested accommodation, the PHA will notify the family, in writing, of its determination within 10 business days from the date of the most recent discussion or communication with the family. The notice will inform the family of the right to appeal the PHA's decision through an informal review (if applicable) or informal hearing (see Chapter 16).

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

If the PHA believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, the PHA will notify the

family, in writing, of its determination within 10 business days from the date of the most recent discussion or communication with the family.

## **2-IL.F. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS**

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

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

### **PHA Policy**

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

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

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

## **2-IL.G. PHYSICAL ACCESSIBILITY**

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

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

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

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

The design, construction, or alteration of PHA facilities must conform to the Uniform Federal Accessibility Standards (UFAS). Newly constructed facilities must be designed to be readily accessible to and usable by persons with disabilities. Alterations to existing facilities must be accessible to the maximum extent feasible, defined as not imposing an undue financial and administrative burden on the operations of the HCV program.

When issuing a voucher to a family that includes an individual with disabilities, the PHA will include a current list of available accessible units known to the PHA and will assist the family in locating an available accessible unit, if necessary.

In general, owners must permit the family to make reasonable modifications to the unit. However, the owner is not required to pay for the modification and may require that the unit be restored to its original state at the family's expense when the family moves.

#### **2-II.H. DENIAL OR TERMINATION OF ASSISTANCE**

A PHA's decision to deny or terminate the assistance of a family that includes a person with disabilities is subject to consideration of reasonable accommodation [24 CFR §982.552 (2)(iv)].

When applicants with disabilities are denied assistance, the notice of denial must inform them of the PHA's informal review process and their right to request an informal review. In addition, the notice must inform applicants with disabilities of their right to request reasonable accommodations to participate in the informal review process.

When a participant family's assistance is terminated, the notice of termination must inform them of the PHA's informal hearing process and their right to request a hearing and reasonable accommodation.

When reviewing reasonable accommodation requests, the PHA must consider whether any mitigating circumstances can be verified to explain and overcome the problem that led to the PHA's decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, the PHA must make the accommodation.



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

#### **2-III.A. OVERVIEW**

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

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

LEP is defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English. For the purposes of this administrative plan, LEP persons are HCV applicants and participants, and parents and family members of applicants and participants.

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

Recipients (PHA) have two main ways to provide language services: oral and written language services. Quality and accuracy of the language service is critical in order to avoid serious consequences to the LEP person and to the PHA.

#### **2-III.B. ORAL INTERPRETATION [FEDERAL REGISTER, JANUARY 22, 2007, FINAL GUIDANCE TO FEDERAL FINANCIAL ASSISTANCE RECIPIENTS REGARDING TITLE VI, PROHIBITION AGAINST NATIONAL ORIGIN DISCRIMINATION AFFECTING LIMITED ENGLISH PROFICIENT PERSONS; NOTICE, SECTION VI. 7.]**

When providing oral assistance, the PHA is expected to ensure competency of the language service provider, no matter which of the strategies outlined below are used. Competency requires more than self-identification as bilingual.

Some bilingual staff or community volunteers, for instance, may be able to communicate effectively in a different language when communicating information directly in that language, but not be competent to interpret in and out of English.

PHA Policy

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

**Remote Translation Requirements**

PHA Policy

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

The PHA will utilize staff translators for Spanish-speaking interpreter services.

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

The PHA should not plan to rely on an LEP person's family members, friends, or other informal interpreters to provide meaningful access to important programs and activities.

LEP persons may feel more comfortable when a trusted family member or friend acts as an interpreter. In addition, in exigent circumstances that are not reasonably foreseeable, (for example, an unscheduled meeting to discuss a change report) temporary use of interpreters not provided by the PHA may be necessary.

PHA Policy

**For non-administrative meetings** and where LEP persons desire, they will be permitted to use, at their own expense, an interpreter of their own choosing, in place of, or as a supplement to the free language services offered by the PHA. The interpreter may be a family member or friend, however the PHA will not rely on the minor to serve as the interpreter.

**For administrative meetings**, the PHA will continue to provide free translation services to ensure proper and legal translation occurs, during administrative hearings, termination actions, or when housing services or benefits are at stake, or any time the family does not request an interpreter of their choosing:

- Where precise, complete, and accurate interpretations or translations of information and/or testimony are critical for legal reasons, or where the competency of the LEP person's interpreter is not established, the PHA will provide its own, independent interpreter, even if an LEP person wants to use their own interpreter as well.
- If the interpreter chosen by the family is a minor, the PHA will not rely on the minor to serve as the interpreter.

- In the case where the family brings their own interpreter even though the PHA is providing translation services for the communications between the PHA and the family.
- The PHA's interpreter will provide the legal, official interpretation for the meeting, even when the LEP person brings their own interpreter.

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

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

#### **Using Family or Friends as the Interpreter [Federal Register, 1/22/2007]**

Special circumstances may raise additional serious concerns regarding the voluntary nature, conflicts of interest, and privacy issues surrounding the use of family members and friends as interpreters, particularly where an important right, benefit, service, disciplinary concern, or access to personal or law enforcement information is at stake.

In addition to ensuring competency and accuracy of the interpretation, the PHA will take these special circumstances into account when determining whether an LEP person makes a knowing and voluntary choice to use another family member or friend as an interpreter.

Furthermore, such informal interpreters may have a personal connection to the LEP person or an undisclosed conflict of interest, such as the desire to protect themselves, the LEP person, or another perpetrator in a domestic violence or other criminal matter.

#### **PHA Policy**

For these reasons, when oral language services are necessary, the PHA will offer competent interpreter services at no cost to the LEP person.

For HUD recipient (PHA) programs and activities, this is particularly true in a courtroom or administrative hearing or in situations in which health, safety, or access to important housing benefits and services are at stake; or when credibility and accuracy are important to protect an individual's rights and access to important services.

### **2-III.C. WRITTEN TRANSLATION**

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

#### **PHA Policy**

In order to comply with written-translation obligations, the PHA will take the following steps:

- The PHA will provide written translations of vital documents for each eligible LEP language group that constitutes 5 percent or 1,000 persons, whichever is less,

of the population of persons eligible to be served or likely to be affected or encountered.

- Translation of other documents, if needed, can be provided orally; or
- If there are fewer than 50 persons in a language group that reaches the 5 percent trigger, the PHA does not translate vital written materials, but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

## **2-III.D. IMPLEMENTATION PLAN**

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

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

### **PHA Policy**

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

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

**EXHIBIT 2-1: Definition of a Person with a Disability Under Federal Civil Rights Laws [24 CFR Parts §8.3, §25.104, and §100.201; HOTMA]**

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

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

The phrase “physical or mental impairment” includes:

- Any physiological disorder or condition, cosmetic or disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; 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, mental retardation, emotional illness, drug addiction and alcoholism.

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

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

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

The definition of a person with disabilities does not include:

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

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

The HUD definition of a person with a disability is much narrower than the civil rights definition of disability. The HUD definition of a person with a disability is used for purposes of receiving the disabled family preference, the \$550 elderly/disabled household deduction (HOTMA), the \$480 dependent deduction, the allowance for medical expenses, or the allowance for disability assistance expenses.

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

## Eligibility

### Introduction

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

To be eligible for the HCV program:

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

This chapter contains three parts:

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

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

**Part III: Denial of Assistance.** This part covers factors related to an applicant's past or current conduct (e.g., criminal activity) that can cause the PHA to deny assistance as well as the asset limitation for HCV.

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## PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

### **3-I.A. OVERVIEW**

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

### **3-I.B. FAMILY AND HOUSEHOLD [24 CFR ~~§982.201(C)~~5.403; FR NOTICE 02/03/12; NOTICE PIH ~~NOTICE 2014- 20~~; AND FR NOTICE 2/14/23]**

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

#### **Family**

To be eligible for assistance, an applicant must qualify as a family. *Family* ~~as is~~ defined by HUD includes, but is not limited to the following, regardless actual, or perceived sexual orientation, gender identity, or marital status, a single person, who may be an elderly person, disabled 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. 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/or~~ the remaining member of a tenant family. The PHA has the discretion to determine if any other group of persons qualifies as a family.

*Gender Identity* means actual or perceived gender characteristics.

*Sexual orientation* means homosexuality, heterosexuality, or bisexuality.

#### **PHA Policy**

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

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

#### **Household**

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





### **3-I.C. FAMILY BREAK-UP AND REMAINING MEMBER OF TENANT FAMILY**

#### **Family Break-up [24 CFR §982.315; PIH Notice 2017-08]**

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

- (1) If the family breakup results from an occurrence of domestic violence, dating violence, sexual assault, ~~or~~stalking, or human trafficking, the PHA must ensure that the victim retains assistance. (For documentation requirements and policies related to domestic violence, dating violence, sexual assault, ~~and~~stalking, and human trafficking; see Section 16-IX.D of this plan.)
- (2) In accordance with Notice PIH ~~Notice~~-2017-08, for HUD–Veterans Affairs Supportive Housing (HUD–VASH) vouchers, when the veteran is the perpetrator of domestic violence, dating violence, sexual assault, ~~or~~stalking, or human trafficking, the victim must continue to be assisted. Upon termination of the perpetrator’s HUD–VASH voucher, the victim should be given a regular HCV if one is available, and the perpetrator’s HUD–VASH voucher should be used to serve another eligible family. If a regular HCV is not available, the victim will continue to use the HUD–VASH voucher, which must be issued to another eligible family upon the voucher’s turnover.
- (3) If a court determines the disposition of property between members of the assisted family, the PHA is bound by the court’s determination of which family members continue to receive assistance.

#### **PHA Policy**

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

If a family breaks up into two otherwise eligible families while receiving assistance, only one of the new families will continue to be assisted.

In the absence of a judicial decision, or an agreement among the original family members, the PHA will determine which family retains their placement on the waiting list or will continue to receive assistance. In making its determination, the PHA will take into consideration the following factors:

- (1) the interest of any minor children, including custody arrangements,
- (2) the interest of any ill, elderly, or disabled family members,
- (3) the interest of any family member who is the victim of domestic violence, dating violence, sexual assault, ~~or~~stalking, or human trafficking, including a family member who was forced to leave an assisted unit as a result of such actual or threatened abuse;
- (4) any possible risks to family members as a result of criminal activity; and  
~~domestic violence or criminal activity; and~~

(5) the recommendations of social service professionals.

#### **Remaining Member of a Tenant Family [24 CFR §5.403]**

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

Household members such as live-in aides, foster children, and foster adults do not qualify as remaining members of a family.

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

#### **3-I.D. HEAD OF HOUSEHOLD [24 CFR §5.504(B)]**

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

##### PHA Policy

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

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

#### **3-I.E. SPOUSE, CO-HEAD, AND OTHER ADULT**

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

*Spouse* means the marriage partner of the head of household.

##### PHA Policy

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

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

##### PHA Policy

~~Minors who are emancipated under state law may be designated as a cohead. The PHA does not acknowledge coheads as a household member relation type. Instead, the term "other adult" is used.~~

~~A family can have only one cohead.~~

PHA Policy

~~Minors who are emancipated under state law may be designated as a cohead.~~

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

### **3-I.F. DEPENDENTS AND MINORS [24 CFR §5.603]**

~~A *minor* is a member of the family, other than the head of family or spouse, who is under 18 years of age.~~

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

#### **Joint Custody of Dependents**

PHA Policy

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

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

### **3-I.G. FULL-TIME STUDENT [24 CFR §5.603, HVC GB P. 5-29]**

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

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

### **3-I.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY [24 CFR §5.100 AND 5.403, FR NOTICE 02/03/12; §5.403]**

## Elderly Persons

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

## Near-Elderly Persons

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

## Elderly Family

An *elderly family* is one in which the head, spouse, cohead, or sole member is an elderly person. Identifying elderly families is important because elderly families qualify for the elderly family allowance as described in Chapter 6.

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

#### **Persons with Disabilities**

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

As discussed in Chapter 2, the PHA must make all aspects of the HCV program accessible to persons with disabilities and consider reasonable accommodations requested based upon a person's disability. ~~when a person's disability limits their full access to the program or the PHA's services.~~

#### **Disabled Family**

A *disabled family* is one in which the head, spouse, or cohead is a person with disabilities. Identifying disabled families is important because these families qualify for the disabled family allowance as described in Chapter 6.

Even though persons with drug or alcohol dependencies are considered persons with disabilities, this does not prevent the PHA from denying assistance for reasons related to alcohol and drug abuse in accordance with the policies found in Part III of this chapter, or from terminating assistance in accordance with the policies in Chapter 12.

### **3-I.I. GUESTS [24 CFR §5.100]**

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

#### PHA Policy

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The participant must receive written permission from the landlord to have any guest temporarily stay in the unit, based on the limitations listed below. A copy of the written permission will be provided to the PHA.

With the landlord's consent, a guest can remain in the assisted unit no longer than a total of 14 days in any 12-month period.

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

A family may request an exception in writing to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure is expected to last 30 consecutive days). An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.

The family in tenancy that allows an unauthorized occupant to reside in their unit is not in compliance will be subject to termination of tenancy. Some examples of unauthorized occupants include:

- Use of the unit address as the guest's current residence for any purpose that is not explicitly temporary or has the landlord's consent shall be construed as permanent residence.
- Persons that have joined the household without undergoing screening;
- Persons that stay in the unit beyond an authorized period; and
- A person (often a relative) that came to the unit as an extended visitor because the resident needed support, for example, after a medical procedure but stayed on in the unit beyond the time needed by the resident.

The burden of proof that the individual is a guest rests on the family. In the absence of such proof, the individual will be considered an unauthorized member of the household and the PHA will terminate assistance since prior approval was not requested for the addition.

### 3.I.K. Foster Children and Foster Adults **[24 CFR 5.603]**

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

The term A foster child is 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

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~~agency (e.g., public child welfare agency) or by judgment, decree, or other order of any court of competent jurisdiction, is not specifically defined by the regulations.~~

Foster children and foster adults that are living with an applicant or who have been approved by the PHA to live with a participant family are considered household members but not family members. The income of foster children/adults is not counted in family annual income, and foster children/adults do not qualify for a dependent deduction [24 CFR §5.603; [HUD-50058 IB, p. 13](#)]~~and form HUD-50058 IB, p. 13~~.

#### PHA Policy

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

A foster child or foster adult may be allowed to reside in the unit if their presence would not result in a violation of HQS/NSPIRE space standards according to 24 CFR §982.401.

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

### **3-I.L. ABSENT FAMILY MEMBERS**

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

#### **Definitions of Temporarily and Permanently Absent**

##### PHA Policy

Generally, an individual who is or is expected to be absent from the assisted unit for ~~less than 30~~ [180](#) consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally, an individual who is or is expected to be absent from the assisted unit for more than ~~180~~ [30](#) consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

#### **Absent Students**

##### PHA Policy

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

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

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

#### PHA Policy

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

### **Absent Head, Spouse, or Cohead**

#### PHA Policy

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

~~A head, spouse, or cohead who is absent from the unit because of a military deployment or active service will continue to be considered a family member.~~

### **Family Members Permanently Confined for Medical Reasons [HCV GB, p. 5-22]**

If a family member is confined to a nursing home or hospital on a permanent basis, that person is no longer considered a family member and the income of that person is not counted [HCV GB, p. 5-22].

#### PHA Policy

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

The PHA will request verification of the family member's permanent absence from a responsible medical professional. If the responsible medical professional cannot provide a determination, the person will be considered temporarily absent. If the family certifies that the family member is confined on a permanent basis, they may present, and the PHA will consider, any additional documentation or evidence.

### **Return of Permanently Absent Family Members**

#### PHA Policy

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

### **3-1.M. LIVE-IN AIDE**

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 to be essential to the care and well-being



of the persons, (2) is not obligated for the support of the persons, and (3) would not be living in the unit except to provide the necessary supportive services [24 CFR §5.403].

The PHA must approve a live-in aide if needed as a reasonable accommodation in accordance with 24 CFR 8, to make the program accessible to and usable by the family member with disabilities.

The live-in aide is not a family member.

The income of a live-in aide is not counted in the calculation of annual income for the family [24 CFR §5.609~~(be)(5)~~]. Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. Because live-in aides are not *family* members, a relative who serves as a live-in aide would not be considered a remaining member of a tenant family.

#### PHA Policy

A family's request for a live-in aide must be made in writing. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or case worker, that the live-in aide is essential for the care and well-being of the elderly, near elderly, or disabled family member.

For continued approval the family must submit a new, written request-subject to PHA verification-at each annual reexamination unless knowledgeable professional declares on verification that disability is permanent.

~~For continued approval, the family must submit a new, written request subject to PHA verification at each annual reexamination.~~

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

The PHA will not approve a particular person as a live-in aide, and may withdraw such approval if [24 CFR §982.316(b)]:

- The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The person commits drug-related criminal activity or violent criminal activity; or
- The person currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

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

## PART II: BASIC ELIGIBILITY CRITERIA

### **3-II.A. INCOME ELIGIBILITY AND TARGETING**

#### **Income Limits**

HUD establishes income limits for all areas of the country and publishes them annually in the *Federal Register*. They are based upon estimates of median family income with adjustments for family size. The income limits are used to determine eligibility for the program and for income targeting purposes as discussed in this section.

#### **Definitions of the Income Limits [24 CFR §5.603(b)]**

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

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

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

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

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

#### **Using Income Limits for Eligibility [24 CFR §982.201 and Notice PIH 2023-27]**

Income limits are used for eligibility only at admission. Income eligibility is determined by comparing the annual income of an applicant to the applicable income limit for their family size. ~~Income and net family assets of household members are excluded when determining income eligibility; however, household members are considered for purposes of unit size and subsidy standards. In standards. In~~ order to be income eligible, an applicant family must be one of the following:

- A *very low-income* family
- A *low-income* family that has been "continuously assisted" under the 1937 Housing Act. A family is considered to be continuously assisted if the family is already receiving assistance under any 1937 Housing Act program at the time the family is admitted to the HCV program [24 CFR §982.4; 24 CFR 982.201(b)]

#### **PHA Policy**

The PHA will consider a family to be continuously assisted if the family was leasing a unit under any 1937 Housing Act program at the time they were selected from the PHA's waiting list.

- A low-income family that qualifies for voucher assistance as a non-purchasing household living in HOPE 1 (public housing homeownership), HOPE 2 (multifamily housing homeownership) developments, or other HUD-assisted multifamily homeownership programs covered by 24 CFR §248.173
- A low-income or moderate-income family that is displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract on eligible low-income housing as defined in 24 CFR §248.101

HUD permits the PHA to establish additional categories of low-income families that may be determined eligible. The additional categories must be consistent with the PHA plan and the consolidated plans for local governments within the PHA's jurisdiction.

#### PHA Policy

The PHA has not established any additional categories of eligible low-income families.

#### **Using Income Limits for Targeting [24 CFR §982.201]**

At least 75 percent of the families admitted to the PHA's program during a PHA fiscal year must be extremely low-income families. HUD may approve exceptions to this requirement if the PHA demonstrates that it has made all required efforts but has been unable to attract an adequate number of qualified extremely low-income families.

Families continuously assisted under the 1937 Housing Act and families living in eligible low-income housing that are displaced as a result of prepayment of a mortgage or voluntary termination of a mortgage insurance contract are not counted for income targeting purposes.

#### **3-IL.B. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS** **[24 CFR 5, SUBPART E]**

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

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

#### **Declaration [24 CFR §5.508]**

HUD requires each family member to declare whether the individual is a citizen, a national, or an eligible noncitizen, except those members who elect not to contend that they have eligible immigration status. Those who elect not to contend their status are considered to be ineligible

noncitizens. For citizens, nationals, and eligible noncitizens the declaration must be signed personally by the head, spouse, cohead, and any other family member 18 or older, and by a parent or guardian for minors. The family must identify in writing any family members who elect not to contend their immigration status (see Ineligible Noncitizens below). No declaration is required for live-in aides, foster children, or foster adults.

### **U.S. Citizens and Nationals**

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

#### PHA Policy

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

### **Eligible Noncitizens**

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

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

### **Ineligible Noncitizens**

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

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

## **Mixed Families**

A family is eligible for assistance as long as at least one member is a citizen, national, or eligible noncitizen. Families that include eligible and ineligible individuals are considered *mixed families*. Such families will be given notice that their assistance will be prorated, and they may request a hearing if they contest this determination. See Chapter 6 for a discussion of how rents are prorated, and Chapter 16 for a discussion of informal hearing procedures.

## **Ineligible Families [24 CFR §5.514(d); §5.514 (e); §5.514 (f)]**

A PHA may elect to provide assistance to a family before the verification of the eligibility of the individual or one family member [24 CFR §5.512(b)]. Otherwise, no individual or family may be assisted prior to the affirmative establishment by the PHA that the individual or at least one family member is eligible Verification of eligibility for this purpose occurs when the individual or family members have submitted documentation to the PHA in accordance with program requirements [24 CFR §5.512(a)].

### PHA Policy

The PHA will not provide assistance to a family before the verification of at least one family member.

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

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

Informal hearing procedures are contained in Chapter 16.

## **Timeframe for Determination of Citizenship Status [24 CFR §5.508(g)]**

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

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

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

### PHA Policy

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

**3-IL.C. SOCIAL SECURITY NUMBERS [24 CFR §5.216 AND ~~24 CFR §5.218, NOTICE PIH 2018-241~~; PIH NOTICE 2018-241]**

The applicant and all members of the applicant's household must disclose the complete and accurate social security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN. If a child under age 6 has been added to an applicant family within 6 months prior to voucher issuance, an otherwise eligible family may be admitted to the program and must disclose and document the child's SSN within 90 days of the effective date of the initial HAP contract. A detailed discussion of acceptable documentation is provided in Chapter 7.

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

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

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

**3-IL.D. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR §5.2320; HCV GB, P. 5-13; ~~HOTMA~~]**

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

The PHA must deny admission to the program if any member of the applicant family fails to sign and submit the consent forms for obtaining information in accordance with 24 CFR 5, Subparts B and F [24 CFR §982.552(b)(3) and 24 CFR 5.232(a)].

However, this does not apply if the applicant or participant, or any member of their family, revokes their consent with respect to the ability of the PHA to access financial records from financial institutions, unless the PHA establishes a policy that revocation of consent to

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access financial records will result in denial or termination of assistance or admission [24 CFR 5.232(c)].

~~**HOTMA Requirement: HOTMA streamlines the rules for determining household income and rent payments. The new rule will require each adult household member to sign a consent form one time, instead of annually.**~~

#### **PHA Policy**

The PHA has established a policy that the family's revocation of consent to allow the PHA to access records from financial institutions will result in denial of admission.

~~The PHA will require the form HUD-9886 to be signed at least once for each adult household member, but the PHA may require the form HUD-9886 to be signed at any other time, as needed.~~

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### **3-I.E. STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION** **[24 CFR §5.612; FR NOTICE 4/10/06 FR NOTICE 09/21/16]**

Section 327 of Public Law 109-115 and the implementing regulation at 24 CFR §5.612 established new restrictions on the eligibility of certain students (both part- and full-time) who are enrolled in institutions of higher education.

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, ~~and~~ does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the student's eligibility must be examined along with the income eligibility of the student's parents. In these cases, both the student and the student's parents must be income eligible for the student to receive HCV assistance. If, however, a student in these circumstances is determined independent from their parents in accordance with PHA policy, the income of the student's parents will not be considered in determining the student's eligibility.

The new law does not apply to students who reside with parents who are applying to receive HCV assistance. It is limited to students who are seeking assistance on their own, separately from their parents.

#### **Definitions**

In determining whether and how the new eligibility restrictions apply to a student, the PHA will rely on the following definitions [FR Notice 4/10/06, p. 18148 FR Notice 9/21/16].

#### **Dependent Child**

In the context of the student eligibility restrictions, *dependent child* means a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the definition of *dependent* in 24 CFR §5.603, which states that the dependent must be a member of the assisted family, other than the head of household or spouse, who is under 18 years of age, or

is a person with a disability, or is a full-time student. Foster children and foster adults are not considered dependents.

### **Independent Student**

#### PHA Policy

The PHA will consider a student “independent” from their parents and the parents’ income will not be considered when determining the student’s eligibility if the following four criteria are all met:

- (1) The individual is of legal contract age under state law.
- (2) The individual has established a household separate from their parents for at least one year prior to application for occupancy or the individual meets the U.S. Department of Education’s definition of independent student.

\*\* To be considered an *independent student* according to the Department of Education, a student must meet one or more of the following criteria:

- The individual is at least 24 years old by December 31 of the award year for which aid is sought
- The individual is an orphan, in foster care, or a ward of the court, or was an orphan, in foster care, or ward of the court at any time when the individual was 13 years of age or older
- 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
- The individual is a veteran of the U.S. Armed Forces or is currently serving on active duty in the Armed Forces for other than training purposes
- The individual is a graduate or professional student
- The individual is married
- The individual has one or more legal dependents other than a spouse (for example, dependent children or an elderly dependent parent)
- 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 unaccompanied, at risk of homelessness, and self-supporting by:
  - A local educational agency homeless liaison
  - The director of a program funded under subtitle B of title IV of the McKinney- Vento Homeless Assistance Act or a designee of the director
  - A financial aid administrator



- The individual is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances
- (3) The individual was not claimed as a dependent by their parents pursuant to IRS regulations, as demonstrated on the parents' most recent tax forms.
- (4) The individual provides a certification of the amount of financial assistance that will be provided by their parents. This certification must be signed by the individual providing the support and must be submitted even if no assistance is being provided.

If the PHA determines that an individual meets the definition of a *vulnerable youth* such a determination is all that is necessary to determine that the person is an *independent student* for the purposes of using only the student's income for determining eligibility for assistance.

The PHA will verify that a student meets the above criteria in accordance with the policies in Section 7-II.E.

### **Institution of Higher Education**

The PHA will use the statutory definition under Section 102 of the Higher Education Act of 1965 to determine whether a student is attending an *institution of higher education* (see Exhibit 3-2).

### **Parents**

#### PHA Policy

For purposes of student eligibility restrictions, the definition of *parents* includes biological or adoptive parents, stepparents (as long as they are currently married to the biological or adoptive parent), and guardians (e.g., grandparents, aunt/uncle, godparents, etc.).

### **Person with Disabilities**

The PHA will use the statutory definition under Section 3(b)(3)(E) of the 1937 Act to determine whether a student is a *person with disabilities* (see Exhibit 3-1).

### **Veteran**

#### PHA Policy

A *veteran* is a person who served in the active military, naval, or air service and who was discharged or released from such service under conditions other than dishonorable.

### **Vulnerable Youth**

#### PHA Policy

A *vulnerable youth* is an individual who meets the U.S. Department of Education's definition of *independent student* in paragraphs (b), (c), or (h), as adopted in Section II of FR Notice 9/21/16:

- The individual is an orphan, in foster care, or a ward of the court, or was an orphan, in foster care, or ward of the court at any time when the individual was 13 years of age or older
- 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
- 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 unaccompanied, at risk of homelessness, and self-supporting by:
  - A local educational agency homeless liaison
  - The director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act or a designee of the director
  - A financial aid administrator

### **Determining Student Eligibility**

If a student is applying for assistance on their own, apart from their parents, the PHA must determine whether the student is subject to the eligibility restrictions contained in 24 CFR §5.612.

If the student is subject to those restrictions, the PHA must ensure that: (1) the student is individually eligible for the program, (2) either the student is independent from their parents or the student's parents are income eligible for the program, and (3) the "family" with which the student is applying is collectively eligible for the program.

#### PHA Policy

For any student who is subject to the §5.612 restrictions, the PHA will:

- Follow its usual policies in determining whether the student individually and the student's "family" collectively are eligible for the program
- Determine whether the student is independent from their parents in accordance with the definition of *independent student* in this section
- Follow the policies below, if applicable, in determining whether the student's parents are income eligible for the program

If the PHA determines that the student, the student's parents (if applicable), or the student's "family" is not eligible, the PHA will send a notice of denial in accordance with the policies in Section 3-III.F, and the applicant family will have the right to request an informal review in accordance with the policies in Section 16-III.B.

### **Determining Parental Income Eligibility**

#### PHA Policy

For any student who is subject to the §5.612 restrictions and who does not satisfy the definition of *independent student* in this section, the PHA will determine the income eligibility of the student's parents as follows:

- If the student's parents are married and living together, the PHA will obtain a joint income declaration and certification of joint income from the parents.
- If the student's parent is widowed or single, the PHA will obtain an income declaration and certification of income from that parent.
- If the student's parents are divorced or separated, the PHA will obtain an income declaration and certification of income from each parent.
- If the student has been living with one of their parents and has not had contact with or does not know where to contact their other parent, the PHA will require the student to submit a certification under penalty of perjury describing the circumstances and stating that the student does not receive financial assistance from the other parent. The PHA will then obtain an income declaration and certification of income from the parent with whom the student has been living or had contact.

In determining the income eligibility of the student's parents, the PHA will use the income limits for the jurisdiction in which the parents live.

**3-ILF, EIV SYSTEM SEARCHES [~~PIH NOTICE 2018-18~~; EIV FAOS; EIV SYSTEM TRAINING 9/30/20; AND NOTICE PIH 2023-27]**

**Existing Tenant Search**

Prior to admission to the program, the PHA must search for all household members using the EIV Existing Tenant Search module. The PHA must review the reports for any SSA matches involving another PHA or a multifamily entity and follow up on any issues identified.

The PHA must provide the family with a copy of the Existing Tenant Search results if requested. At no time may any family member receive duplicative assistance.

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

**PHA Policy**

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

**Debts Owed to PHAs and Terminations**

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

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

**PHA Policy**

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

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

### **Income and Income Validation Tool (IVT) Reports**

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

## PART III: DENIAL OF ASSISTANCE

### 3-III.A. OVERVIEW

A family that does not meet the eligibility criteria discussed in Parts I and II, must be denied assistance. A PHA may deny assistance for an applicant because of the family's action or failure to act as described in 24 CFR 982.552 or 982.553. In this section we will discuss other situations and circumstances in which denial of assistance is mandatory for the PHA, and those in which denial of assistance is optional for the PHA.

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

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

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HUD's Office of General Counsel issued a memo on April 4, 2016, regarding the application of Fair Housing Act standards to the use of criminal records. This memo states that a PHA violates the Fair Housing Act when their policy or practice has an unjustified discriminatory effect, even when the PHA had no intention to discriminate. Where a policy or practice that restricts admission based on criminal history has a disparate impact on a particular race, national origin, or other protected class, that policy or practice is in violation of the Fair Housing Act if it is not necessary to serve a substantial, legitimate, nondiscriminatory interest of the PHA, or if that interest could be served by another practice that has a less discriminatory effect [OGC Memo 4/4/16]. HUD codified this stance on disparate impact and discriminatory effects in a final rule dated March 31, 2023. In doing so, HUD also standardized its long-practiced three-step approach to assessing burdens of proof.

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

An individualized assessment of relevant mitigating information beyond that contained in an individual's criminal record is likely to have a less discriminatory effect than categorical exclusions that do not take such additional information into account. Relevant individualized evidence might include the facts or circumstances surrounding the criminal conduct; the age of the individual at the time of the conduct; evidence that the individual has maintained a good tenant history before and/or after the criminal conduct; and evidence of rehabilitation efforts. By delaying consideration of criminal history until after an individual's financial and other

~~qualifications are verified, a PHA may be able to minimize any additional costs that might add to the applicant screening process. [4/1/2016 Office on General Counsel Guidance on Application of Fair Housing Act standards to the Use of Criminal Records by Housing Providers and Real Estate Related Transactions]~~

~~PIH Notice 2015-19 does not completely exclude the review of arrest records in housing decisions. Although the fact that an individual was arrested is not grounds to deny a housing opportunity, a record of an arrest might properly trigger an inquiry by a PHA or owner into whether a person actually engaged in disqualifying criminal activity. As part of such an inquiry, a PHA or owner may continue to obtain and review the police report, record of disposition of any criminal charges, and other evidence associated with the arrest to inform its eligibility determination.~~

#### **Forms of Denial [24 CFR §982.552(a)(2); HCV GB, p. 5-35]**

Denial of assistance includes any of the following:

- Not placing the family's name on the waiting list
- Denying or withdrawing a voucher
- Not approving a request for tenancy or refusing to enter into a HAP contract
- Refusing to process a request for or to provide assistance under portability procedures

#### **Prohibited Reasons for Denial of Program Assistance [24 CFR §982.202(b); 24 CFR §5.2005(b)]**

HUD rules prohibit denial of program assistance to the program based on any of the following criteria:

- Age, disability, race, color, religion, sex, or national origin. (See Chapter 2 for additional information about fair housing and equal opportunity requirements.)
- Where a family lives prior to admission to the program
- Where the family will live with assistance under the program. Although eligibility is not affected by where the family will live, there may be restrictions on the family's ability to move outside the PHA's jurisdiction under portability. (See Chapter 10)
- Whether members of the family are unwed parents, recipients of public assistance, or children born out of wedlock
- Whether the family includes children
- Whether a family decides to participate in a family self-sufficiency program
- Whether or not a qualified applicant ~~is or has been~~ has been a victim of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking if the applicant is otherwise qualified for assistance (see Section 3- III.G.)

#### **3-III.B. MANDATORY DENIAL OF ASSISTANCE [24 CFR §982.553(A) ~~AND~~ 24 CFR 982.552(B)(6) ~~§5.855; 24 CFR §5.858~~**

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

- Any member of the household has been evicted from federally assisted housing in the last three (3) years for drug-related criminal activity. HUD permits, but does not require, the PHA to admit an otherwise-eligible family if the household member has completed a PHA-approved drug rehabilitation program or the circumstances which led to eviction no longer exist (e.g., the person involved in the criminal activity no longer lives in the household).

PHA Policy

The PHA will admit an otherwise-eligible family who was evicted from federally-assisted housing within the past three (3) years for drug-related criminal activity, if the PHA is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by the PHA, or the person who committed the crime, is no longer living in the household.

- The PHA determines that any household member is currently engaged in the use of illegal drugs.

PHA Policy

Currently engaged in is defined as any use of illegal drugs during the previous three (3) ~~six~~ months.

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

PHA Policy

The PHA will consider the use of a controlled substance or alcohol to be a *pattern* if there is more than one incident during the previous ~~six~~three (-63) months.

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

- Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing
- Any household member is subject to a lifetime registration requirement under a state sex offender registration program
- Any member of the family fails to sign and submit consent forms for obtaining information.
- The family does not meet the restrictions on net assets and real property ownership as required by 24 CFR 5.618.

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State laws purporting to legalize medical and recreational marijuana directly conflict with the admission and continued requirements of the Quality Housing and Work Responsibility Act of 1998 (“Public Housing Reform Act”) and are thus subject to preemption. [September 24, 1999, HUD Letter Re: Medical Use of Marijuana]

#### PHA Policy

The use, possession, or growing of marijuana by any household member on the premises of a subsidized unit is grounds for termination of assistance. The “premises” includes, but is not limited to, the interior and exterior of the subsidized unit, patio/balcony, sidewalks, walkways, recreation areas/common areas, laundry room, parking lot, etc.).

Household members with a “medical marijuana card” are not exempt from this rule.

The use of marijuana may include smoking, edibles, or other forms of the drug.

### **3-III.C. RESTRICTION ON ASSISTANCE BASED ON ASSETS [24 CFR 5.618]OTHER PERMITTED REASONS FOR DENIAL OF ASSISTANCE**

There are two circumstances under which a family is ineligible to receive assistance based on asset ownership.

First, assistance may not be provided to any family if the family’s net assets exceed \$100,000 (adjusted annually by HUD).

Second, the family has real property that is suitable for occupancy by the family as a residence and the family has:

- A present ownership interest in the real property; and
- A legal right to reside in the real property; and
- The effective legal authority to sell (based on state or local laws of the jurisdiction where the property is located) the real property.

However, the real property restriction does not apply in the following circumstances:

- Any property for which the family is receiving assistance for a manufactured home under 24 CFR 982.620 or under the HCV Homeownership program;
- 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;
- Any family that is offering the property for sale; or
- Any person who is a victim of domestic violence, dating violence, sexual assault, or stalking.
  - When a family asks for an exception because a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, the PHA must comply with all the confidentiality requirements under VAWA. The PHA must accept a self-certification from the family member, and the restrictions on requesting documentation under VAWA apply.

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A property is considered *suitable for occupancy* unless the family demonstrates that it:

- Does not meet the disability-related needs for all members of the family (e.g., physical accessibility requirements, disability-related need for additional bedrooms, proximity to accessible transportation, etc.);
- Is not sufficient for the size of the family;

#### PHA Policy

The PHA defines *not sufficient for the size of the family* as being overcrowded based on the PHA's subsidy standards in Chapter 5 of this policy.

- Is geographically located so as to be a hardship for the family (e.g., the distance or commuting time between the property and the family's place of work or school would be a hardship to the family, as determined by the PHA or owner);
- Is not safe to reside in because of the physical condition of the property (e.g., property's physical condition poses a risk to the family's health and safety and the condition of the property cannot be easily remedied); or
- Is not a property that a family may reside in under the state or local laws of the jurisdiction where the property is located.

### HUD PERMITS BUT DOES NOT REQUIRE THE PHA TO DENY ASSISTANCE FOR THE REASONS DISCUSSED IN THIS SECTION.

#### Criminal Activity [24 CFR §982.553; §5.851-§5.861]

HUD permits, but does not require, the PHA to deny assistance if the PHA determines that any household member is currently engaged in or has engaged in during a reasonable time before the family would receive assistance, certain types of criminal activity.

The PHA is responsible for screening family behavior and suitability for tenancy. In doing so, the PHA may consider an applicant's history of criminal activity involving crimes of physical violence to persons or property and other criminal acts which would adversely affect the health, safety, or welfare of other tenants. The PHA does not screen for acceptability by a landlord.

#### PHA Policy

If any household member is currently engaged in or has engaged in any of the following criminal activities, within the past three (3) years, the family will be denied assistance.

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

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

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~~Criminal activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity; or~~

~~'Immediate vicinity' means within a three-block radius of the premises.~~

~~Criminal activity that may threaten the health or safety of property owners, management staff, and persons performing contract administration functions or other responsibilities on behalf of the PHA (including a PHA employee or a PHA contractor, subcontractor, or agent).~~

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

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

- ~~Any conviction for drug-related or violent criminal activity within the past three (3) years.~~
- ~~Records of arrests for drug-related or violent criminal activity within the past three (3) years, although a record(s) of arrest(s) will not be used as the sole basis for the denial, or proof that the applicant engaged in disqualifying criminal activity.~~
- ~~Criminal activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity; or~~
- ~~Criminal activity that may threaten the health or safety of property owners and management staff, and persons performing contract administration functions or other responsibilities on behalf of the PHA (including a PHA employee or a PHA contractor, subcontractor, or agent).~~
- ~~Any record of eviction from public or privately owned housing as a result of criminal activity within the past (3) three years.~~

Examples of *criminal activity* includes, but not limited to:

- ~~Loitering~~
- ~~Criminal Trespassing~~
- ~~Forgery~~
- ~~Identity Theft~~
- ~~Discharge of Firearm~~
- ~~Criminal Damage~~
- ~~Indecent Exposure~~
- ~~Theft Against any Government Agency~~
- ~~Disorderly Conduct~~
- ~~Burglary~~

- ~~Harassment~~

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

**~~Previous Behavior in Assisted Housing [24 CFR §982.552(c); §5.851-§5.861]~~**

~~HUD authorizes the PHA to deny assistance based on the family's previous behavior in assisted housing.~~

~~PHAs are not permitted to deny assistance to a family because the family previously failed to meet its obligations under the Family Self Sufficiency (FSS) program [ 24 CFR §984.101(d)].~~

~~PHA Policy~~

~~The PHA will deny assistance to an applicant family if:~~

- ~~The family does not provide information that the PHA or HUD determines is necessary in the administration of the program.~~
- ~~The family does not provide complete and true information to the PHA.~~
- ~~Any family member has been evicted from federally assisted housing or abandoned the federally assisted housing in the last five years.~~
- ~~If the family has a household member, regardless of age, who has been trespassed from a City of Chandler Public Housing site during the last 12 months, and the family refuses to remove that member~~
- ~~Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.~~
- ~~The family owes rent or other amounts to any PHA or landlord in connection with the HCV program or other public housing assistance under the 1937 Act, unless the family repays the full amount of the debt prior to being selected from the waiting list.~~
- ~~If the family has not reimbursed any PHA or landlord for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease, unless the family repays the full amount of the debt prior to being selected from the waiting list.~~
- ~~The family has breached the terms of a repayment agreement entered into with the PHA or landlord, unless the family repays the full amount of the debt covered in the repayment agreement prior to being selected from the waiting list:~~
  - ~~When denying admission due to family debts as shown in HUD's EIV system, the PHA will provide the family with a copy of the EIV Debt Owed to PHA and Termination report.~~
  - ~~If the family wishes to dispute the information in the report, the family must contact the PHA that entered the information in EIV in writing, explaining why EIV information is disputed. The family must also provide~~

a copy of the letter and all applicable verification to the PHA to support the family's claim. The PHA will consider the information provided by the family prior to issuing a notice of denial.

- The family misrepresented or does not provide true and complete information related to eligibility, including income, award of preferences for admission, expenses, family composition or rent, or any other information that the PHA or HUD determines is necessary in the administration of the program.
- A family member has engaged in or threatened violent or abusive behavior toward PHA personnel.
  - *Abusive or violent behavior towards PHA personnel* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.
  - *Threatening* refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

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

### **3-III.D. OTHER PERMITTED REASONS FOR DENIAL OF ASSISTANCE SCREENING [24 CFR §5.855; §5.858; §5.902; §5.903; §982.553]**

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

#### **Criminal Activity [24 CFR 982.553]**

HUD permits, but does not require, the PHA to deny assistance if the PHA determines that any household member is currently engaged in, or has engaged in during a reasonable time before the family would receive assistance, certain types of criminal activity.

#### **PHA Policy**

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

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

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

Criminal activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity; ~~or~~

Immediate vicinity means within a three-block radius of the premises.

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

Criminal activity that may threaten the health or safety of property owners, management staff, and persons performing contract administration functions or other responsibilities on behalf of the PHA (including a PHA employee or a PHA contractor, subcontractor, or agent).

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

Any conviction for drug-related or violent criminal activity within the past three years.

Records of arrests for drug-related or violent criminal activity within the past three years, although a record or records of arrest will not be used as the sole basis for the denial or proof that the applicant engaged in disqualifying criminal activity.

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

#### **PREVIOUS BEHAVIOR IN ASSISTED HOUSING [24 CFR 982.552(C)]**

HUD authorizes the PHA to deny assistance based on the family's previous behavior in assisted housing.

PHAs are not permitted to deny assistance to a family because the family previously failed to meet its obligations under the Family Self-Sufficiency (FSS) program [24 CFR 984.101(d)].

#### **PHA Policy**

The PHA **will** deny assistance to an applicant family if:

The family does not provide information that the PHA or HUD determines is necessary in the administration of the program.

The family does not provide complete and true information to the PHA.

Any family member has been evicted from federally assisted housing in the last three years.

Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

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

If the family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease, unless the family repays the full amount of the debt prior to being selected from the waiting list.

The family has breached the terms of a repayment agreement entered into with the PHA, unless the family repays the full amount of the debt covered in the repayment agreement prior to being selected from the waiting list.

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

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

A family member has engaged in or threatened violent or abusive behavior toward PHA personnel.

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

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

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

### **Screening for Eligibility**

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

#### **PHA Policy**

The PHA will perform a criminal background check through local law enforcement for every adult household member. The PHA may not pass along to the applicant the costs of a criminal

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

PHAs are required to perform criminal background checks necessary to determine whether any household member is subject to a lifetime registration requirement under a state sex offender program in the state where the housing is located, as well as in any other state where a household member is known to have resided [24 CFR §982.553(a)(2)(i)].

#### **PHA Policy**

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

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

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

### **Screening for Suitability as a Tenant [24 CFR §982.307;§5.851-§5.861]**

The PHA has no liability or responsibility to the owner for the family's behavior or suitability for tenancy. The PHA has the authority to conduct additional screening to determine whether an applicant is likely to be a suitable tenant.

#### **PHA Policy**

The PHA will not conduct additional screening to determine an applicant family's suitability for tenancy.

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



the owner. An owner may consider a family's history with respect to factors such as: payment of rent and utilities, caring for a unit and premises, respecting the rights of other residents to the peaceful enjoyment of their housing, criminal activity that is a threat to the health, safety or property of others, and compliance with other essential conditions of tenancy.

HUD requires the PHA to provide prospective owners with the family's current and prior address (as shown in PHA records) and the name and address (if known) of the owner at the family's current and prior addresses. HUD permits the PHA to provide owners with additional information, as long as families are notified that the information will be provided, and the same type of information is provided to all owners.

The PHA may not disclose to the owner any confidential information provided to the PHA by the family in response to a PHA request for documentation of domestic violence, dating violence, sexual assault, or stalking except at the written request or with the written consent of the individual providing the documentation [24 CFR §5.2007(a)(4)].

#### PHA Policy

The PHA will inform owners of their responsibility to screen prospective tenants and will provide owners with the required known name and address information, and at the time of the initial HQS/NSPIRE inspection or before. The PHA will not provide any additional information to the owner, such as tenancy history or criminal history.

### **3-III.E. SCREENING CRITERIA FOR DECIDING TO DENY ASSISTANCE**

#### **Screening for Eligibility**

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

#### PHA Policy

The PHA will perform a criminal background check through local law enforcement for every adult household member.

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

While a PHA has regulatory authority to use criminal conviction records for the purpose of applicant screening for admission, there is no corresponding authority to use these records to check for criminal and illegal drug activity by participants, and therefore, PHAs may not use records for this purpose.

PHAs are required to perform criminal background checks necessary to determine whether any household member is subject to a lifetime registration requirement under a state sex offender

program in the state where the housing is located, as well as in any other state where a household member is known to have resided [24 CFR 982.553(a)(2)(i)].

#### PHA Policy

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

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

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

#### Screening for Suitability as a Tenant [24 CFR 982.307]

The PHA has no liability or responsibility to the owner for the family's behavior or suitability for tenancy. The PHA has the authority to conduct additional screening to determine whether an applicant is likely to be a suitable tenant.

#### PHA Policy

The PHA will not conduct additional screening to determine an applicant family's suitability for tenancy.

The owner is responsible for screening and selection of the family to occupy the owner's unit. The PHA must inform the owner that screening and selection for tenancy is the responsibility of the owner. An owner may consider a family's history with respect to factors such as: payment of rent and utilities, caring for a unit and premises, respecting the rights of other residents to the peaceful enjoyment of their housing, criminal activity that is a threat to the health, safety or property of others, and compliance with other essential conditions of tenancy.

HUD requires the PHA to provide prospective owners with the family's current and prior address (as shown in PHA records) and the name and address (if known) of the owner at the family's current and prior addresses. HUD permits the PHA to provide owners with additional information, as long as families are notified that the information will be provided, and the same type of information is provided to all owners.

The PHA may not disclose to the owner any confidential information provided to the PHA by the family in response to a PHA request for documentation of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking, except at the written request or with the written consent of the individual providing the documentation [see 24 CFR 5.2007(a)(4)].

#### PHA Policy

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The PHA will inform owners of their responsibility to screen prospective tenants, and will provide owners with the required known name and address information, at the time of the initial ~~HQS~~ inspection or before. The PHA will not provide any additional information to the owner, such as tenancy history or criminal history, etc.

## **Evidence**

The fact that an applicant or tenant was arrested for a disqualifying offense shall not be treated or regarded as proof that the applicant or tenant engaged in disqualifying criminal activity. The arrest may, however, trigger an investigation to determine whether the applicant or tenant actually engaged in disqualifying criminal activity. As part of its investigation, COCHRD may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. COCHRD may also consider any statements made by witnesses or the applicant or tenant not included in the police report; whether criminal charges were filed; whether, if filed, criminal charges were abandoned, dismissed (a dismissal of charges may not necessarily indicate innocence), not prosecuted, or ultimately resulted in an acquittal; and any other evidence relevant to determining whether or not the applicant or tenant engaged in disqualifying activity. [PHH Notice 2015-19]

## **Consideration of Circumstances [24 CFR §982.552(c)(2)]**

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

### PHA Policy

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

- The seriousness of the case, especially with respect to how it would affect other residents' safety or property.
- The effects that denial of assistance may have on other members of the family who were not involved in the action or failure to act.
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or (as discussed further in Section 3-III.G) a victim of domestic violence, dating violence, sexual assault, or stalking.
- The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history and the likelihood of favorable conduct in the future.
- While a record(s) of arrest(s) will not be used as the sole basis for denial, an arrest may trigger an investigation to determine whether the applicant actually engaged in disqualifying criminal activity. As part of its investigation, the PHA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The PHA may also consider:
  - Any statements made by witnesses, or the applicant not included in the police report
  - Whether criminal charges were filed

- Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal (charges ending in dismissal or dropped do not necessarily indicate innocence);
- Any other evidence relevant to determining whether or not the applicant engaged in disqualifying activity
- Evidence of the applicant family's participation in or willingness to participate in social service or other appropriate counseling service programs
- Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property.

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

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

**~~Removal of a Family Member's Name from the Application [24 CFR §982.552(e)(2)(ii); §5.581-§5.861].~~**

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

For other criminal activity, the PHA may permit the family to exclude the culpable family members as a condition of eligibility. [24 CFR §92.552(e)(2)(ii)].

**PHA Policy**

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

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

**~~Reasonable Accommodation [24 CFR §982.552(e)(2)(iv)]~~**

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

**PHA Policy**

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

### **3-III.F. CRITERIA FOR DECIDING TO DENY ASSISTANCE** **NOTICE OF ELIGIBILITY OR DENIAL [24 CFR §982.554]**

#### **Evidence [24 CFR 982.553(c)]**

##### PHA Policy

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

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

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

#### **Consideration of Circumstances [24 CFR 982.552(c)(2)]**

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

##### PHA Policy

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

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

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

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

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

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

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

Whether criminal charges were filed

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

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

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

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

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

### **Removal of a Family Member's Name from the Application**

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

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For other criminal activity, the PHA may permit the family to exclude the culpable family members as a condition of eligibility. [24 CFR 982.552(c)(2)(ii)].

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#### **PHA Policy**

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

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

### **Reasonable Accommodation [24 CFR 982.552(c)(2)(iv)]**

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

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#### **PHA Policy**

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

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### **IF THE FAMILY IS ELIGIBLE FOR ASSISTANCE, THE PHA WILL NOTIFY THE FAMILY IN WRITING AND SCHEDULE A TENANT BRIEFING, AS DISCUSSED IN CHAPTER 5.**

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If the PHA determines that a family is not eligible for the program for any reason, the family must be notified promptly. The notice must describe: (1) the reasons for which assistance has been denied, the family's right to an informal review, and (3) the process for obtaining the informal review [24 CFR §982.554 (a)]. See Chapter 16, for informal review policies and procedures.

#### **PHA Policy**



The family will be notified of a decision to deny assistance in writing within 10 business days of the determination.

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

The PHA must give the family an opportunity to dispute the accuracy and relevance of that record, in the informal review process in accordance with program requirements [24 CFR §982.553(d)].

#### PHA Policy

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

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

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

### **3-III.G. NOTICE OF ELIGIBILITY OR DENIAL PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING**

If the family is eligible for assistance, the PHA will notify the family in writing and schedule a tenant briefing, as discussed in Chapter 5.

If the PHA determines that a family is not eligible for the program for any reason, the family must be notified promptly. The notice must describe: (1) the reasons for which assistance has been denied, (2) the family's right to an informal review, and (3) the process for obtaining the informal review [24 CFR 982.554 (a)]. See Chapter 16, for informal review policies and procedures.

#### PHA Policy

The family will be notified of a decision to deny assistance in writing within 10 business days of the determination.

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If a PHA uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before the PHA can move to deny the application. In addition, a copy of the record must be provided to the subject of the record [24 CFR 5.903(f) and 5.905(d)]. The PHA must give the family an opportunity to dispute the accuracy and relevance of that record, in the informal review process in accordance with program requirements [24 CFR 982.553(d)].

#### PHA Policy

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

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

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

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**THE VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2013 (VAWA) AND THE HUD REGULATION AT 24 CFR §5.2005(B) PROHIBITS PHAS FROM DENYING AN APPLICANT ADMISSION TO THE HCV PROGRAM “ON THE BASIS OR AS A DIRECT RESULT OF THE FACT THAT THE APPLICANT IS OR HAS BEEN A VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, IF THE APPLICANT OTHERWISE QUALIFIES FOR ASSISTANCE OR ADMISSION.”**

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

### **Notification**

VAWA 2013 expanded notification requirements to include the obligation for PHAs to provide applicants who are denied assistance with a VAWA Notice of Occupancy Rights (form HUD-5380) and a domestic violence certification form (form HUD-5382) at the time the applicant is denied.

#### **PHA Policy**

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

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

The PHA will include in its notice of denial the VAWA information described in Section 16-IX.C of this plan as well as including a copy of the form HUD-5382. The PHA will request in writing that an applicant wishing to claim protection under VAWA notify the PHA within 14 business days.

### **Documentation**

#### **Victim Documentation [24 CFR §5.2007]**

#### **PHA Policy**

If an applicant claims the protection against denial of assistance that VAWA provides to victims of domestic violence, dating violence, sexual assault, or stalking, the PHA will

request in writing that the applicant provide documentation supporting the claim in accordance with Section 16 IX.D of this plan.

### **Perpetrator Documentation**

#### PHA Policy

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

- A signed statement (1) requesting that the perpetrator be removed from the application and (2) certifying that the perpetrator will not be permitted to visit or to stay as a guest in the assisted unit.
- Documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to their belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.

### **PHA Confidentiality Requirements [24 CFR §5.2007(a)(1)(v)]**

All information provided to the PHA regarding domestic violence, dating violence, sexual assault, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence and may neither be entered into any shared database nor provided to any related entity, except to the extent that the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law.

## **EXHIBIT 3-1: Detailed Definitions Related to Disabilities**

### **Person with Disabilities [24 CFR §5.403]**

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

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

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

~~In the case of an individual who has attained the age of 55 and is blind (within the meaning of “blindness” as defined in Section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.~~

- Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C.15002(8)], which defines developmental disability in functional terms as follows:

- (A) In General

- The term “developmental disability” means a severe, chronic disability of an individual that:

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

- (B) Infants and Young Children

An individual from birth to age 9, inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting 3 or more of the criteria described in clauses (i) through (v) of subparagraph (A) if the individual, without services and supports, has a high probability of meeting those criteria later in life.

- ~~Has a physical, mental, or emotional impairment that is expected to be of long continued and indefinite duration; substantially impedes their ability to live independently and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.~~

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

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

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

### **Individual with Handicaps [24 CFR §8.3]**

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

~~(1) Physical or mental impairment includes:~~

- ~~(a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemie 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. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.~~

~~(2) *Major life activities* mean functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.~~

~~(3) *Has a record of such an impairment* means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.~~

~~(4) *Is regarded as having an impairment* means:~~

- ~~(a) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation;~~

- ~~(b) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or~~
- ~~(e) Has none of the impairments defined in paragraph (1) of this section but is treated by a recipient as having such an impairment.~~

**EXHIBIT 3-2: DEFINITION OF INSTITUTION OF HIGHER EDUCATION**  
**[20 U.S.C. 1001 and 1002]**

**Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Supplementary Guidance; Notice [Federal Register, April 10, 2006]**

*Institution of Higher Education* shall have the meaning given this term in the Higher Education Act of 1965 in 20 U.S.C. 1001 and 1002.

*Definition of “Institution of Higher Education” From 20 U.S.C. 1001*

- a. ~~Institution of higher education. For purposes of this chapter, other than subchapter IV and part C of subchapter I of chapter 34 of Title 42, the term “institution of higher education” means an educational institution in any State that~~
- ~~(1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;~~
  - ~~(2) Is legally authorized within such State to provide a program of education beyond secondary education;~~
  - ~~(3) Provides an educational program for which the institution awards a bachelor’s degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree;~~
  - ~~(4) Is a public or other nonprofit institution; and~~
  - ~~(5) Is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted pre-accreditation status by such an agency or association that has been recognized by the Secretary for the granting of pre-accreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.~~
- (b) ~~Additional institutions included. For purposes of this chapter, other than subchapter IV and part C of subchapter I of chapter 34 of Title 42, the term “institution of higher education” also includes —~~
- ~~(1) Any school that provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provision of paragraphs (1), (2), (4), and (5) of subsection (a) of this section; and~~
  - ~~(2) A public or nonprofit private educational institution in any State that, in lieu of the requirement in subsection (a)(1) of this section, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.~~
- (c) ~~List of accrediting agencies. For purposes of this section and Section 1002 of this title, the Secretary shall publish a list of nationally recognized accrediting agencies or associations~~



that the Secretary determines, pursuant to subpart 2 of part C of subchapter IV of this chapter, to be reliable authority as to the quality of the education or training offered.

*Definition of “Institution of Higher Education” From 20 U.S.C. 1002*

(a) Definition of institution of higher education for purposes of student assistance programs

~~(1) Inclusion of additional institutions. Subject to paragraphs (2) through (4) of this subsection, the term “institution of higher education” for purposes of subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 includes, in addition to the institutions covered by the definition in Section 1001 of this title —~~

~~A. A proprietary institution of higher education (as defined in subsection (b) of this section);~~

~~B. A postsecondary vocational institution (as defined in subsection (c) of this section); and~~

~~C. Only for the purposes of part B of subchapter IV of this chapter, an institution outside the United States that is comparable to an institution of higher education as defined in Section 1001 of this title and that has been approved by the Secretary for the purpose of part B of subchapter IV of this chapter.~~

~~(2) Institutions outside the United States~~

~~A. In general. For the purpose of qualifying as an institution under paragraph (1)(C), the Secretary shall establish criteria by regulation for the approval of institutions outside the United States and for the determination that such institutions are comparable to an institution of higher education as defined in section 1001 of this title (except that a graduate medical school, or a veterinary school, located outside the United States shall not be required to meet the requirements of Section 1001 (a)(4) of this title). Such criteria shall include a requirement that a student attending such school outside the United States is ineligible for loans made, insured, or guaranteed under part B of subchapter IV of this chapter unless —~~

~~(i) In the case of a graduate medical school located outside the United States —~~

~~(I)(aa) At least 60 percent of those enrolled in, and at least 60 percent of the graduates of, the graduate medical school outside the United States were not persons described in section 1091(a)(5) of this title in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; and~~

~~(bb) At least 60 percent of the individuals who were students or graduates of the graduate medical school outside the United States or Canada (both nationals of the United States and others) taking the examinations administered by the Educational Commission for Foreign Medical Graduates received a passing score in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; or~~

~~(II) The institution has a clinical training program that was approved by a State as of January 1, 1992; or~~

- (ii) ~~In the case of a veterinary school located outside the United States that does not meet the requirements of section 1001(a)(4) of this title, the institution's students complete their clinical training at an approved veterinary school located in the United States.~~

~~B. Advisory panel~~

- ~~(i) In general. For the purpose of qualifying as an institution under paragraph (1)(C) of this subsection, the Secretary shall establish an advisory panel of medical experts that shall—
  - ~~(I) Evaluate the standards of accreditation applied to applicant foreign medical schools; and~~
  - ~~(II) Determine the comparability of those standards to standards for accreditation applied to United States medical schools.~~~~
- ~~(ii) Special rule if the accreditation standards described in clause (i) are determined not to be comparable, the foreign medical school shall be required to meet the requirements of section 1001 of this title.~~
- ~~(C) Failure to release information. The failure of an institution outside the United States to provide, release, or authorize release to the Secretary of such information as may be required by subparagraph (A) shall render such institution ineligible for the purpose of part B of subchapter IV of this chapter.~~
- ~~(D) Special rule. If, pursuant to this paragraph, an institution loses eligibility to participate in the programs under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, then a student enrolled at such institution may, notwithstanding such loss of eligibility, continue to be eligible to receive a loan under part B while attending such institution for the academic year succeeding the academic year in which such loss of eligibility occurred.~~
- ~~(3) Limitations based on course of study or enrollment. An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution—
  - ~~A. Offers more than 50 percent of such institution's courses by correspondence, unless the institution is an institution that meets the definition in section 2471 (4)(C) of this title;~~
  - ~~B. Enrolls 50 percent or more of the institution's students in correspondence courses, unless the institution is an institution that meets the definition in such section, except that the Secretary, at the request of such institution, may waive the applicability of this subparagraph to such institution for good cause, as determined by the Secretary in the case of an institution of higher education that provides a 2- or 4-year program of instruction (or both) for which the institution awards an associate or baccalaureate degree, respectively;~~
  - ~~C. Has a student enrollment in which more than 25 percent of the students are incarcerated, except that the Secretary may waive the limitation contained in this subparagraph for a nonprofit institution that provides a 2- or 4-year program of instruction (or both) for which the institution awards a bachelor's degree, or an associate's degree or a postsecondary diploma, respectively; or~~~~

~~D. Has a student enrollment in which more than 50 percent of the students do not have a secondary school diploma or its recognized equivalent, and does not provide a 2- or 4-year program of instruction (or both) for which the institution awards a bachelor's degree or an associate's degree, respectively, except that the Secretary may waive the limitation contained in this subparagraph if a nonprofit institution demonstrates to the satisfaction of the Secretary that the institution exceeds such limitation because the institution serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a secondary school diploma or its recognized equivalent.~~

~~(4) Limitations based on management. An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if—~~

~~(A) The institution, or an affiliate of the institution that has the power, by contract or ownership interest, to direct or cause the direction of the management or policies of the institution, has filed for bankruptcy, except that this paragraph shall not apply to a nonprofit institution, the primary function of which is to provide health care educational services (or an affiliate of such an institution that has the power, by contract or ownership interest, to direct or cause the direction of the institution's management or policies) that files for bankruptcy under chapter 11 of title 11 between July 1, 1998, and December 1, 1998; or~~

~~(B) The institution, the institution's owner, or the institution's chief executive officer has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, or has been judicially determined to have committed fraud involving funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.~~

~~(5) Certification. The Secretary shall certify an institution's qualification as an institution of higher education in accordance with the requirements of subpart 3 of part G of subchapter IV of this chapter.~~

~~(6) Loss of eligibility. An institution of higher education shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution is removed from eligibility for funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 as a result of an action pursuant to part G of subchapter IV of this chapter.~~

~~(b) Proprietary institution of higher education~~

~~(1) Principal criteria. For the purpose of this section, the term “proprietary institution of higher education” means a school that—~~

~~(A) Provides an eligible program of training to prepare students for gainful employment in a recognized occupation;~~

~~(B) Meets the requirements of paragraphs (1) and (2) of section 1001 (a) of this title;~~

~~(C) Does not meet the requirement of paragraph (4) of section 1001 (a) of this title;~~

~~(D) Is accredited by a nationally recognized accrediting agency or association recognized by the Secretary pursuant to part G of subchapter IV of this chapter;~~

~~(E) Has been in existence for at least 2 years; and~~

~~(F) Has at least 10 percent of the school's revenues from sources that are not derived from funds provided under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, as determined in accordance with regulations prescribed by the Secretary.~~

~~(2) Additional institutions. The term "proprietary institution of higher education" also includes a proprietary educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001 (a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.~~

~~(c) Postsecondary vocational institution:~~

~~(1) Principal criteria. For the purpose of this section, the term "postsecondary vocational institution" means a school that—~~

~~(A) Provides an eligible program of training to prepare students for gainful employment in a recognized occupation;~~

~~(B) Meets the requirements of paragraphs (1), (2), (4), and (5) of section 1001 (a) of this title; and~~

~~(C) Has been in existence for at least 2 years.~~

~~(2) Additional institutions. The term "postsecondary vocational institution" also includes an educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001 (a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.~~

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

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

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

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

### **Notification**

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

#### **PHA Policy**

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

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

The PHA will include in its notice of denial the VAWA information described in section 16-IX.C of this plan as well as including a copy of the form HUD-5382. The PHA will request in writing that an applicant wishing to claim protection under VAWA notify the PHA within 14 business days.

## Documentation

### Victim Documentation [24 CFR 5.2007]

#### PHA Policy

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

### Perpetrator Documentation

#### PHA Policy

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

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

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



## **EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES**

### **Person with Disabilities [24 CFR 5.403]**

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

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

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

In the case of an individual who has attained the age of 55 and is blind (within the meaning of “blindness” as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.

- Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C.15002(8)], which defines developmental disability in functional terms as follows:

#### **(A) In General**

The term “developmental disability” means a severe, chronic disability of an individual that:

(i) is attributable to a mental or physical impairment or combination of mental and physical impairments;

(ii) is manifested before the individual attains age 22;

(iii) is likely to continue indefinitely;

(iv) results in substantial functional limitations in 3 or more of the following areas of major life activity: (I) Self-care, (II) Receptive and expressive language, (III) Learning, (IV) Mobility, (V) Self-direction, (VI) Capacity for independent living, (VII) Economic self-sufficiency; and

(v) reflects the individual’s need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.



**(B) Infants and Young Children**

An individual from birth to age 9, inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting 3 or more of the criteria described in clauses (i) through (v) of subparagraph (A) if the individual, without services and supports, has a high probability of meeting those criteria later in life.

- Has a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration; substantially impedes their ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

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

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

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

### **Individual with Handicaps [24 CFR 8.3]**

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

#### (1) Physical or mental impairment includes:

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

#### (2) Major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

#### (3) Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

#### (4) Is regarded as having an impairment means:

- (a) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation;
- (b) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or
- (c) Has none of the impairments defined in paragraph (1) of this section but is treated by a recipient as having such an impairment.



**EXHIBIT 3-2: DEFINITION OF INSTITUTION OF HIGHER EDUCATION**  
**[20 U.S.C. 1001 and 1002]**

**Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Supplementary Guidance; Notice [Federal Register, April 10, 2006]**

Institution of Higher Education shall have the meaning given this term in the Higher Education Act of 1965 in 20 U.S.C. 1001 and 1002.

Definition of “Institution of Higher Education” From 20 U.S.C. 1001

(a) Institution of higher education. For purposes of this chapter, other than subchapter IV and part C of subchapter I of chapter 34 of Title 42, the term “institution of higher education” means an educational institution in any State that

(1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;

(2) Is legally authorized within such State to provide a program of education beyond secondary education;

(3) Provides an educational program for which the institution awards a bachelor’s degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree;

(4) Is a public or other nonprofit institution; and

(5) Is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted preaccreditation status by such an agency or association that has been recognized by the Secretary for the granting of preaccreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.

(b) Additional institutions included. For purposes of this chapter, other than subchapter IV and part C of subchapter I of chapter 34 of Title 42, the term “institution of higher education” also includes—

(1) Any school that provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provision of paragraphs (1), (2), (4), and (5) of subsection (a) of this section; and

(2) A public or nonprofit private educational institution in any State that, in lieu of the requirement in subsection (a)(1) of this section, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

(c) List of accrediting agencies. For purposes of this section and section 1002 of this title, the Secretary shall publish a list of nationally recognized accrediting agencies or associations

that the Secretary determines, pursuant to subpart 2 of part G of subchapter IV of this chapter, to be reliable authority as to the quality of the education or training offered.

Definition of “Institution of Higher Education” From 20 U.S.C. 1002

(a) Definition of institution of higher education for purposes of student assistance programs

(1) Inclusion of additional institutions. Subject to paragraphs (2) through (4) of this subsection, the term “institution of higher education” for purposes of subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 includes, in addition to the institutions covered by the definition in section 1001 of this title—

(A) A proprietary institution of higher education (as defined in subsection (b) of this section);

(B) A postsecondary vocational institution (as defined in subsection (c) of this section); and

(C) Only for the purposes of part B of subchapter IV of this chapter, an institution outside the United States that is comparable to an institution of higher education as defined in section 1001 of this title and that has been approved by the Secretary for the purpose of part B of subchapter IV of this chapter.

(2) Institutions outside the United States

(A) In general. For the purpose of qualifying as an institution under paragraph (1)(C), the Secretary shall establish criteria by regulation for the approval of institutions outside the United States and for the determination that such institutions are comparable to an institution of higher education as defined in section 1001 of this title (except that a graduate medical school, or a veterinary school, located outside the United States shall not be required to meet the requirements of section 1001 (a)(4) of this title). Such criteria shall include a requirement that a student attending such school outside the United States is ineligible for loans made, insured, or guaranteed under part B of subchapter IV of this chapter unless—

(i) In the case of a graduate medical school located outside the United States—

(I)(aa) At least 60 percent of those enrolled in, and at least 60 percent of the graduates of, the graduate medical school outside the United States were not persons described in section 1091(a)(5) of this title in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; and

(bb) At least 60 percent of the individuals who were students or graduates of the graduate medical school outside the United States or Canada (both nationals of the United States and others) taking the examinations administered by the Educational Commission for Foreign Medical Graduates received a passing score in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; or

(II) The institution has a clinical training program that was approved by a State as of January 1, 1992; or

(ii) In the case of a veterinary school located outside the United States that does not meet the requirements of section 1001(a)(4) of this title, the institution's students complete their clinical training at an approved veterinary school located in the United States.

(B) Advisory panel

(i) In general. For the purpose of qualifying as an institution under paragraph (1)(C) of this subsection, the Secretary shall establish an advisory panel of medical experts that shall—

(I) Evaluate the standards of accreditation applied to applicant foreign medical schools; and

(II) Determine the comparability of those standards to standards for accreditation applied to United States medical schools.

(ii) Special rule if the accreditation standards described in clause (i) are determined not to be comparable, the foreign medical school shall be required to meet the requirements of section 1001 of this title.

(C) Failure to release information. The failure of an institution outside the United States to provide, release, or authorize release to the Secretary of such information as may be required by subparagraph (A) shall render such institution ineligible for the purpose of part B of subchapter IV of this chapter.

(D) Special rule. If, pursuant to this paragraph, an institution loses eligibility to participate in the programs under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, then a student enrolled at such institution may, notwithstanding such loss of eligibility, continue to be eligible to receive a loan under part B while attending such institution for the academic year succeeding the academic year in which such loss of eligibility occurred.

(3) Limitations based on course of study or enrollment. An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution—

(A) Offers more than 50 percent of such institution's courses by correspondence, unless the institution is an institution that meets the definition in section 2471 (4)(C) of this title;

(B) Enrolls 50 percent or more of the institution's students in correspondence courses, unless the institution is an institution that meets the definition in such section, except that the Secretary, at the request of such institution, may waive the applicability of this subparagraph to such institution for good cause, as determined by the Secretary in the case of an institution of higher education that provides a 2-or 4-year program of

instruction (or both) for which the institution awards an associate or baccalaureate degree, respectively;

(C) Has a student enrollment in which more than 25 percent of the students are incarcerated, except that the Secretary may waive the limitation contained in this subparagraph for a nonprofit institution that provides a 2-or 4-year program of instruction (or both) for which the institution awards a bachelor's degree, or an associate's degree or a postsecondary diploma, respectively; or

(D) Has a student enrollment in which more than 50 percent of the students do not have a secondary school diploma or its recognized equivalent, and does not provide a 2-or 4-year program of instruction (or both) for which the institution awards a bachelor's degree or an associate's degree, respectively, except that the Secretary may waive the limitation contained in this subparagraph if a nonprofit institution demonstrates to the satisfaction of the Secretary that the institution exceeds such limitation because the institution serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a secondary school diploma or its recognized equivalent.

(4) Limitations based on management. An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if—

(A) The institution, or an affiliate of the institution that has the power, by contract or ownership interest, to direct or cause the direction of the management or policies of the institution, has filed for bankruptcy, except that this paragraph shall not apply to a nonprofit institution, the primary function of which is to provide health care educational services (or an affiliate of such an institution that has the power, by contract or ownership interest, to direct or cause the direction of the institution's management or policies) that files for bankruptcy under chapter 11 of title 11 between July 1, 1998, and December 1, 1998; or

(B) The institution, the institution's owner, or the institution's chief executive officer has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, or has been judicially determined to have committed fraud involving funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.

(5) Certification. The Secretary shall certify an institution's qualification as an institution of higher education in accordance with the requirements of subpart 3 of part G of subchapter IV of this chapter.

(6) Loss of eligibility. An institution of higher education shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution is removed from eligibility for funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 as a result of an action pursuant to part G of subchapter IV of this chapter.

(b) Proprietary institution of higher education

(1) Principal criteria. For the purpose of this section, the term “proprietary institution of higher education” means a school that—

(A) Provides an eligible program of training to prepare students for gainful employment in a recognized occupation;

(B) Meets the requirements of paragraphs (1) and (2) of section 1001 (a) of this title;

(C) Does not meet the requirement of paragraph (4) of section 1001 (a) of this title;

(D) Is accredited by a nationally recognized accrediting agency or association recognized by the Secretary pursuant to part G of subchapter IV of this chapter;

(E) Has been in existence for at least 2 years; and

(F) Has at least 10 percent of the school’s revenues from sources that are not derived from funds provided under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, as determined in accordance with regulations prescribed by the Secretary.

(2) Additional institutions. The term “proprietary institution of higher education” also includes a proprietary educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001 (a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

(c) Postsecondary vocational institution.

(1) Principal criteria. For the purpose of this section, the term “postsecondary vocational institution” means a school that—

(A) Provides an eligible program of training to prepare students for gainful employment in a recognized occupation;

(B) Meets the requirements of paragraphs (1), (2), (4), and (5) of section 1001 (a) of this title; and

(C) Has been in existence for at least 2 years.

(2) Additional institutions. The term “postsecondary vocational institution” also includes an educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001 (a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.



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## Applications, Waiting List, and Tenant Selection

### Introduction

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When a family wishes to receive assistance under the HCV program, the family must submit an application that provides the PHA with the information needed to determine the family's eligibility. HUD requires the PHA to place all families that apply for assistance on a waiting list. When HCV assistance becomes available, the PHA must select families from the waiting list in accordance with HUD requirements and PHA policies as stated in the administrative plan and the annual plan.

The PHA is required to adopt clear policies and procedures for accepting applications, placing families on the waiting list, and selecting families from the waiting list and must follow these policies and procedures consistently. The actual order in which families are selected from the waiting list can be affected if a family has certain characteristics designated by HUD or the PHA that justify their selection. Examples of this are the selection of families for income targeting and the selection of families that qualify for targeted funding.

HUD regulations require that all families have an equal opportunity to apply for and receive housing assistance, and that the PHA affirmatively further fair housing goals in the administration of the program [24 CFR §982.53, HCV GB p. 4-1]. Adherence to the selection policies described in this chapter ensures that the PHA will be in compliance with all relevant fair housing requirements, as described in Chapter 2.

This chapter describes HUD and PHA policies for taking applications, managing the waiting list, and selecting families for HCV assistance. The policies outlined in this chapter are organized into three sections, as follows:

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

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

**Part III: Selection for HCV Assistance.** This part describes the policies that guide the PHA in selecting families for HCV assistance as such assistance becomes available. It also specifies how in-person interviews will be used to ensure that the PHA has the information needed to make a final eligibility determination.

## **PART I: THE APPLICATION PROCESS**

### **4-I.A. OVERVIEW**

This part describes the PHA policies for making applications available, accepting applications, making preliminary determinations of eligibility, and the placement of applicants on the waiting list. This part also describes the PHA's obligation to ensure the accessibility of the application process to elderly persons, people with disabilities, and people with limited English proficiency (LEP).

### **4-I.B. APPLYING FOR ASSISTANCE [HCV GB, PP. 4-11 – 4-16, NOTICE PIH PH NOTICE 2009-36]**

Any family that wishes to receive HCV assistance must apply for admission to the program. HUD permits the PHA to determine the format and content of HCV applications, as well as how such applications will be made available to interested families and how applications will be accepted by the PHA. The PHA must include form HUD-92006, Supplement to Application for Federally Assisted Housing, as part of the PHA's application.

#### **PHA Policy**

Depending upon the length of time that applicants may need to wait to receive assistance, the PHA may use a one- or two-step application process.

The PHA required two-step process will be used when it is expected that a family will not be selected from the waiting list for at least 60 days from the date of application. Under the two-step application process, the applicant must complete a pre-application.

Families wishing to apply will be required to complete a pre-application. No one will be denied the right to request or submit a pre-application when the waitlist is open. The PHA will utilize an online application process. Applicants may use any computer, tablet, or smart phone with internet access to apply. Alternate formats will be available for Reasonable Accommodation. Alternate formats may include requesting a pre-application for reasonable accommodation, modification, and auxiliary aids or services by contacting the PHA office. Applicants may also submit a paper pre-application by email, by fax, by telephone, or in person at the PHA office. The PHA will also strive to accommodate those that may not have internet to access to a computer with availability at the Chandler Public Libraries.

Completed applications must be returned to the PHA by mail, electronically, by fax, or submitted in person during normal business hours. Applications must be complete in order to be accepted by the PHA for processing. If an application is incomplete, the PHA will notify the family of the additional information required.

~~The PHA required two-step process will be used when it is expected that a family will not be selected from the waiting list for at least 60 days from the date of application. Under the two-step application process, the applicant must complete a pre-application.~~

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#### **4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS**

##### **Elderly or Disabled Populations [24 CFR §8; HCV GB, pp. 4-11 – 4-13]**

The PHA must take steps to ensure that the application process is accessible to those people who might have difficulty complying with the normal, standard PHA application process. This could include people with disabilities, certain elderly individuals, as well as persons with limited English proficiency (LEP). The PHA must provide a reasonable accommodation to accommodate the needs of individuals with disabilities. The application-taking facility and the application process must be fully accessible, or the PHA must provide an alternate approach that provides equal access to the application process. Chapter 2 provides a full discussion of the PHA's policies related to providing reasonable accommodations for people with disabilities.

The PHA will provide for alternate format pre-applications to the online application process for persons requiring a reasonable accommodation that have been approved by COCHRD.

##### **Limited English Proficiency**

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

#### **4-I.D. PLACEMENT ON THE WAITING LIST**

The PHA must accept applications from families for whom the list is open unless there is good cause for not accepting the application (such as denial of assistance) for the grounds stated in the regulations [24 CFR §982.206(b)(2)].

The PHA will accept applications only from approved methods. The PHA will not accept duplicate applications for the same program.

Applications are placed on the waiting list based on information provided on the pre-application.

The PHA reserves the right to review applications for an initial assessment prior to placing on the waiting list.

No applicant has a right or entitlement to be listed on the waiting list, or to any particular position on the waiting list [24 CFR §982.202(c)].

##### **PHA Policy**

The PHA will utilize a random lottery selection for pre-application placement on the waitlist. All interested persons are encouraged to apply. Once the waitlist closes, all accepted pre-applications will be shuffled randomly through a computerized selection process and each pre-application will be given a sequential waitlist number based on where their pre-application fell during the shuffle. The sequential number will be the pre-application's waitlist number. Because the PHA reserves the right to limit the number of pre-applications placed on an established waitlist, only those pre-applications with a waitlist number less than, or equal to, the pre-determined number of pre-applications, will be placed on the waitlist and become part of the established waitlist. Those pre-applications with a waitlist number greater than the pre-determined number of pre-applications to be placed on the waitlist will be denied. (Note: Pre-applicants are encouraged to claim preferences for which they qualify, but these will preferences will only be taken into consideration at the point when a pre-applicant is selected from the waitlist to start the eligibility process. Pre-applicants with preferences will be selected from an established waitlist before pre-applicants without preferences.)

#### **Eligible for Placement on the Waiting List**

##### PHA Policy

Only pre-applicants who submitted a completed pre-application prior to the deadline will be placed on the list for selection in the random lottery selection process. The PHA reserves the right to select from the pre-applicant list a pre-determined number of applicants pre-applications to move to the waitlist.

For each public posting, the PHA will assess the needs at the time of the waitlist and the pre-determined number of waitlist spots will be posted on the public notice.

Applicants will receive written notification through the mail via U.S. Postal Service that their pre-application has been placed on the waitlist or that their pre-application has been denied, notification will be done within 60 to 90 days of closing of the pre-application period.

Waitlist numbers will not be disclosed at any time while an applicant is on a waitlist. Applicants may access their online account to determine if their application is still active, or they may make inquiries at the housing office.

Placement on the waiting list does not indicate that the family is, in fact, eligible for assistance. A final determination of eligibility will be made when the family is selected from the waiting list.

The second phase is when the family is selected from the waiting list. This is called Eligibility, during which time the PHA will verify any preference(s) claimed and determine eligibility and suitability for admission to the program.

Applicants will be placed on the waiting list according to any preference(s) for which they qualify, and the date and time their complete application is received by the PHA.

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## **PART II: MANAGING THE WAITING LIST**

### **4-II.A. OVERVIEW**

The PHA must have policies regarding various aspects of organizing and managing the waiting list of applicant families. This includes opening the list to new applicants, closing the list to new applicants, notifying the public of waiting list openings and closings, updating waiting list information, purging the list of families that are no longer interested in or eligible for assistance, as well as conducting outreach to ensure a sufficient number of applicants.

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

### **4-II.B. ORGANIZATION OF THE WAITING LIST [24 CFR §982.204 AND §982.205]**

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

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

- Applicant name and identifying number of the head of household;
- Family unit size (family members), based on applicant information supplied on the pre-application;
- Amount of annual income;
- Date and time of application/application number;
- Racial or ethnic designation of the head of household;
- Disabled or Elderly status of head of household;
- Preference points, based on applicant information supplied on the pre-application.

HUD requires the PHA to maintain a single waiting list for the HCV program unless it serves more than one county or municipality. Such PHAs are permitted, but not required, to maintain a separate waiting list for each county or municipality served.

#### **PHA Policy**

The PHA will maintain a single waiting list for the HCV program.

HUD directs that a family that applies for assistance from the HCV program must be offered the opportunity to be placed on the waiting list for any public housing, project-based voucher or moderate rehabilitation program the PHA operates if 1) the other programs' waiting lists are open, and 2) the family is qualified for the other programs.

HUD permits, but does not require PHAs maintain a single merged waiting list for their public housing, Section 8, and other subsidized housing programs.

A family's decision to apply for, receive, or refuse other housing assistance must not affect the family's placement on the HCV waiting list, or any preferences for which the family may qualify.

PHA Policy

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

**4-IL.C. OPENING AND CLOSING THE WAITING LIST [24 CFR §982.206]**

**Closing the Waiting List**

A PHA is permitted to close the waiting list if it has an adequate pool of families to use its available HCV assistance, or for administrative reasons. Alternatively, the PHA may elect to continue to accept applications only from certain categories of families that meet particular preferences or funding criteria.

PHA Policy

The PHA will close the waiting list when the estimated waiting period for housing applicants on the list reaches 24 months for the most current applicants, or the PHA will assess the needs at the time of the waitlist and the pre-determined number of waitlist spots will be posted on the public notice, or for administrative reasons. Where the PHA has particular preferences or other criteria that require a specific category of family, the PHA may elect to continue to accept applications from these applicants while closing the waiting list to others.

The PHA reserves the right to select from the applicant pool a pre-determined number of applicants to move to the waitlist. For each posting, the PHA will assess the needs at the time of the waitlist and the pre-determined number of waitlist spots will be posted on the public notice.

**Reopening the Waiting List**

If the waiting list has been closed, it cannot be reopened until the PHA publishes a notice in local newspapers of general circulation, minority media, and other suitable media outlets. The notice must comply with HUD fair housing requirements and must specify who may apply, and where and when applications will be received.

PHA Policy

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

The PHA will give public notice by publishing relevant information in suitable media outlets including, but not limited to:



Chanweb	East Valley Tribune
Channel 11 Public Service City Scope	Local Social Service Agencies (Arizona)
La Voz	Public Housing Authorities

#### **4-II.D. FAMILY OUTREACH [HCV GB, PP. 4-2 TO 4-4]**

The PHA must conduct outreach as necessary to ensure that the PHA has a sufficient number of applicants on the waiting list to use the HCV resources it has been allotted.

Because HUD requires the PHA to admit a specified percentage of extremely low-income families to the program(see Chapter 4, Part III), the PHA may need to conduct special outreach to ensure that an adequate number of such families apply for assistance [HCV GB, p. 4-20 to 4-21].

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

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

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

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

##### **PHA Policy**

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

#### **4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES**

##### **PHA Policy**

While the family is on the waiting list, the family must inform the PHA, within 10 business days, of changes in family size or composition, preference status, or contact information, including current residence, mailing address, and phone number. The changes must be submitted in writing either through the applicant's online account or on a Change Report form. If using a Change Report form, the applicant copy of the form must be time and date stamped by the City of Chandler Housing office to be considered valid. The copy of the form will be provided to the participant.

Upon implementation of the online resident system, the family will be urged to use the PHA website/online process for submitting Change Reports.

Changes in an applicant's circumstances while on the waiting list may affect the family's entitlement to a preference. When an applicant reports a change that affects their placement on the waiting list, the waiting list will be updated accordingly. Families with preferences will be selected before families not claiming a preference.

#### **4-II.F. UPDATING THE WAITING LIST [24 CFR §982.204; HCV GB 4.5]**

HUD requires the PHA to establish policies to use when removing applicant names from the waiting list.

##### **Purging the Waiting List**

The decision to remove an applicant family that includes a person with disabilities from the waiting list is subject to reasonable accommodation. If the applicant did not respond to a PHA request for information or updates, and the PHA determines that the family did not respond because of the family member's disability, the PHA must reinstate the applicant family to their former position on the waiting list [24 CFR §982.204(c)(2)].

##### **PHA Policy**

The waiting list will be purged every other year to ensure that all applicant information is current.

To update the waiting list, the PHA will send an update request via first class mail to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. This update request will be sent to the last address that the PHA has on record for the family. The update request will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list.

Families must respond via the online system on or before the due date or respond by mail as indicated in the purge letter instructions. Responses should be postmarked or received by the PHA not later than ~~14~~<sup>15</sup> business days from the date of the PHA letter.

If the family fails to respond within 14 business days, the family will be removed from the waiting list and notice will be mailed to the last address of record or other address provided by the applicant.

If the notice is returned by the post office with no forwarding address, the applicant will be removed from the waiting list without further notice, and a notice mailed to the last address of record or other address provided by the applicant.

If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated. The family will have 14 business days to respond from the date the letter was re-sent. If the family fails to respond within this time frame, the family will be removed from the waiting list without further notice and a notice mailed to the last address of record or other address provided by the applicant.

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

#### **Removal from the Waiting List**

##### PHA Policy

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

If at any time an applicant family is on the waiting list, and the PHA determines that the family is not eligible for assistance (see Chapter 3), the family will be removed from the waiting list.

If a family is removed from the waiting list because the PHA has determined the family is not eligible for assistance, a notice will be sent to the family's address of record as well as to any alternate address provided on an informal review request. The notice will state the reasons the family was removed from the waiting and will inform the family how to request an informal review of the PHA's decision (see Chapter 16) [24 CFR §982.201(f)].

The family will also be removed from the waiting list for failure to respond to a request for information, such as during the purge process. As this removal is not due to an eligibility determination, no formal hearing is required. (24 CFR 982.202(c)).

##### PHA Policy

If the PHA receives no response from the applicant within the specified time frame, the applicant shall be removed from the waiting list. If the applicant responds within 60 calendar days of the due date, the PHA will review for return to the waiting list. This will be allowed only once during the time a family is on the waiting list

## **PART III: SELECTION FOR HCV ASSISTANCE**

### **4-III.A. OVERVIEW**

As vouchers become available, families on the waiting list must be selected for assistance in accordance with the policies described in this part.

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

The PHA must maintain a clear record of all information required to verify that the family is selected from the waiting list according to the PHA's selection policies [24 CFR §982.204(b) and §982.207(e)].

### **4-III.B. SELECTION AND HCV FUNDING SOURCES**

#### **Special Admissions [24 CFR §982.203]**

HUD may award funding for specifically-named families living in specified types of units (e.g., a family that is displaced by demolition of public housing; a non-purchasing family residing in a HOPE 1 or 2 projects). In these cases, the PHA may admit such families whether or not they are on the waiting list, and, if they are on the waiting list, without considering the family's position on the waiting list. These families are considered non-waiting list selections. The PHA must maintain records showing that such families were admitted with special program funding.

#### **Targeted Funding [24 CFR §982.204(e)]**

HUD may award a PHA funding for a specified category of families on the waiting list. The PHA must use this funding only to assist the families within the specified category. In order to assist families within a targeted funding category, the PHA may skip families that do not qualify within the targeted funding category. Within this category of families, the order in which such families are assisted is determined according to the policies provided in Section 4-III.C.

#### **Regular HCV Funding**

Regular HCV funding may be used to assist any eligible family on the waiting list. Families are selected from the waiting list according to the policies provided in Section 4-III.C.

### **4-III.C. SELECTION METHOD**

PHAs must describe the method for selecting applicant families from the waiting list, including the system of admission preferences that the PHA will use [24 CFR §982.202(d)].

### **Local Preferences [24 CFR §982.207; HCV p. 4-16]**

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

These preferences will not have the purpose or effect of delaying or otherwise denying admission to the program based on the race, color, ethnic origin, gender, religion, disability, or age of any member of an applicant family.

#### PHA Policy

Families will be selected from the waitlist in numeric order, based on a family's assigned sequential waitlist number. Families with a preference will be selected before families without a preference. Preferences will be calculated in a "lumping" order, whereby, a family with one preference will have the same number of points as a family with multiple preferences.

The PHA uses the following Local Preferences:

- A. Displaced person(s): Individuals or families displaced by local government action or whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.
- B. Living or Working in Chandler: Applicant must physically live, work, or be hired to work in the City of Chandler.
- C. Chronically Homeless: The following definition must be met. A chronically homeless person as defined by the U.S. Department of HUD (24 CFR 578.3): (1) A "homeless individual with a disability," as defined in Section 401(9) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360(9)), who: (i) Lives in a place not meant for human habitation, a safe haven, or in an emergency shelter; and ii) Has been homeless and living as described in paragraph (1)(i) of this definition continuously for at least 12 months or on at least 4 separate occasions in the last 3 years, as long as the combined occasions equal at least 12 months and each break in homelessness separating the occasions included at least 7 consecutive nights of not living as described in paragraph (1)(i). Stays in institutional care facilities for fewer than 90 days will not constitute as a break in homelessness, but rather such stays are included in the 12-month total, as long as the individual was living or residing in a place not meant for human habitation, a safe haven, or an emergency shelter immediately before entering the institutional care facility; (2) An individual who has been residing in an institutional care facility, including a jail, substance abuse or mental health treatment facility, hospital, or other similar facility, for fewer than 90 days and met all of the criteria in paragraph (1) of this definition, before entering that facility; or (3) A family with an adult head of household (or if there is no adult in the family, a minor head of household) who meets all of the criteria in paragraph (1) or (2) of this

definition, including a family whose composition has fluctuated while the head of household has been homeless.

- D. Currently Employed/Employment Program: Families whose Head, Spouse, or Sole Member is employed. Applicants with an adult family member enrolled in an employment training program or currently working (20) hours a week, or attending school on a full-time basis. Working hours must be attributed to only one family member. Family members cannot combine work hours.
- E. Elderly families where the head of household or spouse is at least 62+ years of age.
- F. Disabled families and families with a disabled household member.

The above preferences are not weighted and will be used in a “lumping” manner so as to allow an applicant with one preference to have the same advantage as an applicant qualifying for all preferences. Applicants are encouraged to claim as many preferences for which they qualify. Verification of preferences will be conducted at the time of eligibility. Selected applicants going through the eligibility process who have claimed preferences for which they do not qualify and cannot verify will be returned to the waitlist and their pre-application will be updated with the correct preference information.

Special Programs - COCHRD operates a number of programs which serve special populations, special needs or which were designed for special purposes. For these populations and programs, preference will be given to applicants that are referred from various community organizations or divisions of local government which are under a Memorandum of Understand (MOU), Memorandum of Agreement, or a Contract with COCHRD in accordance with program policies and HUD regulations, i.e., referrals from CE (local preference).

As of July 1, 2023, the Emergency Housing Voucher (EHV) Chapter 18 will now be changed to as “Chapter 18, Special Programs” to reflect inclusion of Veteran’s Affairs Supportive Housing (VASH) and Emergency Housing Voucher (EHV) policies.

#### **Income Targeting Requirement [24 CFR §982.201(b)(2)]**

HUD requires that extremely low-income (ELI) families make up at least 75 percent of the families admitted to the HCV program during the PHA’s fiscal year. ELI families are those with annual incomes at or below the federal poverty level or 30 percent of the area median income whichever number is higher. To ensure this requirement is met, a PHA may skip non-ELI families on the waiting list in order to select an ELI family.

Low income families admitted to the program that are “continuously assisted” under the 1937 Housing Act [24 CFR §982.4(b)], as well as low-income or moderate-income families admitted to the program that are displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing, are not counted for income targeting purposes.

#### **PHA Policy**

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

### **Order of Selection**

The PHA system of preferences may select families based on local preferences according to the date and time of application, or by a random selection process (lottery) [24 CFR §982.207(c)]. If a PHA does not have enough funding to assist the family at the top of the waiting list, it is not permitted to skip down the waiting list to a family that it can afford to subsidize when there are not sufficient funds to subsidize the family at the top of the waiting list [24 CFR §982.204(d) and (e)].

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

#### **PHA Policy**

PHA reserves the right to select from the applicant pool a pre-determined number of pre-applicants to be placed on the waitlist.

The PHA will utilize a computerized random lottery selection process where each pre-application will be given a waitlist number. The pre-applicant will be placed on the waitlist based upon the assigned sequential waitlist number.

Pre-applicants will be selected from the waitlist based on that number. Pre-applicants with preferences will be selected first in order of their waitlist number before pre-applicants without preferences.

While on the waitlist, families may add or delete preferences. Their selection from the waitlist will reflect whether or not they have a preference at the time they are selected for the eligibility process.

Families with a preference will be selected before families without a preference.

Preferences will be calculated in a “lumping” order, whereby, a family with one preference will have the same number of points as a family with multiple preferences.

When a family is selected from the waitlist, the family will be required to submit a full application and documentation to determine eligibility prior to housing assistance becoming available.

### **4-III.D. NOTIFICATION OF SELECTION**

When a family has been selected from the waiting list, the PHA must notify the family [24 CFR Part §982.~~554(a)~~, ~~Subpart L~~].

#### PHA Policy

The PHA will notify the family by first class mail via U.S. Postal Service when they have been selected from the waiting list. The notice will inform the family of the following:

- Date, time, and location of the eligibility interview, or process for obtaining an eligibility interview appointment, and procedures for rescheduling the interview;
- Who is required to attend the interview;
- All eligibility documents that must be provided, including information about what constitutes acceptable documentation, and due dates;
- ~~DD~~Documents that must be provided at the interview to document eligibility for a preference, if applicable; and
- Other documents and information that should be brought to the interview.

If a notification letter is returned to the PHA with no forwarding address or the online system is not updated with the current information to maintain active status on the waiting list, the family will be removed from the waiting list ~~without further notice.~~ ~~A notice.~~ A notice of denial (see Chapter 3) will be sent to the family's address of record, as well as to any known alternate address.

#### **4-III.E. THE APPLICATION INTERVIEW**

HUD recommends that the PHA obtain the information and documentation needed to make an eligibility determination through a face-to-face interview with a PHA representative [HCV GB, pg. 4- 16]. Being invited to attend an interview does not constitute admission to the program.

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

Reasonable accommodation will be made for persons with disabilities who are unable to attend an interview due to their disability.

#### PHA Policy

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

The head of household and all adult family members will be strongly encouraged to attend the interview together. However, the head of household or the spouse or a legal representative (documented through a legal power of attorney or guardianship) may attend the interview on behalf of the family. Verification of information pertaining to adult members of the household not present at the interview will not begin until signed release forms are returned to the PHA. This may delay the eligibility process.

The head of household or spouse or legal representative must provide acceptable documentation of legal identity. (Chapter 7 provides a discussion of proper



documentation of legal identity). If the family representative does not provide the required documentation at the time of the scheduled interview, the ~~vis~~ will be required to provide it within 10 business days.

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

The family must provide the information necessary to establish the family's eligibility and to determine the appropriate level of assistance, and must complete required forms, provide required signatures, and submit required documentation. If any materials are missing, the PHA will provide the family with a written list of items that must be submitted and the due date.

Any required documents or information that the family is unable to provide at the interview must be provided within 10 business days of the interview (Chapter 7 provides details about longer submission deadlines for particular items, including documentation of eligible noncitizen status).

If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial (See Chapter 3).

An advocate, interpreter, or other assistant may assist the family with the application and the interview process. Where an advocate, interpreter or other third party is used to assist the family, the family and the PHA will execute a certification attesting to the role and assistance of the third-party.

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

If the family is unable to attend a scheduled interview, the family should contact the PHA in advance of the interview to schedule a new appointment. If a family does not attend a scheduled interview, the PHA will send another notification letter with a new interview appointment time. Applicants who fail to attend two scheduled interviews without PHA approval will be denied assistance based on the family's failure to supply information needed to determine eligibility. A notice of denial will be issued in accordance with policies contained in Chapter 3.

#### **4-III.F. COMPLETING THE APPLICATION PROCESS**

The PHA must verify all information provided by the family (see Chapter 7). Based on verified information, the PHA must make a final determination of eligibility (see Chapter 3) and must confirm that the family qualified for any special admission, targeted funding admission, or

selection preference that affected the order in which the family was selected from the waiting list.

PHA Policy

If the PHA determines that the family is ineligible, the PHA will send written notification of the ineligibility determination within 10 business days of the determination. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review (Chapter 16).

If a family fails to qualify for any criteria that affected the order in which it was selected from the waiting list (e.g. targeted funding, extremely low-income), the family will be returned to its original position on the waiting list. The PHA will notify the family in writing that it has been returned to the waiting list, and will specify the reasons for it.

If the PHA determines that the family is eligible to receive assistance, the PHA will invite the family to attend a briefing in accordance with the policies in Chapter 5.

Upon making an eligibility determination, the PHA must provide the family a notice of VAWA rights (form HUD-5380) as well as the HUD VAWA self-certification form (form HUD-5382) in accordance with the Violence Against Women Act of 2013, and as outlined in 16-VII.C., at the time the applicant is provided assistance or at the time the applicant is denied assistance. The notice and self-certification form must accompany the written notification of eligibility determination. This notice must be provided in both of the following instances: (1) when a family actually begins receiving assistance (lease execution); or (2) when a family is notified of its ineligibility.

## Briefings and Voucher Issuance

### Introduction

This chapter explains the briefing and voucher issuance process. When a family is determined to be eligible for the Housing Choice Voucher (HCV) program, the PHA must ensure that the family fully understands the way the program operates and the family's obligations under the program. This is accomplished through both an oral briefing and provision of a briefing packet containing the HUD-required documents and other information the family needs to know. Once the family is fully informed of the program's requirements, the PHA issues the family a voucher. The voucher includes the unit size for which the family qualifies based on the PHA's subsidy standards, as well as the issue and expiration date of the voucher. The voucher is the document that authorizes the family to begin its search for a unit, and limits the amount of time the family has to successfully locate an acceptable unit.

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

**Part I: Briefings and Family Obligations.** This part details the program's requirements for briefing families orally, and for providing written materials describing the program and its requirements. It includes a particular focus on the family's obligations under the program.

**Part II: Subsidy Standards and Voucher Issuance.** This part discusses the PHA's standards for determining how many bedrooms a family of a given composition qualifies for, which in turn affects the amount of subsidy the family can receive. It also discusses the policies that dictate how vouchers are issued, and how long families have to locate a unit.

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## **PART I: BRIEFINGS AND FAMILY OBLIGATIONS**

### **5-I.A. OVERVIEW**

HUD regulations require the PHA to conduct mandatory briefings for applicant families who qualify for a voucher. The briefing provides a broad description of owner and family responsibilities, explains the PHA's procedures, and includes instructions on how to lease a unit. This part describes how oral briefings will be conducted, specifies what written information will be provided to families, and lists the family's obligations under the program.

The PHA has the sole discretion to determine if a briefing will be conducted in-person, in a group briefing, or remotely.

### **5-I.B. BRIEFING [24 CFR §982.301]**

#### **Notification of Briefing**

Prior to issuance of a voucher, the PHA must give the family an oral briefing and provide the family with a briefing packet containing written information about the program. Families may be briefed in individual face-to-face meetings, through group briefing sessions, or via remote briefing sessions.

#### **PHA Policy**

Families will be notified of their eligibility for assistance at the time they are invited to attend a briefing. The notice will be sent by first class mail and will also be sent by email if the family has provided a valid email address to the PHA. -

The notice will advise the family of the type of briefing, who is required to be present at the briefing, and the date and time of the briefing. The notice will also inform the family of any additional requirements for in-person or remote briefings as addressed in relevant policy elsewhere in this section.

If the notice is returned by the post office with no forwarding address, the applicant will be denied and their name will not be placed back on the waiting list. If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated.

Applicants who fail to attend a scheduled briefing will be scheduled for another briefing automatically. The PHA will notify the family of the date and time of the second scheduled briefing. Applicants who fail to attend two scheduled briefings, without prior PHA approval, will be denied assistance (see Chapter 3).

#### **In-Person Briefings**

At the briefing, the PHA must ensure effective communication in accordance with Section 504 requirements (Section 504 of the Rehabilitation Act of 1973) and ensure that the briefing site is accessible to individuals with disabilities. For a more thorough discussion of accessibility requirements, refer to Chapter 2.

#### PHA Policy

The PHA reserves the right to hold briefings remotely. At the family's request, the PHA may provide an individual briefing.

Generally, the head of household is required to attend the briefing, however all adult family members must sign required forms.

Families that attend briefings and still need individual assistance will be referred to an appropriate PHA staff person.

Briefings will be conducted in English. For limited English proficient (LEP) applicants, the PHA will provide interpretation services in accordance with the PHA's LEP plan (See Chapter 2).

#### **Attendance**

##### PHA Policy

Applicants who fail to attend a scheduled in-person briefing will be scheduled for another briefing automatically. The PHA will notify the family of the date and time of the second scheduled briefing. Applicants who fail to attend two scheduled briefings, without prior PHA approval, will be denied assistance (see Chapter 3).

#### **Remote Briefings [Notice PIH 2020-32]**

Remote briefings may be conducted over the phone, via video conferencing, or through other virtual methods.

##### PHA Policy

The PHA has the sole discretion to require that briefings be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster, or in person.

If the PHA schedules a remote briefing, the PHA will conduct a face-to-face briefing upon request of the applicant as a reasonable accommodation for a person with a disability if safety and health concerns can be reasonably addressed.

~~If the applicant requests an in person one on one briefing as a reasonable accommodation for a person with a disability, the PHA will schedule it, only if safety and health concerns can be reasonably addressed.~~

The PHA will conduct a briefing remotely upon request of the applicant as a reasonable accommodation for a person with a disability, if an applicant does not have child care or transportation that would enable them to attend the briefing, or if the applicant believes an in-person briefing would create an undue health risk. The PHA will consider other reasonable requests for a remote briefing on a case-by-case basis.

## **Accessibility Requirements for Persons with Disabilities and LEP Individuals**

As with in-person briefings, the method for conducting remote briefings must be accessible and the briefing conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities.

Additionally, providing effective communication virtually may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual.

If no method of conducting a remote briefing is available that appropriately accommodates an individual's disability, the PHA may not hold against the individual their inability to participate in the remote briefing, and the PHA should consider whether postponing the remote briefing to a later date is appropriate or whether there is a suitable alternative.

Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation, will depend on the specific circumstances.

Limited English Proficiency (LEP) requirements also apply to remote briefings, including the use of interpretation services and document translation. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements, all of which apply in the context of remote briefings.

## **Conducting Remote Briefings [PIH Notice 2020-32]**

The PHA must ensure that the participant has the right to hear and be heard. The PHA shall ensure due process and that all parties are able to have full access to the briefing.

The PHA must ensure that the lack of technology or inability to use technology for remote briefings does not pose a disadvantage to families that may not be apparent to the PHA.

The PHA must ensure that the family has appropriate technological access in order to fully participate in the remote briefing.

~~The PHA should determine through a survey or other means (See PIH Notice 2020-32, Section 6) if these barriers exist prior to conducting the remote informal review and, if the family does not have the proper technology to fully participate, either postpone the informal review or provide an alternative means of access.~~

### **PHA Policy**

At least 10 business days prior to scheduling the remote briefing, the PHA will provide written notification via first class mail and/or email to families participating in the briefing to advise of technological requirements and to request the family notify the PHA of any known barriers.

If any family does not respond within five business days, or if the written notification is returned by the post office or the email is rejected, the PHA will contact the family by telephone to identify potential technological barriers and to determine which technology resources are accessible to the family.

The PHA will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person briefing or have a one-on-one briefing over the phone, as appropriate.

The PHA will conduct remote briefings via a video conferencing method when available. If applicants are unable to adequately access the video conferencing, the briefing will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in, the remote briefing will be postponed, and an in-person alternative or one-on-one briefing over the phone will be provided.

The PHA will provide login information and/or conferencing call-in information and a packet of all briefing materials needed to complete the briefing, either by US mail or via electronic delivery, in advance of the briefing date. The PHA will contact the applicant two business days before the briefing to ensure the packet was received.

The PHA will ensure that all electronic information stored or transmitted as part of the briefing meets the requirements for accessibility for persons with disabilities and persons with LEP, and is secure, including ensuring personally identifiable information (PII) is protected.

The PHA will ensure that families who participate in remote briefings have the opportunity to ask questions as part of the briefing.

If families lose connectivity during any remote briefing or otherwise feel they were unable to access information presented during the briefing, the family may request a one-on-one briefing over the phone or in person with the PHA.

#### **Oral Briefing [24 CFR §982.301(a)]**

Each briefing must provide information on the following subjects:

- How the Housing Choice Voucher program works;
- Family and owner responsibilities;
- Where the family can lease a unit, including renting a unit inside or outside the PHA's jurisdiction;
- An explanation of how portability works. The PHA may not discourage the family from choosing to live anywhere in the PHA jurisdiction or outside the PHA jurisdiction under portability, unless otherwise expressly authorized by statute, regulation, PIH Notice , or court order;
- The PHA must inform the family of how portability may affect the family's assistance through screening, subsidy standards, payment standards, and any other elements of the portability process which may affect the family's assistance;

- The advantages of areas that do not have a high concentration of low-income families; and
- For families receiving welfare-to-work vouchers, a description of any local obligations of a welfare-to-work family and an explanation that failure to meet the obligations is grounds for denial of admission or termination of assistance.

In briefing a family that includes a person with disabilities, PHA must also take steps to ensure effective communication.

**Briefing Packet [24 CFR §982.301(b); NEW HCV GB, Housing Search and Leasing, ~~p. 7Ch 2.5, Contents of the Briefing Packet~~]**

Documents and information provided in the briefing packet must include the following:

- The term of the voucher, voucher suspensions, and the PHA's policies on any extensions of the term. If the PHA allows extensions, the packet must explain how the family can request an extension.
- A description of the method used to calculate the housing assistance payment for a family, including how the PHA determines the payment standard for a family, how the PHA determines total tenant payment for a family, and information on the payment standard and utility allowance schedule.
- An explanation of how the PHA determines the maximum allowable rent for an assisted unit.
- Where the family may lease a unit and an explanation of how portability works; including information on how portability may affect the family's assistance through screening, subsidy standards, payment standards, and any other elements of the portability process that may affect the family's assistance.
- The HUD-required tenancy addendum, which must be included in the lease.
- The form the family must use to request approval of tenancy, and a description of the procedure for requesting approval for a tenancy.
- A statement of the PHA policy on providing information about families to prospective owners.
- The PHA subsidy standards including when and how exceptions are made.
- Materials (e.g., brochures) on how to select a unit and any additional information on selecting a unit that HUD provides (e.g., HUD brochure entitled, "A Good Place to Live").
- Information on federal, state, and local equal opportunity laws and a copy of the housing discrimination complaint form, including information on how to complete the form and file a fair housing complaint.
- 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.



- Notice that if the family includes a person with disabilities, the family may request a list of available accessible units known to the PHA.
- The family obligations under the program, including any obligations of a welfare-to-work family, and any obligations of other special programs if the family is participating in one of those programs.
- The grounds on which the PHA may terminate assistance for a participant family because of family action or failure to act.
- PHA informal hearing procedures including when the PHA is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.
- An explanation of the advantages of moving to an area that does not have a high concentration of low-income families.
- The HUD pamphlet on lead-based paint entitled, “Protect Your Family from Lead in Your Home.”

If the PHA is located in a metropolitan FMR area, the following additional information must be included in the briefing packet in order to receive full points under SEMAP Indicator 7, Expanding Housing Opportunities [24 CFR §985.3(g)].

- Maps showing areas with housing opportunities outside areas of poverty or minority concentration, both within its jurisdiction and its neighboring jurisdiction.
- Information about the characteristics of these areas including job opportunities, schools, transportation and other services.
- An explanation of how portability works, including a list of portability contact persons for neighboring PHAs with names, addresses, and telephone numbers.

#### **Additional Items to be Included in the Briefing Packet**

In addition to items required by the regulations, PHAs may wish to include supplemental materials to help explain the program to both participants and owners [HCV GB p. 8-7, PIH Notice 2017-12]

##### PHA Policy

The PHA will provide the following additional materials in the briefing packet:

- Information on how to fill out and file a housing discrimination complaint form
- The form HUD-5380 domestic violence certification form and the form HUD-5382 notice of occupancy rights, which contains information on VAWA protections for victims of domestic violence, dating violence, sexual assault, and stalking.
- “Is Fraud Worth It?” HUD-1141-OIG) which explains the types of actions a family must avoid and the penalties for program abuse.
- “What You Should Know about EIV,” a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to PIH Notice 2017-12

## **5-I.C. FAMILY OBLIGATIONS**

Obligations of the family are described in the housing choice voucher (HCV) regulations and on the voucher itself. These obligations include responsibilities the family is required to fulfill, as well as prohibited actions. The PHA must inform families of these obligations during the oral briefing, and the same information must be included in the briefing packet. When the family's unit is approved and the HAP contract is executed, the family must meet those obligations in order to continue participating in the program. Violation of any family obligation may result in termination of assistance, as described in Chapter 12.

### **Time Frames for Reporting Changes Required by Family Obligations**

#### PHA Policy

Unless otherwise noted below, when family obligations require the family to respond to a request or notify the PHA of a change, notifying the PHA of the request or change within 10 business days of its occurrence is considered prompt notice (e.g., If you became employed, you would use the start date of employment to start your count of 10 business days).

~~When a family is required to provide notice to the PHA, the notice must be in writing. The family notice to the PHA must be in writing.~~

### **Family Obligations [24 CFR §982.551]**

The family obligations of the voucher are listed as follows:

- The family must supply any information that the PHA or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.
- The family must supply any information requested by the PHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition.

#### PHA Policy

The participant is required to report all changes within 10 business days of its occurrence and the PHA will determine if an interim reexamination will be conducted.

- The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.
- Any information supplied by the family must be true and complete.
- The family is responsible for any inspection standards (NSPIRE) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.

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#### PHA Policy

Damages beyond normal wear and tear will be considered to be damages, which could be assessed against the security deposit.

- The family must allow the PHA to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.
- The family must not commit any serious or repeated violation of the lease.

#### PHA Policy

The PHA will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction, or an owner's notice to evict, police reports, and affidavits from the owner, neighbors, or other credible parties with direct knowledge.

*Serious and repeated lease violations* will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests. Any incidents of, or criminal activity related to, domestic violence, dating violence, sexual assault ~~or~~ stalking, or human trafficking, will not be construed as serious or repeated lease violations by the victim [see 24 CFR §5.2005(c)(1)].

- The family must notify the PHA and the owner before moving out of the unit or terminating the lease.

#### PHA Policy

The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to the PHA at the same time the owner is notified.

- The family must promptly give the PHA a copy of any owner eviction notice.
- The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
- The composition of the assisted family residing in the unit must be approved by the PHA. The family must promptly notify the PHA in writing of the birth, adoption, or court-awarded custody of a child. The family must request PHA approval to add any other family member as an occupant of the unit.

#### PHA Policy

The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. The PHA will determine eligibility of the new member in accordance with the policies in Chapter 3.

- The family must promptly notify the PHA in writing if any family member no longer

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lives in the unit.

- If the PHA has given approval, a foster child or a live-in aide may reside in the unit. The PHA has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when PHA consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3 (Sections I.K and I.M), and Chapter 11 (Section II.B).
- The family must ~~not sublease the unit, assign the lease, or transfer the unit. promptly notify the PHA in writing if any family member no longer lives in the unit.~~

#### PHA Policy

Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.

- The family must supply any information requested by the PHA to verify that the family is living in the unit or information related to family absence from the unit.
- The family must promptly notify the PHA when the family is absent from the unit.

#### PHA Policy

Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be provided to the PHA at the start of the extended absence.

- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].
- The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).
- Family members must 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. See Chapter 3 (Section III.C. on examples of criminal activity) and see Chapter 12 for HUD and PHA policies related to drug-related and violent criminal activity.
- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety, or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for a discussion of HUD and PHA policies related to alcohol abuse.

- An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.
- A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]

## **PART II: SUBSIDY STANDARDS AND VOUCHER ISSUANCE**

### **5-II.A. OVERVIEW**

The PHA must establish subsidy standards that determine the number of bedrooms needed for families of different sizes and compositions. This part presents the policies that will be used to determine the family unit size (also known as the voucher size) a particular family should receive, and the policies that govern making exceptions to those standards. The PHA must also establish policies related to the issuance of the voucher, to the voucher term, and to any extensions of that the voucher term.

### **5-II.B. DETERMINING FAMILY UNIT (VOUCHER) SIZE [24 CFR §982.402]**

For each family, the PHA determines the appropriate number of bedrooms under the PHA subsidy standards and enters the family unit size on the voucher that is issued to the family. The family unit size does not dictate the size of unit the family must actually lease, nor does it determine who within a household will share a bedroom/sleeping room.

The following requirements apply when the PHA determines family unit size:

- The subsidy standards must provide for the smallest number of bedrooms needed to house a family without overcrowding.
- The subsidy standards must be consistent with space requirements under the housing inspection standards. [24 CFR §982.401 (d)]
- The subsidy standards must be applied consistently for all families of like size and composition.
- A child who is temporarily away from the home because of placement in foster care is considered a member of the family in determining the family unit size.
- A family that consists of a pregnant woman (with no other persons) must be treated as a two- person family.
- Any live-in aide (approved by the PHA to reside in the unit to care for a family member who is disabled or is at least 50 years of age) must be counted in determining the family unit size;

#### **PHA Policy**

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

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

- Foster children will be included in determining unit size.
- A separate bedroom should be allocated for the Head of Household and spouse/cohabitant.
- A separate bedroom should be allocated for the Head of Household if no spouse or cohabitant exists.
- When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to the PHA indicating that the student has established a separate household or the family declares that the student has established a separate household.

The PHA will reference the following chart in determining the appropriate voucher size for a family:

Occupancy Standards / Subsidy Standards	
Voucher size	Persons in Household (Minimum – Maximum_
1 Bedroom	1 to 2
2 Bedroom	2 to 4
3 Bedroom	4 to 6
4 Bedroom	6 to 8
5 Bedroom	8 to 10

### **5-II.C. EXCEPTIONS TO SUBSIDY STANDARDS**

In determining family unit size for a particular family, 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 [24 CFR §982.402(b)(8)]. Reasons may include, but are not limited to:

- A need for an additional bedroom for medical equipment
- A need for a separate bedroom for reasons related to a family member's disability, medical or health condition

For a single person who is not elderly, disabled, or a remaining family member, an exception cannot override the regulatory limit of a zero or one bedroom [24 CFR §982.402(b)(8)].

#### **PHA Policy**

The PHA will consider granting an exception for any of the reasons specified in the regulation: the age, sex, health, handicap, or relationship of family members or other personal circumstances.

The family must request any exception to the subsidy standards in writing within 30 days of the determination of voucher size:

- The request must explain the need or justification for a larger family unit size, and must include appropriate documentation.
- Requests based on health-related reasons must be verified by a knowledgeable professional source (e.g. doctor or health professional), unless the disability and the disability-related need/request for accommodation is readily apparent or otherwise known.
- The family's need for an additional bedroom due to special medical equipment must be re-verified in writing at annual reexamination.

All exceptions to subsidy standards will be reviewed and determined by management.

The PHA will notify the family of its determination within 10 business days of receiving the family's request. If a participant family's request is denied, the notice will inform the family of their right to request an informal hearing.

#### **5-II.D. VOUCHER ISSUANCE [24 CFR §982.302]**

When a family is selected from the waiting list (or as a special admission as described in Chapter 4), or when a participant family wants to move to another unit, the PHA issues a Housing Choice Voucher, form HUD-52646. This chapter deals only with voucher issuance for applicants. For voucher issuance associated with moves of program participants, please refer to Chapter 10.

The voucher is the family's authorization to search for housing. It specifies the unit size for which the family qualifies, and includes both the date of voucher issuance and date of expiration. It contains a brief description of how the program works and explains the family obligations under the program. The voucher is evidence that the PHA has determined the family to be eligible for the program, and that the PHA expects to have money available to subsidize the family if the family finds an approvable unit. However, the PHA does not have any liability to any party by the issuance of the voucher, and the voucher does not give the family any right to participate in the PHA's housing choice voucher program [Voucher, form HUD-52646]

A voucher can be issued to an applicant family only after the PHA has determined that the family is eligible for the program based on verification of information received within the 60 days prior to issuance [24 CFR §982.201(e)] and after the family has attended an oral briefing [HCV 8-1].

##### **PHA Policy**

Vouchers will be issued to eligible applicants immediately following the mandatory briefing.

The PHA should have sufficient funds to house an applicant before issuing a voucher. If funds are insufficient to house the family at the top of the waiting list, the PHA must wait until it has adequate funds before it calls another family from the list [HCV GB p. 8-10].



PHA Policy

Prior to issuing any vouchers, the PHA will determine whether it has sufficient funding in accordance with the policies in Part VIII of Chapter 16.

If the PHA determines that there is insufficient funding after a voucher has been issued, the PHA may rescind the voucher and place the affected family back on the waiting list.

**5-II.E. VOUCHER TERM AND EXTENSIONS**

**Voucher Term [24 CFR §982.303]**

The initial term of a voucher must be at least 60 calendar days. The initial term must be stated on the voucher [24 CFR §982.303(a)].

PHA Policy

The initial voucher term will be 60 calendar days.

The family must submit a Request for Tenancy Approval and proposed lease within the 60-day period unless the PHA grants an extension.

**Extensions of Voucher Term [24 CFR §982.303(b)]**

The PHA has the authority to grant extensions of search time, to specify the length of an extension, and to determine the circumstances under which extensions will be granted. There is no limit on the number of extensions that the PHA can approve. Discretionary policies related to extension and expiration of search time must be described in the PHA's administrative plan [24 CFR §982.54].

PHAs must approve additional search time if needed as a reasonable accommodation to make the program accessible to and usable by a person with disabilities. The extension period must be reasonable for the purpose.

The family must be notified in writing of the PHA's decision to approve or deny an extension. The PHA's decision to deny a request for an extension of the voucher term is not subject to informal review [24 CFR §982.554(c)(4)].

PHA Policy

The PHA will approve extensions for up to 180 days total voucher term for disabled and/or elderly (62+ years of age) households and up to 120 days total voucher term for non-disabled, non-elderly households. Extensions must be requested in writing from the voucher holder and will be granted in 30-day increments.

Refer to Chapter 10 regarding portability voucher issuance and extension requirements.

**Suspensions of Voucher Term [24 CFR §982.303(c)]**

The PHA must provide for suspension of the initial or any extended term of the voucher from the date 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.

### **Expiration of Voucher Term**

Once a family's housing choice voucher term (including any extensions) expires, the family is no longer eligible to search for housing under the program. If the family still wishes to receive assistance, the PHA may require that the family reapply, or may place the family on the waiting list with a new application date but without requiring reapplication. Such a family does not become ineligible for the program on the grounds that it was unable to locate a unit before the voucher expired [HCV GB p. 8-13].

#### PHA Policy

If the applicant family's voucher term or extension expires before the PHA has approved a tenancy, the PHA will require the family to reapply for assistance.

Within 10 business days after the expiration of the voucher term or any extension, the PHA will notify the family in writing that the voucher term has expired and that the family must reapply when the waiting list is open in order to be placed on the waiting list.

## Income and Subsidy Determinations [24 CFR Part 5, Subparts E and F; 24 CFR §982]

### Introduction

A family's income determines eligibility for assistance and is also used to calculate the family's payment and the PHA's subsidy. The PHA will use the policies and methods described in this chapter to ensure that only eligible families receive assistance and that no family pays more or less than its obligation under the regulations. This chapter describes HUD regulations and PHA policies related to these topics in three parts as follows:

**Part I: Annual Income.** HUD regulations specify the sources of income which are excluded from the to include and exclude to arrive at a family's annual income. These requirements and PHA policies for calculating annual income are found in Part I.

**Part II: Assets.** HUD regulations specify the types of assets which are excluded from a family's annual income. These requirements and PHA policies for calculating income from assets are found in Part II.

**Part III: Adjusted Income.** Once annual income has been established HUD regulations require the PHA to subtract from annual income any of five mandatory deductions for which a family qualifies and allow the PHA to adopt additional permissive deductions. These requirements and PHA policies for calculating adjusted income are found in Part III.

**Part IVH: Calculating Family Share and PHA Subsidy.** This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining PHA subsidy and required family payment.

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## PART I: ANNUAL INCOME

### **6-I.A. OVERVIEW [24 CFR 5.609]**

Annual income includes:

- All amounts, not specifically excluded in 24 CFR 5.609(b);
- All amounts 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;
- Unearned income by or on behalf of each dependent who is under 18 years of age; and
- Imputed returns of an asset based on the current passbook savings rate, as determined by HUD, when the value of net family assets exceeds \$50,000 (which amount HUD will adjust annually) and the actual returns from a given asset cannot be calculated.

The general regulatory definition of *annual income* shown below is from 24 CFR §5.609.

#### 5.609 Annual income.

(a) Annual income means all amounts, monetary or not, which:

- (1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
  - (2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
  - (3) Which are not specifically excluded in paragraph [5.609(e)].
- (4)(1) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

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In addition to this general definition, the regulations at 24 CFR 5.609(b) provide a comprehensive listing of all sources of income that are excluded from annual income. Note, unlike in previous versions of the regulations, the current regulations governing annual income do not list sources of income that are to be included. Instead, HUD relies on the definition of excluded income under 24 CFR 5.609(b) to provide the scope of what is included. To that end, generally, all income is included unless it is specifically excluded by regulation.

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but did not receive. For example, a family's child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders [Notice PIH 2023-27].

Annual income also includes all actual anticipated income from assets (provided the income is not otherwise excluded) even if the asset itself is excluded from net family assets [Notice PIH 2023-27]. 24 CFR 5.603(b)(1) describes HUD regulations for treating specific types of income

and assets. The full texts of those portions of the regulations are provided in exhibits at the end of this chapter as follows:

- Annual Income Full Definition (Exhibit 6-1)
- Treatment of Family Assets (Exhibit 6-2)
- The Effect of Welfare Benefit Reduction (Exhibit 6-3)

In addition to this general definition, HUD regulations establish policies for treating specific types of income and assets. The full texts of those portions of the regulations are provided in exhibits at the end of this chapter as follows:

- Annual Income Inclusions (Exhibit 6-1)
- Annual Income Exclusions (Exhibit 6-2)
- Treatment of Family Assets (Exhibit 6-3)
- Earned Income Disallowance for Persons with Disabilities (Exhibit 6-4)
- The Effect of Welfare Benefit Reduction (Exhibit 6-5)

Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. Verification requirements for annual income are discussed in Chapter 7. HUD regulations present income inclusions and exclusions separately [24 CFR §5.609(b) and 24 CFR §5.609(c)]. In this plan, however, the discussions of income inclusions and exclusions are integrated by topic (e.g., all policies affecting earned income are discussed together in Section 6-I.D). Verification requirements for annual income are discussed in Chapter 7.

## **6-I.B. Household Composition and Income**

### **Overview**

Income received by all family members must be counted unless specifically excluded by the regulations. It is the responsibility of the head of household to report changes in family composition in accordance with HUD regulations and PHA policies in Chapter 11. The rules on which sources of income are counted vary somewhat by family member. The chart below summarizes how family composition affects income determinations.

Summary of Income Included and Excluded by Person	
Live-in aides	Income from all sources <u>(both earned and unearned)</u> is excluded [24 CFR §5.609( <u>be</u> )( <u>85</u> )].
Foster child or foster adult	Income from all sources <u>(both earned and unearned)</u> is excluded [24 CFR §5.609( <u>be</u> )( <u>82</u> )].
Head, spouse, or cohead  Other adult family members	All sources of income not specifically excluded by the regulations are included <u>[24 CFR 5.609(a)].</u> -

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<u>Minors</u> <del>Children under 18 years of age</del>	<u>Earned income of children under 18 years of age is excluded [24 CFR 5.609(b)(3)].</u> <u>All <del>other</del> sources of unearned income, except those specifically excluded by the regulations, are included [24 CFR 5.609(a)].</u> <del>Employment income is excluded [24 CFR §5.609(e)(1)].</del> <u>All other sources of income, except those specifically excluded by the regulations, are included.</u>
Full-time students 18 years of age or older (not head, spouse, or cohead)	<u>Earned income in excess of the dependent deduction is excluded [24 CFR 5.609(b)(14)].</u> <u>All <del>other</del> sources of unearned income, except those specifically excluded by the regulations, are included.</u> <del>Employment income above \$480/year is excluded [24 CFR §5.609(e)(1)].</del> <u>All other sources of income, except those specifically excluded by the regulations, are included.</u>

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### Temporarily Absent Family Members

The current regulations governing annual income do not specifically address temporarily absent family members. The regulations also do not define “temporarily” or “permanently” absent or specify a timeframe associated with a temporary versus a permanent absence.

#### PHA Policy

Unless specifically excluded by the regulations, the income of all family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit.

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

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~~The current regulations governing annual income do not specifically address temporarily absent family members. The regulations also do not define “temporarily” or “permanently” absent or specify a timeframe associated with a temporary versus a permanent absence.~~

#### ~~PHA Policy~~

~~Unless specifically excluded by the regulations, the income of all family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit.~~

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

~~The income of family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit [HCV GB, p. 5-18].~~

#### ~~PHA Policy~~

~~Generally an individual who is or is expected to be absent from the assisted unit for 30 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally an individual who is or is expected to be absent from the assisted unit for more than 30 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.~~

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### Absent Students

#### PHA Policy

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

### Absences Due to Placement in Foster Care

Children temporarily absent from the home as a result of placement in foster care (as confirmed by the state child welfare agency) are considered members of the family [24 CFR §5.403].

#### PHA Policy

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

### Absent Head, Spouse, or Cohead

#### PHA Policy

An employed head, spouse, or cohead absent from the unit more than ~~180~~30 consecutive days due to employment will continue to be considered a family member.

### Family Members Permanently Confined for Medical Reasons

If a family member is confined to a nursing home or hospital on a permanent basis, that person is no longer considered a family member and the income of that person is not counted [HCV GB, p. 5-22].

#### PHA Policy

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

When an individual who has been counted as a family member is determined permanently absent, the family is eligible for the medical expense deduction only if the remaining head, spouse, or cohead qualifies as an elderly person or a person with disabilities.

### Joint Custody of Dependents

#### PHA Policy

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

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

### Caretakers for a Child

#### PHA Policy

The approval of a caretaker is at the owner and PHA's discretion and subject to the owner and PHA's screening criteria. If neither a parent nor a designated guardian remains in a household receiving HCV assistance, the PHA will take the following actions:

- (1) If a responsible agency has determined that another adult is to be brought into the assisted unit to care for a child for an indefinite period, the designated caretaker

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will not be considered a family member until a determination of custody or legal guardianship is made.

- (2) If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases the PHA will extend the caretaker's status as an eligible visitor.
- (3) At any time that custody or guardianship legally has been awarded to a caretaker, the housing choice voucher will be transferred to the caretaker.
- (4) During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

#### **6-I.C. CALCULATING ANTICIPATING ANNUAL INCOME**

The methodology used for calculating income differs depending on whether income is being calculated at initial occupancy, interim reexamination, or at annual reexamination. However, income from assets is always anticipated regardless of certification type. The PHA is required to count all income "anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date" [24 CFR §5.609(a)(2)]. Policies related to anticipating annual income are provided below.

#### **Anticipating Annual Income [24 CFR 5.609(c)(1)]**

At initial occupancy and for an interim reexamination of family income, the PHA is required to use anticipated income (current income) for the upcoming 12-month period following the new admission or interim reexamination effective date. Policies related to verifying income are found in Chapter 7.

##### PHA Policy

When the PHA cannot readily anticipate income based upon current circumstances (e.g., in the case of temporary, sporadic, or variable employment, seasonal employment, unstable working hours, or suspected fraud), the PHA will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income.

Any time current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to the PHA to show why the historic pattern does not represent the family's anticipated income.

In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how the PHA annualized projected income.

### ***Use of Income Determinations from Other Programs (HOTA)***

Effective Jan. 1, 2023, HOTA allows PHAs to use income determinations made under other federal benefits programs for reexaminations.

#### **PHA Policy**

~~Other verification requirements apply, such as verifications must be no older than 60 days.~~

### **Basis of Annual Income Projection**

The PHA generally will use current circumstances to determine anticipated income for the coming 12-month period. HUD authorizes the PHA to use other than current circumstances to anticipate income when:

- ~~• An imminent change in circumstances is expected [HCV GB, p. 5-17]~~
- ~~• It is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income) [24 CFR §5.609(d)]~~
- ~~• The PHA believes that past income is the best available indicator of expected future income [24 CFR §5.609(d)]~~

PHAs are required to use HUD's Enterprise Income Verification (EIV) system in its entirety as a third-party source to verify employment and income information, and to reduce administrative subsidy payment errors in accordance with HUD administrative guidance [24 CFR §5.233 (a)(2)].

HUD allows PHAs to use tenant-provided documents (pay stubs) to project income once EIV data has been received in such cases where the family does not dispute the EIV employer data and where the PHA does not determine it is necessary to obtain additional third-party data.

#### **PHA Policy**

~~When EIV is obtained and the family does not dispute the EIV employer data, the PHA will use current tenant-provided documents to project annual income. When the tenant-provided documents are pay stubs, the PHA will make every effort to obtain current and consecutive pay stubs for a total of 8 current and consecutive paystubs, regardless of how often a person is paid.~~

~~The PHA will obtain written and/or oral third-party verification in accordance with the verification requirements and policy in Chapter 7 in the following cases:~~

- ~~—If EIV or other UIV data is not available,~~

- If the family disputes the accuracy of the EIV employer data, and/or
- If the PHA determines additional information is needed.

In such cases, the PHA will review and analyze current data to anticipate annual income. In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit train will be left as to how the PHA annualized projected income.

When the PHA cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the PHA will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income. Anytime current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to the PHA to show why the historic pattern does not represent the family's anticipated income.

Any time current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to the PHA to show why the historic pattern does not represent the family's anticipated income.

### Known Changes in Income

If the PHA verifies an upcoming increase or decrease in income, annual income will be projected ~~calculated~~ by applying each income amount to the appropriate part of the 12-month period.

**Example:** An employer reports that a full-time employee who has been receiving \$6/hour will begin to receive \$6.25/hour in the eighth week after the effective date of the reexamination. In such a case the PHA would calculate annual income as follows:  
 $(\$6/\text{hour} \times 40 \text{ hours} \times 7 \text{ weeks}) + (\$6.25 \times 40 \text{ hours} \times 45 \text{ weeks}).$

**Example:** An employer reports that a full-time employee who has been receiving \$8/hour will begin to receive \$8.25/hour in the eighth week after the effective date of the new admission or interim reexamination. In such a case the PHA would calculate annual income as follows:  $(\$8/\text{hour} \times 40 \text{ hours} \times 7 \text{ weeks}) + (\$8.25 \times 40 \text{ hours} \times 45 \text{ weeks}).$

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases the PHA will calculate annual income using current circumstances and then, should the change in income ~~require the PHA to conduct~~ an interim reexamination, conduct an interim reexamination in accordance with PHA policy in Chapter 11 ~~when the change actually occurs~~. This requirement will be imposed even if the PHA's policy in Chapter 11 does not require interim reexaminations for other types of changes.

~~When tenant provided third party documents are used to anticipate annual income, they will be dated within the last 60 days of the reexamination interview date.~~

### Calculating Annual Income at Annual Reexamination [24 CFR.609(c)(2); Notice PIH 2023 27]

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At annual reexamination, PHAs must first determine the family's income for the previous 12-month period and use this amount as the family income for annual reexaminations; however, adjustments to reflect current income must be made. Any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination of family income in accordance with PHA policies in Chapter 11 and HUD regulations, must be considered. If, however, there have been no changes to income, then the amount of income calculated for the previous 12-month period is the amount that will be used to determine the family's rental assistance. Income from assets is always anticipated, irrespective of the income examination type. Policies related to conducting annual reexaminations are located in Chapter 11.

### **Projecting Income**

~~In HUD's EIV webcast of January 2008, HUD made clear that PHAs are not to use EIV quarterly wages to project annual income.~~

### **6-I.D. EARNED INCOME**

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#### ~~Wages and Related Compensation [24 CFR 5.609(a); Notice PIH 2023-27]~~

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The earned income of each member of the family who is 18 years of age or older, or who is the head of household or spouse/cohead regardless of age, is included in annual income. Income received as a day laborer or seasonal worker is also included in annual income, even if the source, date, or amount of the income varies [24 CFR 5.609 (b)(24)].

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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 [24 CFR 5.100].

A day laborer is defined as an individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future [24 CFR 5.603(b)].

A seasonal worker is defined as an individual who is hired into a short-term position( e.g., for which the customary employment period for the position is six months or fewer) 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 [24 CFR 5.603(b)]. Some examples of seasonal work include employment limited to holidays or agricultural seasons. Seasonal work may include but is not limited to employment as a lifeguard, ballpark vendor, or snowplow driver [Notice PIH 2023-27].

#### PHA Policy

The PHA will include in annual income the full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation.

For persons who regularly receive bonuses or commissions, the PHA will verify and then average amounts received for the two years preceding admission or interim reexamination. If only a one-year history is available, the PHA will use the prior year amounts. In either case the family may provide, and the PHA will consider, a credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, the PHA will count only the amount estimated by the employer. The file will be documented appropriately.

### **Types of Earned Income Included in Annual Income**

#### **Wages and Related Compensation**

The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services is included in annual income [24 CFR §5.609(b)(1)].

#### PHA Policy

For persons who regularly receive bonuses or commissions, the PHA will verify and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, the PHA will use the prior year amounts. In either case the family may provide, and the PHA will consider, a credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, the PHA will count only the amount estimated by the employer. The file will be documented appropriately.

When computing annual income, staff will convert earned income to annual income as follows:

- ~~Multiply hourly wages by the number of hours worked/year (2080 hours for full-time employment with a 40-hour work week and no overtime).~~
- ~~Multiply weekly wages by 52.~~
- ~~Multiply bi-weekly wages (paid every other week) by 26.~~
- ~~Multiply semi-monthly (paid twice each month) wages by 24.~~

- ~~Multiply monthly wages by 12.~~

### **Some Types of Military Pay**

All regular pay, special pay and allowances of a member of the Armed Forces are counted ~~[24 CFR §5.609(b)(8)]~~ except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR §5.609~~(b)~~(117)].

### **Types of Earned Income Not Counted in Annual Income**

#### **Temporary, Nonrecurring, or Sporadic Income [24 CFR §5.609(e)(9)]**

This type of income (including gifts) is not included in annual income. Sporadic income includes temporary payments from the U.S. Census Bureau for employment lasting no longer than 180 days [PHH Notice 2009-19].

#### PHA Policy

Sporadic income is income that is not received periodically and cannot be reliably predicted.

For example, the income of an individual who works occasionally, as a handyman would be considered sporadic if future work could not be anticipated and no historic, stable pattern of income existed.

#### **Children's Earnings of a Minor [24 CFR 5.609(b)(3)]**

A minor is a member of the family, other than the head of household or spouse, who is under 18 years of age. Employment income earned by minors children (including foster children) under the age of 18 years is not included in annual income. All other sources of unearned income, except those specifically excluded by the regulations, are included. [24 CFR §5.609(e)(1)]. (See Eligibility chapter for a definition of foster children.)

#### **Certain Earned Income of Full-Time Students [24 CFR 5.609(b)(14)]**

The earned income of a dependent full-time student in excess of the amount of the dependent deduction is excluded from annual income. All sources of unearned income, except those specifically excluded by the regulations, are included.

A family member other than the head of household or spouse/cohead is considered a full-time student if they are attending school or vocational training on a full-time basis [24 CFR 5.603(b)]. To be considered "full-time," a student must be considered "full-time" by an educational institution with a degree or certificate program [HCV GB, p. 5-29].

Earnings in excess of \$480 for each full-time student 18 years old or older (except for the head, spouse, or cohead) are not counted [24 CFR §5.609(e)(11)]. To be considered "full-time," a student must be considered "full-time" by an educational institution with a degree or certificate program [HCV GB, p. 5-29].

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### **Income of a Live-in Aide**

Income earned by a live-in aide, as defined in [24 CFR §5.403], is not included in annual income [24 CFR §5.609(e)(5)]. (See Eligibility chapter for a full discussion of live-in aides.)

### **Income Earned under Certain Federal Programs**

Income from some federal programs is specifically excluded from consideration as income [24 CFR §5.609(e)(17)], including:

- Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
- Awards under the federal work study program (20 U.S.C. 1087)
- Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- Allowances, earnings, and payments to participants in programs funded under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

### **Resident Service Stipend**

Amounts received under a resident service stipend are not included in annual income. A resident service stipend is a modest amount (not to exceed \$200 per individual per month) received by a resident for performing a service for the PHA or owner, on a part time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time [24 CFR §5.600(e)(8)(iv)].

### **State and Local Employment Training Programs**

Incremental earnings and benefits to any family member resulting from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program [24 CFR §5.609(e)(8)(v)].

#### PHA Policy

The PHA defines *training program* as “a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period of time. It is designed to lead to a higher level of proficiency, and it enhances the individual's ability to obtain employment. It may have performance standards to measure proficiency. Training may include, but is not limited to: (1) classroom training in a

specific occupational skill, (2) on the job training with wages subsidized by the program, or (3) basic education” [expired PIH Notice 98-2, p. 3].

The PHA defines *incremental earnings and benefits* as the difference between: (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program, and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program [expired PIH Notice 98-2, pp. 3-4].

In calculating the incremental difference, the PHA will use as the pre-enrollment income the total annualized amount of the family member’s welfare assistance and earnings reported on the family’s most recently completed form HUD-50058.

End of participation in a training program must be reported in accordance with the PHA’s interim reporting requirements.

### **HUD-Funded Training Programs**

Amounts received under training programs funded in whole or in part by HUD [24 CFR §5.609(c)(8)(i)] are excluded from annual income. Eligible sources of funding for the training include operating subsidy, Section 8 administrative fees, and modernization, Community Development Block Grant (CDBG), HOME program, and other grant funds received from HUD.

#### PHA Policy

To qualify as a training program, the program must meet the definition of *training program* provided above for state and local employment training programs.

### **Earned Income Tax Credit**

Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j)), are excluded from annual income [24 CFR §5.609(c)(17)]. Although many families receive the EITC annually when they file taxes, an EITC can also be received throughout the year. The prorated share of the annual EITC is included in the employee’s payroll check.

### **Earned Income Disallowance**

The earned income disallowance for persons with disabilities is discussed in Section 6 I.E below.

### **6-I.E. EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES [24 CFR §5.617; STREAMLINING FINAL RULE (SFR) FEDERAL REGISTER 3/8/16; NOTICE PIH 2023-27 (HOTMA 2016)]**

HOTMA removed the statutory authority for the EID. The EID is available only to families that are eligible for and participating on the program as of December 31, 2023, or before; no new families may be added on or after January 1, 2024. If a family is receiving the EID prior to or on the effective date of December 31, 2023, they are entitled to the full amount of the benefit for a full 24-month period. The policies below are applicable only to such families. No family will still be receiving the EID after December 31, 2025. The EID will sunset on January 1, 2026, and



the PHA policies below will no longer be applicable as of that date or when the last qualifying family exhausts their exclusion period, whichever is sooner.

~~he earned income disallowance (EID) encourages people with disabilities to enter the work force by not including the full value of increases in earned income for a period of time. The full text of 24 CFR §5.617 is included as Exhibit 6-4 at the end of this chapter. Eligibility criteria and limitations on the disallowance are summarized below.~~

### **Eligibility**

~~This disallowance applies only to individuals in families already participating in the HCV program (not at initial examination). To qualify, the family must experience an increase in annual income that is the result of one of the following events:~~

- ~~• Employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment. *Previously unemployed* includes a person who annually has earned not more than the minimum wage applicable to the community multiplied by 500 hours. The applicable minimum wage is the federal minimum wage unless there is a higher state or local minimum wage.~~
- ~~• Increased earnings by a family member who is a person with disabilities and whose earnings increase during participation in an economic self-sufficiency or job training program. A self-sufficiency program includes a program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work to such families [24 CFR §5.603(b)].~~

~~New employment or increased earnings by a family member who is a person with disabilities and who has received benefits or services under Temporary Assistance for Needy Families (TANF) or any other state program funded under Part A of Title IV of the Social Security Act within the past six months. If the benefits are received in the form of monthly maintenance, there is no minimum amount. If the benefits or services are received in a form other than monthly maintenance, such as one-time payments, wage subsidies, or transportation assistance, the total amount received over the six-month period must be at least \$500.~~

### **Calculation of the Disallowance**

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with their "baseline income." The family member's baseline income is their income immediately prior to qualifying for the EID. The family member's baseline income remains constant throughout the period that they are ~~are~~ participating in the EID.

### **Calculation Method**

#### **Initial 12-Month Exclusion**

During the initial exclusion period of 12 consecutive months, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded.

#### PHA Policy

The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

### **Second 12-Month Exclusion**

During the second exclusion period of 12 consecutive months, the PHA must exclude at least 50 percent of any increase in income attributable to employment or increased earnings.

#### PHA Policy

During the second 12-month exclusion period, the PHA will exclude 100 percent of any increase in income attributable to new employment or increased earnings.

### **Lifetime Limitation**

The EID has a two-year (24-month) lifetime maximum. The two-year eligibility period begins at the same time that the initial exclusion period begins and ends 24 months later. During the 24-month period, an individual remains eligible for EID even if they begin to receive assistance from a different housing agency, move between public housing and Section 8 assistance, or have breaks in assistance. The EID will sunset on January 1, 2026. In no circumstances will a family member's exclusion period continue past January 1, 2026.

### **6-I.F. BUSINESS AND SELF-EMPLOYMENT INCOME [24 CFR §5.609(B)(28); NOTICE PIH 2023-27]**

Annual income includes “~~the~~ net income from the operation of a business or profession Net income is gross income minus business expenses that allows the business to operate. Gross income is all income amounts received into the business, prior to the deduction of business expenses.

Expenditures for business expansion or amortization of capital indebtedness ~~may shall~~ not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family” ~~[24 CFR §5.609(b)(2)]~~.

#### PHA Policy

To determine business expenses that may be deducted from gross income, the PHA will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses [see IRS Publication 535], unless a topic is addressed by HUD regulations or guidance as described herein.

### **Independent Contractors**

Income received as an independent contractor is included in annual income, even if the source, date, or amount of the income varies [24 CFR 5.609 (b)(24)].

An independent contractor is defined as 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 [24 CFR 5.603(b)].

### **Business Expenses**

Net income is “gross income less business expense” [HCV GB, p. 5-19].

#### PHA Policy

~~To determine business expenses that may be deducted from gross income, the PHA will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses [see IRS Publication 535], unless a topic is addressed by HUD regulations or guidance as described below.~~

### **Business Expansion**

HUD regulations do not permit the PHA to deduct from gross income expenses for business expansion.

#### PHA Policy

*Business expansion* is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate the business in additional locations. For example, purchase of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.

### **Capital Indebtedness**

HUD regulations do not permit the PHA to deduct from gross income the amortization of capital indebtedness.

#### PHA Policy

*Capital indebtedness* is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means the PHA will allow as a business expense interest, but not principal, paid on capital indebtedness.

### **Negative Business Income**

If the net income from a business is negative, no business income will be included in annual income; a negative amount will not be used to offset other family income.

### **Withdrawal of Cash or Assets from a Business**

HUD regulations require the PHA to include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a family member for cash or assets invested in the business by the family.

#### PHA Policy

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of an assisted family provided an up-front loan of \$2,000 to help a business get started, the PHA will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid.

Investments do not include the value of labor contributed to the business without compensation.

#### **Co-owned Businesses**

#### PHA Policy

If a business is co-owned with someone outside the family, the family must document the share of the business it owns. If the family's share of the income is lower than its share of ownership, the family must document the reasons for the difference.

#### **Assets Owned by a Business Entity**

If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one-third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant) [Notice PIH 2023-27].

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#### **6-I.G. STUDENT FINANCIAL ASSISTANCE [FR Notice 2/14/23 and Notice PIH 2023-27] ASSETS [24 CFR §5.609(b)(3); 24 CFR §5.603(b)]**

#### **Introduction**~~Overview~~

Section 479B of the HEA requires that all assistance under Title IV of the HEA and Bureau of Indian Affairs student financial assistance, even assistance provided to students in excess of tuition and required fees or charges, be excluded from HUD income calculations.

For Section 8 programs only, however, for over 10 years through FY 2022, HUD appropriations have included a provision that for certain students receiving Section 8 assistance, any amounts received in excess of tuition and any other required fees and charges are considered income (with the exception of students who lived with their parents or who were over the age of 23 with a dependent child).

While the language in various consolidated appropriations acts is limited to federal fiscal year covered by the act, this does not rule out the possibility that similar language will be included in future years' appropriations bills.

- For any funds from a year where HUD's appropriations acts include this limitation, it will apply with respect to Section 8 participants. The PHA will follow the pre-HOTMA Section 8 student financial assistance limitation described below.

- During years in which an appropriations act does not contain this Section 8 student financial assistance limitation (or any other such limitation), then the determination of student financial assistance as included/excluded income for all Section 8 students defaults to the methodology described for the public housing program and listed below.

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#### **Pre-HOTMA Section 8 Student Financial Assistance Limitation [FR 4/10/06; Notice PIH 2015-21]**

In 2005, Congress passed a law (for Section 8 programs only) requiring that certain student financial assistance be included in annual income. Prior to that, the full amount of student financial assistance was excluded. For some students, the full exclusion still applies.

The regulation requiring the inclusion of certain student financial assistance applies only to students who satisfy all of the following conditions:

- They are enrolled in an institution of higher education, as defined under the Higher Education Act (HEA) of 1965.
- They are seeking or receiving Section 8 assistance on their own—that is, apart from their parents—through the HCV program, the project-based voucher program, or the moderate rehabilitation program.
- They are under 24 years of age **OR** they have no dependent children.

For students who satisfy these three conditions, any financial assistance in excess of tuition and any other required fees and charges received: (1) under the 1965 HEA, (2) from a private source, or (3) from an institution of higher education, as defined under the 1965 HEA, must be included in annual income.

To determine annual income in accordance with the above requirements, the PHA will use the definitions of *dependent child*, *institution of higher education*, and *parents* in Chapter 3, along with the following definitions [FR 4/10/06, pp. 18148-18150]:

- Assistance under the Higher Education Act of 1965 includes Pell Grants, Federal Supplement Educational Opportunity Grants, Academic Achievement Incentive Scholarships, State Assistance under the Leveraging Educational Assistance Partnership Program, the Robert G. Byrd Honors Scholarship Program, and Federal Work Study programs.
- Assistance from private sources means assistance from nongovernmental sources, including parents, guardians, and other persons not residing with the student in an HCV assisted unit.
- Tuition and fees are defined in the same manner in which the Department of Education defines *tuition and fees* [Notice PIH 2015-21].
  - This is the amount of tuition and required fees covering a full academic year most frequently charged to students.
  - The amount represents what a typical student would be charged and may not be the same for all students at an institution.

- If tuition is charged on a per-credit-hour basis, the average full-time credit hour load for an academic year is used to estimate average tuition.
- Required fees include all fixed-sum charges that are required of a large proportion of all students. Examples include, but are not limited to, writing and science lab fees and fees specific to the student's major or program (i.e., nursing program).
- Expenses related to attending an institution of higher education must **not** be included as tuition. Examples include, but are not limited to, room and board, books, supplies, meal plans, transportation and parking, student health insurance plans, and other non-fixed-sum charges.

Any student financial assistance not subject to inclusion under the regulations is fully excluded from annual income, whether it is paid directly to the student or to the educational institution the student is attending. This includes any financial assistance received by:

- Students residing with parents who are seeking or receiving Section 8 assistance
- Students who are enrolled in an educational institution that does **not** meet the 1965 HEA definition of *institution of higher education*
- Students who are over 23 **AND** have at least one dependent child, as defined in section 3-II.E
- Students who are receiving financial assistance through a governmental program not authorized under the 1965 HEA.

#### **HOTMA Student Financial Assistance Requirements [24 CFR 5.609(b)(9)]**

The regulations under HOTMA distinguish between two categories of student financial assistance paid to both full-time and part-time students.

#### **Types of Assistance**

Any assistance to students under section 479B of the Higher Education Act of 1965 (Title IV of the HEA) must be excluded from the family's annual income [24 CFR 5.609(b)(9)(i)].

Examples of assistance under title IV of the HEA include:

- Federal Pell Grants;
- Teach Grants;
- Federal Work Study Programs;
- Federal Perkins Loans;
- Income earned in employment and training programs under section 134 of the Workforce Innovation and Opportunity Act (WIOA); or
- Bureau of Indian Affairs/Education student assistance programs
  - The Higher Education Tribal Grant
  - The Tribally Controlled Colleges or Universities Grant Program

Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education not otherwise excluded by the Federally mandated income exclusions are excluded [24 CFR 5.609(b)(9)(ii)]. Actual covered costs are defined as the actual costs of:

- Tuition, books, and supplies;
  - Including supplies and equipment to support students with learning disabilities or other disabilities
- Room and board; and
- Other fees required and charged to a student by the education institution.

For a student who is not the head of household or spouse/cohead, actual covered costs also include the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

Further, to qualify, other student financial assistance must be expressly:

- For tuition, book, supplies, room and board, or other fees required and charged to the student by the educational institution;
- To assist a student with the costs of higher education; or
- To assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the educational institution and not residing in an assisted unit.

The student financial assistance may be paid directly to the student or to the educational institution on the student's behalf. However, any student financial assistance paid to the student must be verified by the PHA.

The financial assistance must be a grant or scholarship received from:

- The Federal government;
- A state, tribal, or local government ;
- A private foundation registered as a nonprofit;
- A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- An institution of higher education.

Student financial assistance, does not include:

- Financial support provided to the student in the form of a fee for services performed; (e.g., a work study or teaching fellowship that is not excluded under section 479B of the Higher Education Act HEA);
- Gifts, including gifts from family or friends; or
- Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under the HEA, exceeds the actual covered costs of the student.

**Calculating Income from Student Financial Assistance [HOTMA Student Financial Assistance Resource Sheet; Notice PIH 2023-27]**

The formula for calculating the amount of other student financial assistance that is excluded from income always begins with deducting the assistance received under 479B of the HEA from the total actual covered costs, because the 479B assistance is intended to pay the student's actual covered costs. When a student receives assistance from both Title IV of the HEA and from other sources, the assistance received under Title IV of the HEA must be applied to the student's actual covered costs first and then other student financial assistance is applied to any remaining actual covered costs. Once actual costs are covered, any remaining student financial assistance is considered income.

**PHA Policy**

If a student only receives financial assistance under Title IV of the HEA and does not receive any other student financial assistance, the PHA will exclude the full amount of the assistance received under Title IV from the family's annual income. The PHA will not calculate actual covered costs in this case.

If the student does not receive any assistance under Title IV of the HEA but does receive assistance from another source, the PHA will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(ii). The PHA will then subtract the total amount of the student's financial assistance from the student's actual covered costs. The PHA will include any amount of financial assistance in excess of the student's actual covered costs in the family's annual income.

**Example 1**

- Actual covered costs: \$20,000
- Other student financial assistance: \$25,000
- Excluded income: \$20,000 (\$25,000 in financial assistance - \$20,000 in actual covered costs)
- Included income: \$5,000

When a student receives assistance from both Title IV of the HEA and from other sources, the PHA will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(ii). The assistance received under Title IV of the HEA will be applied to the student's actual covered costs first and then the other student financial assistance will be applied to any remaining actual covered costs.



If the amount of assistance excluded under Title IV of the HEA equals or exceeds the actual covered costs, none of the assistance included under other student financial assistance” would be excluded from income.

**Example 2**

- Actual covered costs: \$25,000
- Title IV HEA assistance: \$26,000
- Title IV HEA assistance covers the students entire actual covered costs.
- Other Student Financial Assistance: \$5,000
- Excluded income: The entire Title IV HEA assistance of \$26,000
- Included income: All other financial assistance of \$5,000

If the amount of assistance excluded under Title IV of the HEA is less than the actual covered costs, the PHA will exclude the amount of other student financial assistance up to the amount of the remaining actual covered costs.

### **Example 3**

- Actual covered costs: \$22,000
- Title IV HEA assistance: \$15,000
- The remaining amount not covered by Title IV HEA assistance is \$7,000 (\$22,000 in actual covered costs - \$15,000 in Title IV HEA assistance).
- Other Student Financial Assistance: \$5,000
- \$7,000 in remaining actual covered costs - \$5,000 in other financial assistance
- Excluded income: \$15,000 entire amount of the Title IV HEA Assistance + \$5,000 in other financial assistance
- Included income: \$0

### **Example 4**

- Actual covered costs: \$18,000
- Title IV HEA Assistance: \$15,000
- The remaining amount not covered by Title IV HEA assistance is \$3,000 (\$18,000 in actual covered costs - \$15,000 in Title IV HEA Assistance)
- Other student Financial Assistance: \$5,000
- When other student financial assistance is applied, financial assistance exceeds actual covered costs by \$2,000 (\$3,000 in actual covered costs - \$5,000 in other financial assistance).
- Included income: \$2,000 (the amount by which the financial aid exceeds the student's actual covered costs).

There is no asset limitation for participation in the HCV program. However, HUD requires that the PHA include in annual income the anticipated “interest, dividends, and other net income of any kind from real or personal property” [24 CFR §5.609(b)(3)]. This section discusses how the income from various types of assets is determined. For most types of assets, the PHA must determine the value of the asset in order to compute income from the asset. Therefore, for each asset type, this section discusses:

- ~~How the value of the asset will be determined~~

- How income from the asset will be calculated

Exhibit 6-1 provides the regulatory requirements for calculating income from assets [24 CFR §5.609(b)(3)], and Exhibit 6-4 provides the regulatory definition of *net family assets* as well as a chart from the *HCV Guidebook* that summarizes asset inclusions and exclusions. This section begins with a discussion of general policies related to assets and then provides HUD rules and PHA policies related to each type of asset.

Optional policies for family self-certification of assets are found in Chapter 7.

## General Policies

### Income from Assets

The PHA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, HUD authorizes the PHA to use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected (2) it is not feasible to anticipate a level of income over 12 months or (3) the PHA believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income but the property is currently vacant, the PHA can take into consideration past rental income along with the prospects of obtaining a new tenant.

#### PHA Policy

Anytime current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases the family may present information and documentation to the PHA to show why the asset income determination does not represent the family's anticipated asset income.

### Valuing Assets

The calculation of asset income sometimes requires the PHA to make a distinction between an asset's market value and its cash value.

- The market value of an asset is its worth in the market (e.g., the amount a buyer would pay for real estate or the total value of an investment account).
- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash. Examples of acceptable costs include penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions [HCV GB, p. 5-28].

### Lump-Sum Receipts [RHHP FAQ]

Payments that are received in a single lump sum, such as inheritances, capital gains, lottery winnings, insurance settlements, and proceeds from the sale of property, are generally considered assets, not income. However, such lump sum receipts are counted as assets only if they are retained by a family in a form recognizable as an asset (e.g., deposited in a savings or checking account) [RHHP FAQs].

(For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see Sections 6 I.H and 6 I.I.)

#### **Imputing Income from Assets [24 CFR §5.609(b)(3)], PHH Notice 2012-29,**

- When net family assets are \$5,000 or less, the PHA will include in annual income the actual income anticipated to be derived from the assets. When the family has net family assets in excess of \$5,000, the PHA will include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income. Imputed income from assets is calculated by multiplying the total cash value of all family assets by an average passbook savings rate as determined by the PHA.
- Effective Jan. 1, 2024, when net family assets are \$5,000 or less, the PHA will include in annual income the actual income anticipated to be derived from the assets and a self-declaration is allowed. When the family has net family assets in excess of \$50,000, the PHA will include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income. Imputed income from assets is calculated by multiplying the total cash value of all family assets by an average passbook savings rate as determined by the PHA.
- Note: The HUD field office no longer provides an interest rate for imputed asset income. The “safe harbor” is now for the PHA to establish a passbook rate within 0.75 percent of a national average.
- The PHA must review its passbook rate annually to ensure that it remains within 0.75 percent of the national average.

##### PHA Policy

The PHA initially sets the imputed asset passbook rate at the national rate established by the Federal Deposit Insurance Corporation (FDIC).

The PHA will review the passbook rate annually. The rate will not be adjusted unless the current PHA rate is no longer within 0.75 percent of the national rate. If it is no longer within 0.75 percent of the national rate, the passbook rate will be set at the current national rate.

The effective date of changes to the passbook rate will be determined at the time of the review.

#### **Determining Actual Anticipated Income from Assets**

It may or may not be necessary for the PHA to use the value of an asset to compute the actual anticipated income from the asset. When the value is required to compute the anticipated income from an asset, the market value of the asset is used. For example, if the asset is a property for which a family receives rental income, the anticipated income is determined by annualizing the actual monthly rental amount received for the property; it is not based on the property's market value.

However, if the asset is a savings account, the anticipated income is determined by multiplying the market value of the account by the interest rate on the account.

#### **Withdrawal of Cash or Liquidation of Investments**

Any withdrawal of cash or assets from an investment will be included in income except to the extent that the withdrawal reimburses amounts invested by the family. For example, when a family member retires, the amount received by the family from a retirement investment plan is not counted as income until the family has received payments equal to the amount the family member deposited into the retirement investment plan.

#### **Jointly Owned Assets**

The regulation at 24 CFR §5.609(a)(4) specifies that annual income includes “amounts derived (during the 12-month period) from assets to which any member of the family has access.”

#### PHA Policy

If an asset is owned by more than one person and any family member has unrestricted access to the asset, the PHA will count the full value of the asset. A family member has unrestricted access to an asset when they can legally dispose of the asset without the consent of any of the other owners.

If an asset is owned by more than one person, including a family member, but the family member does not have unrestricted access to the asset, the PHA will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, the PHA will prorate the asset evenly among all owners.

#### **Assets Disposed of for Less than Fair Market Value [24 CFR §5.603(b)]**

HUD regulations require the PHA to count as a current asset any business or family asset that was disposed of for less than fair market value during the two years prior to the effective date of the examination/reexamination, except as noted below.

#### **Minimum Threshold**

The *HVC Guidebook* permits the PHA to set a threshold below which assets disposed of for less than fair market value will not be counted [HCV GB, p. 5-27].

#### PHA Policy

The PHA will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than \$1,000.

When the two-year period expires, the income assigned to the disposed asset(s) also expires. If the two-year period ends between annual recertifications, the family may request an interim recertification to eliminate consideration of the asset(s).

Assets placed by the family in non-revocable trusts are considered assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgments.

#### **Separation or Divorce**

The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement and the applicant or tenant receives important consideration not measurable in dollar terms.

#### PHA Policy

All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

## **Foreclosure or Bankruptcy**

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale.

## **Family Declaration**

### PHA Policy

Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. The PHA may verify the value of the assets disposed of if other information available to the PHA does not appear to agree with the information reported by the family.

## **Types of Assets**

### **Checking and Savings Accounts**

For regular checking accounts and savings accounts, *cash value* has the same meaning as *market value*. If a checking account does not bear interest, the anticipated income from the account is zero.

### PHA Policy

In determining the value of a checking account, the PHA will use the average monthly balance for the last three (3) months only if the asset is in excess of \$5,000 (PIH Notice 2016-05). If the self-declared asset(s) is/are equal to or less than \$5,000, the family's declaration of the amount of the asset will be used.

In determining the value of a savings account, the PHA will use the current balance provided on the family's declaration if it equals to or is less than \$5,000.

The full application will serve as the family's declaration and staff does not need to request supporting documentation as long as the total amount of assets is less than \$5,000.

In determining the anticipated income from an interest-bearing checking or savings account, the PHA will multiply the value of the account by the current rate of interest paid on the account.

**HOTMA:** Effective Jan. 1, 2024, in determining the value of a checking account, the PHA will use the average monthly balance for the last three (3) months only if the asset is in excess of \$50,000 (PIH Notice 2016-05). If the self-declared asset(s) is/are equal to or less than \$50,000, the family's declaration of the amount of the asset will be used.

In determining the value of a savings account, the PHA will use the current balance provided on the family's declaration if it equals to or is less than \$50,000.

A self-declaration form is required for the family's certification of \$50,000 in assets.

In determining the anticipated income from an interest bearing checking or savings account, the PHA will multiply the value of the account by the current rate of interest paid on the account.

### **Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds**

Interest or dividends earned by investment accounts are counted as actual income from assets even when the earnings are reinvested. The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

#### PHA Policy

In determining the market value of an investment account, the PHA will use the value of the account on the most recent investment report.

How anticipated income from an investment account will be calculated depends on whether the rate of return is known.

For assets that are held in an investment account with a known rate of return (e.g., savings certificates), asset income will be calculated based on that known rate (market value multiplied by rate of earnings).

When the anticipated rate of return is not known (e.g., stocks), the PHA will calculate asset income based on the earnings for the most recent reporting period.

### **Equity in Real Property or Other Capital Investments**

Equity (cash value) in a property or other capital asset is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset [HCV GB, p. 5-25].

#### PHA Policy

In determining the equity, the PHA will determine market value by examining recent sales of at least three properties in the surrounding or similar neighborhood that possess comparable factors that affect market value.

The PHA will first use the payoff amount for the loan (mortgage) as the unpaid balance to calculate equity. If the payoff amount is not available, the PHA will use the basic loan balance information to deduct from the market value in the equity calculation.

Equity in real property and other capital investments is considered in the calculation of asset income except for the following types of assets:

- — Equity accounts in HUD homeownership programs [24 CFR §5.603(b)]



- The value of a home currently being purchased with assistance under the HCV program Homeownership Option for the first 10 years after the purchase date of the home [24 CFR §5.603(b)]
- Equity in owner-occupied cooperatives and manufactured homes in which the family lives [HCV GB, p. 5-25]
- Equity in real property when a family member's main occupation is real estate [HCV GB, p. 5-25]. This real estate is considered a business asset, and income related to this asset will be calculated as described in Section 6.I.F.
- Interests in Indian Trust lands [24 CFR §5.603(b)]
- Real property and capital assets that are part of an active business or farming operation [HCV GB, p. 5-25]

The PHA must also deduct from the equity the reasonable costs for converting the asset to cash. Using the formula for calculating equity specified above, the net cash value of real property is the market value minus the balance of the loan (mortgage) minus the expenses to convert to cash [PIH Notice 2012-3].

#### PHA Policy

For the purposes of calculating expenses to convert to cash for real property, the PHA will use ten percent of the market value of the home.

A family may have real property as an asset in two ways: (1) owning the property itself and (2) holding a mortgage or deed of trust on the property. In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

In the case of a mortgage or deed of trust held by a family member, the outstanding balance (unpaid principal) is the cash value of the asset. The interest portion only of payments made to the family in accordance with the terms of the mortgage or deed of trust is counted as anticipated asset income.

#### PHA Policy

In the case of capital investments owned jointly with others not living in a family's unit, a prorated share of the property's cash value would be counted as an asset unless the PHA determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

### **Trusts**

A *trust* is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

### **~~Revocable Trusts [HCV GB, p. 5-25]~~**

~~If any member of a family has the right to withdraw the funds in a trust, the value of the trust is considered an asset [HCV GB, p. 5-25]. Any income earned as a result of investment of trust funds is counted as actual asset income, whether the income is paid to the family or deposited in the trust.~~

### **~~Non-revocable Trusts [24 CFR §5.603(b)]~~**

~~In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is counted as a periodic payment or a lump sum receipt, as appropriate [24 CFR §5.603(b)]. (Periodic payments are covered in Section 6 I.H. Lump sum receipts are discussed earlier in this section.)~~

### **~~Retirement Accounts~~**

#### **~~Company Retirement/Pension Accounts [HCV GB, p. 5-26]~~**

~~In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, the PHA must know whether the money is accessible before retirement [HCV GB, p. 5-26].~~

~~HOTMA: Effective Jan. 1, 2024, retirement accounts will be excluded as an asset and income will be handled according to policy.~~

~~While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset [HCV GB, p. 5-26].~~

~~After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump sum receipt, as appropriate [HCV GB, p. 5-26], except to the extent that it represents funds invested in the account by the family member. (For more on periodic payments, see Section 6 I.H.) The balance in the account is counted as an asset only if it remains accessible to the family member.~~

#### **~~IRA, Keogh, and Similar Retirement Savings Accounts [HCV GB, p. 5-25]~~**

~~IRA, Keogh, and similar retirement savings accounts are counted as assets even though early withdrawal would result in a penalty [HCV GB, p. 5-25].~~

~~HOTMA: Effective Jan. 1, 2024, retirement accounts will be excluded as an asset and income will be handled according to policy.~~

#### **~~Personal Property [24 CFR §5.609(b); HCV GB p5-25]~~**

~~Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset [HCV GB, p. 5-25].~~

### **PHA Policy**

In determining the value of personal property held as an investment, the PHA will use the family's estimate of the value. The PHA may obtain an appraisal to confirm the value of the asset if there is reason to believe that the family's estimated value is off by \$50 or more. The family must cooperate with the appraiser, but cannot be charged any costs related to the appraisal.

Generally, personal property held as an investment generates no income until it is disposed of. If regular income is generated (e.g., income from renting the personal property), the amount that is expected to be earned in the coming year is counted as actual income from the asset.

Necessary items of personal property are not considered assets [24 CFR §5.603(b)].

#### PHA Policy

Necessary personal property consists of only those items not held as an investment, and may include clothing, furniture, household furnishings, jewelry, and vehicles, including those specially equipped for persons with disabilities.

#### **Life Insurance**

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy is included in the calculation of the value of the family's assets [HCV GB 5-25]. The cash value is the surrender value. If such a policy earns dividends or interest that the family could elect to receive, the anticipated amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

#### **6-I.H. PERIODIC PAYMENTS**

Periodic payments are forms of income received on a regular basis. HUD regulations specify periodic payments that are not included in annual income. Regulations do not specify which types of periodic payments are included in annual income.

Income that has a discrete end date and will not be repeated beyond the coming year is excluded from a family's annual income because it is nonrecurring income. However, this does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended. For example, a family receives income from a guaranteed income program in their city that has a discrete beginning and end date. While the guaranteed income will be repeated in the coming year, it will end before the family's next annual reexamination. This income is fully excluded from annual income.

Insurance payments and settlements for personal or property losses, including but not limited to payments under health insurance, motor vehicle insurance, and workers' compensation, are excluded from annual income. However, 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 are included in annual income. Payments received in lieu of wages for worker's compensation are excluded, even if paid in periodic payments, if the income will last for a period of less than one year.

#### PHA Policy

The PHA will include in annual income the full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts.

Payments in lieu of earnings, such as unemployment and disability compensation, and severance pay are also counted as income if they are received in the form of periodic payments.

#### **Lump-Sum Payments for the Delayed Start of a Periodic Payment [24 CFR 5.609(b)(16)]**

Deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs (VA) disability benefits that are received in a lump sum amount or in prospective monthly amounts are excluded from annual income.

#### PHA Policy

The PHA will include in annual income lump sums received as a result of delays in processing periodic payments (other than those specifically excluded by the regulation), such as unemployment or welfare assistance.

When a delayed-start payment is received that is to be included and the family reports this during the period in which the PHA is processing an annual reexamination, the PHA will adjust the family's rent retroactively for the period the payment was intended to cover.

If the delayed-start payment is received outside of the time the PHA is processing an annual reexamination, then the PHA will consider whether the amount meets the threshold to conduct an interim reexamination. If so, the PHA will conduct an interim in accordance with PHA policies in Chapter 11. If not, the PHA will consider the amount when processing the family's next annual recertification.

### **Retirement Accounts [24 CFR 5.609(b)(26); Notice PIH 2023-27]**

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 is not considered actual income from assets.

However, any distribution of periodic payments from such accounts is included in annual income at the time they are received by the family.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value.

### **Social Security Benefits [Notice PIH 2018-24]**

The PHA is required to use the gross benefit amount to calculate annual income from Social Security benefits.

Annually in October, the Social Security Administration (SSA) announces the cost-of-living adjustment (COLA) by which federal Social Security and SSI benefits are adjusted to reflect the increase, if any, in the cost of living. The federal COLA does not apply to state-paid disability benefits. Effective the day after the SSA has announced the COLA, PHAs are required to factor in the COLA when determining Social Security and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1 or later of the upcoming year [Notice PIH 2023-27]. When a family member's benefits are garnished, levied, or withheld to pay restitution, child support, tax debt, student loan debt, or other debts, the PHA must use the gross amount of the income, prior to the reduction, to determine a family's annual income.

#### **PHA Policy**

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. When the SSA overpays an individual, resulting in a withholding or deduction from their benefit amount until the overpayment is paid in full, the PHA will use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount. ~~Further, if a family's social security income is garnished for any reason, the PHA will use the net amount after the garnishment in order to calculate the family's income~~

## Alimony and Child Support

Annual income includes “all amounts received,” not the amount that a family may be legally entitled to receive but which they do not receive. For example, a family’s child-support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders [Notice PIH 2023-27].

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### PHA Policy

The PHA will count all regular payments of alimony or child support awarded as part of a divorce or separation agreement.

The PHA will count court-awarded amounts for alimony and child support unless the family certifies and the PHA verifies that the payments are not being made.

In order to verify that payments are not being made, the PHA will review child support payments over the last three months.

If payments are being made regularly, the PHA will use the amount received during the last 12 months (excluding any lump sums received). If payments have been made for a period less than 12 months, the PHA will average all payments that have been made.

At new admission or interim recertification, if any lump sum payments were made in the past 12 months, the PHA will determine the likelihood of the family receiving another similar payment within the next 12 months before deciding whether or not this amount will be included in the calculation of annual income.

If the PHA determines and can appropriately verify that the family in all likelihood will not receive a similar payment, then the amount will not be considered when projecting annual income.

If the PHA determines that it is likely that the family will receive a similar payment and can appropriately verify it, the amount will be included when projecting annual income.

If no payments have been made in the past three months and there are no lump sums, the PHA will not include alimony or child support in annual income.

## **6.I.H. PERIODIC PAYMENTS [24 CFR §5.609(B)(3); §5.609(B)(4); HCV, P. 5-14]**

Periodic payments are forms of income received on a regular basis. HUD regulations specify periodic payments that are and are not included in annual income.

### **Periodic Payments Included in Annual Income**

- ~~Periodic payments from sources such as social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions. However, periodic payments from retirement accounts, annuities, and similar forms of investments are counted only after they exceed the amount contributed by the family [24 CFR §5.609(b)(4) and (b)(3)].~~
- ~~Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum [24 CFR §5.609(b)(4) and HCV, p. 5-14]~~

### **Lump-Sum Payments for the Delayed Start of a Periodic Payment [24 CFR §5.609(c)(14)]**

Most lump sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income. Additionally, any deferred disability benefits that are received in a lump sum or in prospective monthly amounts from the Department of Veterans Affairs are to be excluded from annual income [24 CFR §5.609(c)(14)].

#### **PHA Policy**

When a delayed start payment is received and reported during the period in which the PHA is processing an annual reexamination, the PHA will adjust the family share and PHA subsidy retroactively for the period the payment was intended to cover. The family may pay in full any amount due or request to enter into a repayment agreement with the PHA.

### **Treatment of Overpayment Deductions from Social Security Benefits [PIH Notice 2018-24]**

The PHA must make a special calculation of annual income when the Social Security Administration (SSA) overpays an individual, resulting in a withholding or deduction from their benefit amount until the overpayment is paid in full. The amount and duration of the withholding will vary depending on the amount of the overpayment and the percent of the benefit rate withheld. Regardless of the amount withheld or the length of the withholding period, the PHA must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount [PIH Notice 2018-24].

### **Periodic Payments Excluded from Annual Income**

- ~~Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the assisted family, who are unable to live alone) [24 CFR §5.609(c)(2)]. Kinship guardianship assistance payments (Kin-GAP) and other similar guardianship payments are treated the same as foster care payments and are likewise excluded from annual income [PIH Notice 2008-30].~~

#### PHA Policy

The PHA will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency [HCV GB, p. 5-18].

- ~~Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR §5.609(e)(16)].~~
- ~~Amounts received under the Low Income Home Energy Assistance Program (42 U.S.C. 1626(e)) [24 CFR §5.609(e)(17)].~~
- ~~Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q) [24 CFR §5.609(e)(17)].~~
- ~~Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR §5.609(e)(17)]. *Note:* EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.~~
- ~~Lump sums received as a result of delays in processing Social Security and SSI payments (see Section 6 I.H.) [24 CFR §5.609(e)(14)].~~
- ~~Lump sums or prospective monthly amounts received as deferred disability benefits from the Department of Veterans Affairs (VA) [24 CFR §5.609(e)(14)].~~

#### 6-LL. NONRECURRING INCOME [24 CFR 5.609(b)(24) and Notice PIH 2023-27]

Nonrecurring income, which is income that will not be repeated beyond the coming year (e.g., 12 months following the effective date of the certification) based on information provided by the family, is excluded from annual income. The PHA may accept a self-certification from the family stating that the income will not be repeated in the coming year. See Chapter 7 for PHA policies related to verification of nonrecurring income.

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

Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from a family's annual income as nonrecurring income. This exclusion does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended.

Income amounts excluded under this category may include, but are not limited to:

- Nonrecurring payments made to the family or to a third party on behalf of the family to assist with utilities;
- Payments for eviction prevention;
- Security deposits to secure housing;

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- Payments for participation in research studies (depending on the duration); and
- General one-time payments received by or on behalf of the family.

Nonrecurring income that is excluded under the regulations includes:

- 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 [24 CFR 5.609(b)(24)(i)].
- Direct federal or state payments intended for economic stimulus or recovery [24 CFR 5.609(b)(24)(ii)].
- Amounts directly received by the family as a result of state refundable tax credits or state or federal tax refunds at the time they are received [24 CFR 5.609(b)(24)(iii) and (iv)].
- Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries) [24 CFR 5.609(b)(24)(v)].
- Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization [24 CFR 5.609(b)(24)(vi)]. When calculating annual income, PHAs are prohibited from assigning monetary value to non-monetary in-kind donations received by the family [Notice PIH 2023-27]. Non-recurring, non-monetary in-kind donations from friends and family are excluded as non-recurring income.
- Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings [24 CFR 5.609(b)(24)(vii)].

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## **6-I.J. WELFARE ASSISTANCE**

### **Overview**

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments.

### **Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR 5.615]**

The PHA must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615 is provided as Exhibit 6-3. The requirements are summarized below. This rule applies only if a family was receiving HCV assistance at the time the sanction was imposed.

### **Covered Families**

The families covered by 24 CFR 5.615 are those “who receive welfare assistance or other public assistance benefits (‘welfare benefits’) from a State or other public agency (‘welfare 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 for such assistance” [24 CFR 5.615(b)]

### **Imputed Income**

When a welfare agency imposes a sanction that reduces a family’s welfare income because the family commits fraud or fails to comply with the agency’s economic self-sufficiency program or work activities requirement, the PHA must include in annual income “imputed” welfare income. The PHA must request that the welfare agency provide the reason for the reduction of benefits and the amount of the reduction of benefits. The imputed welfare income is the amount that the benefits were reduced as a result of the sanction.

This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits, (2) if a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements, or (3) because a family member has not complied with other welfare agency requirements [24 CFR 5.615(b)(2)].

### **Offsets**

The amount of the imputed welfare income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero [24 CFR 5.615(c)(4)].

**6-I.I. PAYMENTS IN LIEU OF EARNINGS [24 CFR §5.609(B)(5); 24 CFR §5.609(C)(3)]**

**PAYMENTS IN LIEU OF EARNINGS, SUCH AS UNEMPLOYMENT AND DISABILITY COMPENSATION, WORKER'S COMPENSATION, AND SEVERANCE PAY, ARE COUNTED AS INCOME [24 CFR §5.609(B)(5)] IF THEY ARE RECEIVED EITHER IN THE FORM OF PERIODIC PAYMENTS OR IN THE FORM OF A LUMP-SUM AMOUNT OR PROSPECTIVE MONTHLY AMOUNTS FOR THE DELAYED START OF A PERIODIC PAYMENT. IF THEY ARE RECEIVED IN A ONE-TIME LUMP-SUM (AS A SETTLEMENT, FOR INSTANCE), THEY ARE TREATED AS LUMP-SUM RECEIPTS [24 CFR §5.609(C)(3)]. (SEE ALSO THE DISCUSSION OF PERIODIC PAYMENTS IN SECTION 6-I.H AND THE DISCUSSION OF LUMP-SUM RECEIPTS IN SECTION 6-I.G.)**

**6-I.K. STATE PAYMENTS TO ALLOW INDIVIDUALS WITH DISABILITIES TO LIVE AT HOME [24 CFR 5.609(b)(19)]**

Payments made by or authorized by a state Medicaid agency (including through a managed care entity) or other state or federal agency to an assisted family to enable a member of the assisted family who has a disability to reside in the family's assisted unit are excluded.

Authorized payments may include payments to a member of the assisted family through state Medicaid-managed care systems, other state agencies, federal agencies or other authorized entities.

The payments must be received for caregiving services a family member provides to enable another member of the assisted family who has a disability to reside in the family's assisted unit. Payments to a family member for caregiving services for someone who is not a member of the assisted family (such as for a relative that resides elsewhere) are not excluded from income.

Furthermore, if the agency is making payments for caregiving services to the family member for an assisted family member and for a person outside of the assisted family, only the payments attributable to the caregiving services for the caregiver's assisted family member would be excluded from income.

**6-I.L. CIVIL RIGHTS SETTLEMENTS [24 CFR 5.609(b)(25); FR Notice 2/14/23]**

Regardless of how the settlement or judgment is structured, civil rights settlements or judgments, including settlements or judgments for back pay, are excluded from annual income. This may include amounts received because of litigation or other actions, such as conciliation agreements, voluntary compliance agreements, consent orders, other forms of settlement agreements, or administrative or judicial orders under the Fair Housing Act, Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act (Section 504), the Americans with Disabilities Act, or any other civil rights or fair housing statute or requirement.

While these civil rights settlement or judgment amounts are excluded from income, the settlement or judgment amounts will generally be counted toward the family's net family assets

(e.g., if the funds are deposited into the family's savings account or a revocable trust under the control of the family or some other asset that is not excluded from the definition of *net family assets*). Income generated on the settlement or judgment amount after it has become a net family asset is not excluded from income. For example, if the family received a settlement or back pay and deposited the money in an interest-bearing savings account, the interest from that account would be income at the time the interest is received.

Furthermore, if a civil rights settlement or judgment increases the family's net family assets such that they exceed \$50,000 (as annually adjusted by an inflationary factor), then income will be imputed on the net family assets pursuant to 24 CFR 5.609(a)(2). If the imputed income, which HUD considers unearned income, increases the family's annual adjusted income by 10 percent or more, then an interim reexamination of income will be required unless the addition to the family's net family assets occurs within the last three months of the family's income certification period and the PHA or owner chooses not to conduct the examination.

#### **6-I.M. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME [24 CFR 5.609(b)]**

Other exclusions contained in 24 CFR 5.609(b) that have not been discussed earlier in this chapter include the following:

- Payments received for the care of foster children or foster adults or state or tribal kinship or guardianship care payments [24 CFR 5.609(b)(4)].
- 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)]. However, 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 are included in annual income [Notice PIH 2023-27].
- 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)].
- 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)].
- 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 [24 CFR 5.609(b)(10)].
- 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)].
- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11)].
- Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance [24 CFR 5.609(b)(17)]. 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 [Notice PIH 2023-27].

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- 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) [24 CFR 5.609(b)(20)]. The loan borrower or co-borrower must be a member of the family for this income exclusion to be applicable [Notice PIH 2023-27].
- 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 or other federal law [24 CFR 5.609(b)(21)]. Generally, payments received by tribal members in excess of the first \$2,000 of per capita shares are included in a family's annual income for purposes of determining eligibility. However, as explained in Notice PIH 2023-27, payments made under the Cobell Settlement, and certain per capita payments under the recent Tribal Trust Settlements, must be excluded from annual income in HUD programs that adopt the definitions of *annual income* in 24 CFR 5.609, the Census Long Form, and the IRS Form 1040, including the programs affected by Notice PIH 2023-27.
- 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)].
- Income earned on amounts placed in a family's Family Self-Sufficiency account [24 CFR 5.609(b)(27)].
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred e.g., special equipment, clothing, transportation, child care, etc.) -and which are made solely to allow participation in a specific program [24 CFR 5.609(e)(128)(iii)].
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(b)(128)(i)].
- Amounts received under a resident service stipend not to exceed \$200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development [24 CFR 5.600(b)(12)(iii)].

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Incremental earnings and benefits to any family member resulting from participation in qualifying training program 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 are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program unless those amounts are excluded under 24 CFR 5.609(b)(9)(i) [24 CFR 5.609(b)(12)(iv)].

#### PHA Policy

The PHA defines *training program* as “a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period of time. It is designed to lead to a higher level of proficiency, and it enhances the individual’s ability to obtain employment. It may have performance standards to measure proficiency. Training may include but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education” [expired Notice PIH 98-2, p. 3].

The PHA defines *incremental earnings and benefits* as the difference between (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program [expired Notice PIH 98-2, pp. 3–4].

In calculating the incremental difference, the PHA will use as the pre-enrollment income the total annualized amount of the family member’s welfare assistance and earnings reported on the family’s most recently completed HUD-50058.

End of participation in a training program must be reported in accordance with the PHA’s interim reporting requirements (see Chapter 11).

- 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 dependent deduction per adopted child [24 CFR 5.609(b)(15)].
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(b)(20~~4~~5)].
- Amounts that HUD is required by federal statute to exclude 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. HUD will publish a notice in the *Federal Register* to identify the benefits that qualify for this exclusion. Updates will be published when necessary.

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HUD publishes an updated list of these exclusions periodically. The most recent list of exclusions was published in the *Federal Register* on May 20, 2014. It includes:

- (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))
- (b) Benefits under Section 1780 of the School Lunch Act and Child Nutrition Act of 1966, including WIC
- (c) Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
- (d) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))
- (e) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)
- (f) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))
- (g) Payments received under programs funded in whole or in part under the Workforce Investment Act of 1998 (29 U.S.C. 2931)
- (h) Deferred disability benefits from the Department of Veterans Affairs, whether received as a lump sum or in monthly prospective amounts
- (i) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)
- (j) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b))
- (k) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled *Elouise Cobell et al. v. Ken Salazar et al.*, for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010
- (l) The first \$2,000 of per capita shares received 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 (25 U.S.C. 1407-1408)
- (m) Benefits under the Indian Veterans Housing Opportunity Act of 2010 (only applies to Native American housing programs)
- (n) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))

- (o) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent Orange* product liability litigation, M.D.L. No. 381 (E.D.N.Y.)
- (p) Payments received under 38 U.S.C. 1833(c) to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean service veterans born with spinal bifida
- (q) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)
- (r) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q)
- (s) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))
- (t) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433)
- (u) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965j, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For Section 8 programs, the exception found in § 237 of Public Law 109-249 applies and requires that the amount of financial assistance in excess of tuition and mandatory fees shall be considered income in accordance with the provisions codified at 24 CFR 5.609(b)(9), except for those persons with disabilities as defined by 42 U.S.C. 1437a(b)(3)(E) (Pub. L. 109-249) (See Section 6-I.L. for exceptions.)
- (v) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- (w) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602)
- (x) Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002
- (y) Payments made from the proceeds of Indian tribal trust cases as described in Notice PIH 2013-30, "Exclusion from Income of Payments under Recent Tribal Trust Settlements" (25 U.S.C. 117b(a))
- (z) Major disaster and emergency assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organizations



(aa) Distributions from an ABLÉ account, and actual or imputed interest on the ABLÉ account balance [See also Notice PIH 2019-09]

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## **6-I.I. WELFARE ASSISTANCE**

### **Overview**

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments [24 CFR §5.603(b)].

### **Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR §5.615]**

The PHA must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR §5.615 is provided as Exhibit 6-5. The requirements are summarized below. This rule applies only if a family was receiving HCV assistance at the time the sanction was imposed.

### **Covered Families**

The families covered by 24 CFR §5.615 are those “who receive welfare assistance or other public assistance benefits (‘welfare benefits’) from a State or other public agency (‘welfare 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 for such assistance” [24 CFR §5.615(b)].

### **Imputed Income**

When a welfare agency imposes a sanction that reduces a family’s welfare income because the family commits fraud or fails to comply with the agency’s economic self-sufficiency program or work activities requirement, the PHA must include in annual income “imputed” welfare income. The PHA must request that the welfare agency provide the reason for the reduction of benefits and the amount of the reduction of benefits. The imputed welfare income is the amount that the benefits were reduced as a result of the sanction.

This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits, (2) if a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements, or (3) because a family member has not complied with other welfare agency requirements [24 CFR §5.615(b)(2)].

### **Offsets**

The amount of the imputed welfare income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero [24 CFR §5.615(e)(4)].

## **PART II: ~~ASSETS~~ ADJUSTED INCOME**

### **6-II.A. OVERVIEW**~~INTRODUCTION~~

Annual income includes all actual anticipated income from assets (unless otherwise excluded by the regulations) even if the asset itself is excluded from net family assets [Notice PIH 2023-27].

The regulation at 24 CFR 5.603(b)(3) provides a list of items that are excluded from the calculation of net family assets. Note, unlike previous versions of the regulations, the current regulations do not list types of assets that are included in annual income. Instead, HUD relies on the definition of items excluded from assets to provide the scope of what is included. Exhibit 6-2 provides the regulatory definition of *net family assets*.

Optional policies for family self-certification of assets are found in Chapter 7. Policies related to the asset limitation may be found in Chapter 3.

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

#### PHA Policy

The PHA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. The PHA will use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected, (2) it is not feasible to anticipate a level of income over 12 months, or (3) the PHA believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income, but the property is currently vacant, the PHA can take into consideration past rental income along with the prospects of obtaining a new tenant.

Any time current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases the family may present information and documentation to the PHA to show why the asset income determination does not represent the family's anticipated asset income.

## Overview

HUD regulations require PHAs to deduct from annual income any of five mandatory deductions for which a family qualifies. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR §5.611 and HOTMA requirements.

5.611(a) Mandatory deductions. In determining adjusted income, the responsible entity [PHA] must deduct the following amounts from annual income:

- (1) \$480 for each dependent;
- (2) \$550 for any elderly family or disabled family;
- (3) The sum of the following, to the extent the sum exceeds three percent of annual income:
  - (i) Unreimbursed medical expenses of any elderly family or disabled family;
  - (ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and
- ~~(4)~~(1) Any reasonable childcare expenses necessary to enable a member of the family to be employed or to further his or her education.

This part covers policies related to these mandatory deductions. Verification requirements related to these deductions are found in Chapter 7.

## Anticipating Expenses

### PHA Policy

Generally, the PHA will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., child care during school and non-school periods and cyclical medical expenses), the PHA will estimate costs based on historic data and known future costs.

If a family has an accumulated debt for medical or disability assistance expenses, the PHA will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. The PHA may require the family to provide documentation of payments made in the preceding year.

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## **6-IL.B. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE [24 CFR 5.603(b)(2)]**

PHAs must include the value of any business or family assets disposed of by an applicant or participant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application or reexamination, as applicable, in excess of the consideration received for the asset.

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An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value. [Notice PIH 2023-27].

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### **Minimum Threshold**

The HCV Guidebook permits the PHA to set a threshold below which assets disposed of for less than fair market value will not be counted [HCV GB, p. 5-27].

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#### **PHA Policy**

The PHA will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than \$1,000.

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### **Separation or Divorce**

The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement and the applicant or tenant receives important consideration not measurable in dollar terms.

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#### **PHA Policy**

All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

### **Foreclosure or Bankruptcy**

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

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### **Asset Owned by a Business Entity**

If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant) [Notice PIH 2023-27].

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## Family Declaration

### PHA Policy

Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. The PHA may verify the value of the assets disposed of if other information available to the PHA does not appear to agree with the information reported by the family.

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## 6-II.B. DEPENDENT DEDUCTION

An allowance of \$480 is deducted from annual income for each dependent [24 CFR §5.611(a)(1)]. *Dependent* is defined as any family member other than the head, spouse, or cohead who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR §5.603(b)].

## 6-II.C. ELDERLY OR DISABLED FAMILY DEDUCTION

A single deduction of \$550 is taken for any elderly or disabled family [24 CFR §5.611(a)(2); HOTMA]. An *elderly family* is a family whose head, spouse, cohead, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, cohead, or sole member is a person with disabilities [24 CFR §5.403].

## 6-II.C. ASSET INCLUSIONS AND EXCLUSIONS

### Checking and Savings Accounts [Notice PIH 2023-27]

HUD considers bank accounts as non-necessary items of personal property. Whether or not non-necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.

- When the combined value of net family assets is greater than \$50,000, as adjusted by inflation, checking and/or savings accounts would be counted toward net family assets.
- When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's checking and/or savings accounts would not be considered when calculating net family assets.

However, actual income from checking and savings accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded.

**ABLE Accounts [24 CFR 5.609(b)(10); Notice PIH 2019-09]**

An Achieving a Better Life Experience (ABLE) account is a type of tax-advantaged savings account that an eligible individual can use to pay for qualified disability expenses. Section 103 of the ABLE Act mandates that an individual's ABLE account (specifically, its account balance, contributions to the account, and distributions from the account) is excluded when determining the designated beneficiary's eligibility and continued occupancy under certain federal means-tested programs. The PHA must exclude the entire value of the individual's ABLE account from the household's assets. Distributions from the ABLE account are also not considered income. However, all wage income received, regardless of which account the money is paid to, is included as income.

**Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds [24 CFR 5.603(b)(1)]**

HUD considers financial investments such as stocks and bonds non-necessary items of personal property. Whether non-necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.

- When the combined value of net family assets is greater than \$50,000, as adjusted by inflation, financial investments such as stocks and bonds are considered part of net family assets. In this case, the value of the family's checking and/or savings accounts would be counted toward net family assets.
- When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's financial investments such as stocks and bonds would not be considered when calculating net family assets.

However, actual income from financial accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, but when no dividend is issued, the actual return is \$0. When the stock never issues dividends, the actual return is \$0.

**PHA Policy**

The PHA will include interest or dividends earned by investment accounts as actual income from assets even when the earnings are reinvested.

The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

In determining the market value of an investment account, the PHA will use the value of the account on the most recent investment report.



**Necessary and Non-Necessary Personal Property [24 CFR 5.603(b)(3)(i)]**

All assets are categorized as either *real property* (e.g., land, a home) or *personal property*.

*Personal property* includes tangible items, like boats, as well as intangible items, like bank accounts.

The value of necessary items of personal property is excluded from the calculation of net family assets. Necessary items of personal property include a car used for commuting or medical devices.

HUD defines *necessary personal property* as items essential to the family for the maintenance, use, and occupancy of the premises as a home; or they are necessary for employment, education, or health and wellness. Necessary personal property includes more than merely items that are indispensable to the bare existence of the family. It may include personal effects (such as items that are ordinarily worn or utilized by the individual), items that are convenient or useful to a reasonable existence, and items that support and facilitate daily life within the family's home. Necessary personal property also includes items that assist a household member with a disability, including any items related to disability-related needs, or that may be required for a reasonable accommodation for a person with a disability. Necessary personal property does not include bank accounts, other financial investments, or luxury items. Items of personal property that do not qualify as necessary personal property are classified as non-necessary personal property.

The combined value of all **non-necessary** items of personal property is only included in annual income when the combined total value exceeds \$50,000 (adjusted annually by HUD). When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets.

While not an exhaustive list, the following table from Notice PIH 2023-27 provides examples of necessary and non-necessary personal property.

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

#### PHA Policy

In determining the value of non-necessary personal property, the PHA will use the family's estimate of the value. The PHA may obtain an appraisal if there is reason to

believe that the family's estimated value is off by \$50 or more. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.

**Lump-Sum Additions to Net Family Assets [24 CFR 5.609(b)(24)(viii); Notice PIH 2023-27]**

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The regulations exclude income from lump-sum additions to family assets, including lottery or other contest winnings as a type of nonrecurring income.

In addition, lump sums from insurance payments, settlements for personal or property losses, and recoveries from civil actions or settlements based on claims of malpractice, negligence, or other breach of duty owed to a family member arising out of law that resulted in a member of the family becoming a family member with a disability are excluded from income.

Further, deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts are also excluded from income.

However, these amounts may count toward net family assets. The PHA must consider any actual or imputed returns from assets as income at the next applicable income examination. In the case where the lump sum addition to assets would lead to imputed income, which is unearned income, that increases the family's annual adjusted income by 10 percent or more, then the addition of the lump sum to the family's assets will trigger an immediate interim reexamination of income in accordance with Chapter 11. This reexamination of income must take place as soon as the lump sum is added to the family's net family assets unless the addition takes place in the last three months of family's income certification period and the PHA chooses not to conduct the examination.

For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see sections 6-I.H and 6-I.I.

**PHA Policy**

Any lump-sum receipts are only counted as assets if they are retained by a family in a form recognizable as an asset. [RHIIP FAQs]. For example, if the family receives a \$1,000 lump sum for lottery winnings, and the family immediately spends the entire amount, the lump sum will not be counted toward net family assets.

### **Jointly Owned Assets [Notice PIH 2023-27]**

For assets owned jointly by the family and one or more individuals outside of the assisted family, the PHA must include the total value of the asset in the calculation of net family assets, unless:

- The asset is otherwise excluded;
- The family can demonstrate that the asset is inaccessible to them; or
- The family cannot dispose of any portion of the asset without the consent of another owner who refuses to comply.

If the family demonstrates that they can only access a portion of an asset, then only that portion's value is included in the calculation of net family assets for the family.

Any income from a jointly owned asset must be included in annual income, unless:

- The income is specifically excluded;
- The family demonstrates that they do not have access to the income from that asset; or
- The family only has access to a portion of the income from that asset.

If the family demonstrates that they can only access a portion of the income from an asset, then only that portion's value is included in the calculation of income from assets.

If an individual is a beneficiary who is entitled to access the account's funds only upon the death of the account's owner, and may not otherwise withdraw funds from an account, then the account is not an asset to the assisted family, and the family should provide proper documentation demonstrating that they are only a beneficiary on the account.

### **Trusts [24 CFR 5.609(b)(2) and 5.603(b)(4)]**

A trust is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

The following types of trust distributions are excluded from annual income:

- Distributions of the principal or corpus of the trust; and
- Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.

The basis for determining how to treat trusts relies on information about who has access to either the principal in the account or the income from the account. There are two types of trusts, *revocable* and *irrevocable*.

When the creator sets up an *irrevocable trust*, the creator has no access to the funds in the account. Irrevocable trusts not under the control of any member of the family or household are not assets. Typically, special needs trusts are considered irrevocable. The value of the trust is not included in net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household [24 CFR 5.603(b)(4)]. Where an irrevocable trust is excluded from net family assets, the PHA must not consider actual income earned by the trust (e.g., interest earned, rental income if property is held in the trust) for so long as the income from the trust is not distributed. If the value of the trust is not considered part of the family's net assets, then distributions from the trust are treated as follows:

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

A *revocable trust* is a trust that the creator of the trust may amend or end (revoke). When there is a revocable trust, the creator has access to the funds in the trust account.

The value of revocable trusts that are not under the control of the family are excluded from net family assets. This happens 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. In this case the beneficiary does not "own" the revocable trust, and the value of the trust is excluded from net family assets. For the revocable trust to be considered excluded from net family assets, no family or household member may be the account's trustee. If this is the case, then distributions from the trust are treated as follows:

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

Revocable trusts under the control of the family or household (e.g., the grantor is a member of the assisted family or household) are considered assets and must be included in 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. The PHA must count all actual returns (e.g., interest earned) from the trust as income or, if the trust has no actual returns (e.g., if the trust is comprised of farmland that is not in use) and the total value of the combined net family assets exceeds \$50,000 (as that amount is updated for inflation), as imputed returns, as applicable.

### **Life Insurance [FR Notice 2/14/23 and Notice PIH 2023-27]**

Net family assets do not include the value of term life insurance, which has no cash value to the individual before death.

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets. The cash value is the surrender value. While the cash value of an insurance policy is considered an asset, the face value of any policy is not. If such a policy earns dividends or interest that the family could elect to receive, the amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

### **Tax Refunds [24 CFR 5.603(b)(3)(xi) and Notice PIH 2023-27]**

All amounts received by a family in the form of federal tax refunds or refundable tax credits are excluded from a family's net family assets for a period of 12 months after receipt by the family.

At the time of an annual or interim reexamination of income, if the federal tax refund was received during the 12 months preceding the effective date of the reexamination, then the amount of the refund that was received by the family is subtracted from the total value of the account in which the federal tax refund or refundable tax credits were deposited. When the subtraction results in a negative number, then the balance of the asset is considered \$0.

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).

### **Asset Exclusions [24 CFR 5.603(b)]**

The following are excluded from the calculations of net family assets:

- The value of 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 [24 CFR 5.603(b)(3)(iii)].
- 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 [24 CFR 5.603(b)(3)(iv)].
  - Real property as used in this part has the same meaning as that provided under the law of the state in which the property is located [24 CFR 5.100].
  - Examples of this include but are not limited to co-ownership situations (including situations where one owner is a victim of domestic violence), where one party cannot unilaterally sell the real property; property that is tied up in litigation; and inherited property in dispute [Notice PIH 2023-27].
- 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 family member being a person with a disability [24 CFR 5.603(b)(3)(v)].

- The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 [24 CFR 5.603(b)(3)(vi)];
- The value of any qualified tuition program under Section 529 of such Code [24 CFR 5.603(b)(3)(vi)];
- The value of any “baby bond” account created, authorized, or funded by federal, state, or local government [24 CFR 5.603(b)(3)(vi)];
- Interests in Indian trust land [24 CFR 5.603(b)(3)(vii)];
- Equity in a manufactured home where the family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(viii)];
- Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(ix)];
- Family Self-Sufficiency accounts [24 CFR 5.603(b)(3)(x)];
- Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family [24 CFR 5.603(b)(3)(xi)].
- The full amount of assets held in an irrevocable trust [Notice PIH 2023-27]; and
- The full amount of assets held in a revocable trust where a member of the family is the beneficiary, but the grantor/owner and trustee of the trust is not a member of the participant family or household [Notice PIH 2023-27].

## 6-II.D. DETERMINING INCOME FROM ASSETS

In some cases, amounts that are excluded from net family assets may be included as annual income when disbursements are made to a family from an asset. In other cases, amounts are excluded from annual income as a lump-sum addition to net family assets, but those funds are then considered a net family asset if held in an account or other investment that is considered part of net family assets [Notice PIH 2023-27].

### Net Family Assets

Net family assets are defined as the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment.

#### PHA Policy

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions such as settlement costs and transfer taxes [New PH OCC GB, *Income Determinations*, p. 24].

The calculation of asset income sometimes requires the PHA to make a distinction between an asset's market value and its cash value.

- The market value of an asset is its worth in the market (e.g., the amount a buyer would pay for real estate or the total value of an investment account).
- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.

The cash value of real property or other assets with negative equity would be considered \$0 for the purposes of calculating net family assets. Negative equity in real property or other investments does not prohibit the family from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets [Notice PIH 2023-27].

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### **Actual Income from Assets**

Income from assets must be included on the Form HUD-50058 regardless of the amount of income. Actual income from assets is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded by 24 CFR 5.609(b).

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

The PHA may determine the net assets of a family based on a self-certification by the family that the net family assets do not exceed \$50,000 (adjusted annually by HUD), without taking additional steps to verify the accuracy of the declaration [24 CFR 5.618(b)]. Policies related to verification of assets are found in Chapter 7 of this policy.

The PHA may not calculate or include any imputed income from assets when net family assets total \$50,000 or less [24 CFR 5.609(b)(1)]. The actual income from assets must be included on the Form HUD-50058.

### **Imputed Income from Assets**

When net family assets exceed \$50,000 (adjusted annually by HUD), the PHA may not rely on self-certification. If actual returns can be calculated, the PHA must include actual income from the asset on the Form HUD-50058 (for example, a savings account or CD where the rate of return is known). If actual returns cannot be calculated, the PHA must calculate imputed returns using the HUD-determined passbook rate (for example, real property or a non-necessary item of personal property such as a recreational boat). If the PHA can compute actual income from some but not all assets, the PHA must compute actual returns where possible and use the HUD-determined passbook rate for assets where actual income cannot be calculated [24 CFR 5.609(a)(2)].

An asset with an actual return of \$0 (such as a non-interest-bearing checking account), is not the same as an asset for which an actual return cannot be computed (such as non-necessary personal property). If the asset is a financial asset and there is no income generated (for example, a bank account with a zero percent interest rate or a stock that does not issue cash dividends), then the asset generates zero actual asset income, and imputed income is not calculated. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, and when no dividend is issued, the actual return is \$0. When the stock never issues dividends, the actual return is consistently \$0.

## **6-H.D. MEDICAL EXPENSES DEDUCTION [24 CFR §5.611(A)(3)(D)]**

Unreimbursed medical expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed three percent of annual income.

The medical expense deduction is permitted only for families in which the head, spouse, or cohead is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted [VG, p. 28].

### **Definition of Medical Expenses**

HUD regulations define *medical expenses* at 24 CFR §5.603(b) to mean “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.”

#### **PHA Policy**

The most current IRS Publication 502, *Medical and Dental Expenses*, will be used to determine the costs that qualify as medical expenses.

<b>Summary of Allowable Medical Expenses from IRS Publication 502</b>	
Services of medical professionals Surgery and medical procedures that are necessary, legal, non-cosmetic Services of medical facilities Hospitalization, long-term care, and in-home nursing services Prescription medicines and insulin, but not nonprescription medicines even if recommended by a doctor Improvements to housing directly related to medical needs (e.g., ramps for a wheel chair, handrails) Substance abuse treatment programs	Psychiatric treatment Ambulance services and some costs of transportation related to medical expenses The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth) Cost and continuing care of necessary service animals Medical insurance premiums or the cost of a health maintenance organization (HMO)
<b>Note:</b> This chart provides a summary of eligible medical expenses only. Detailed information is provided in IRS Publication 502. Medical expenses are considered only to the extent they are not reimbursed by insurance or some other source.	

#### **PHA Policy**

The cost of medical marijuana is not considered a deductible medical expense.

## **Families that Qualify for Both Medical and Disability Assistance Expenses**

### PHA Policy

This policy applies only to families in which the head, spouse, or cohead is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the PHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

## **6 H.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR §5.603(B); 24 CFR §5.611(A)(3)(II)]**

Reasonable expenses for attendant care and auxiliary apparatus for a disabled family member may be deducted if they: (1) are necessary to enable a family member 18 years or older to work, (2) are not paid to a family member or reimbursed by an outside source, (3) in combination with any medical expenses, exceed three percent of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.

### **Earned Income Limit on the Disability Assistance Expense Deduction**

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR §5.603(b)].

The disability expense deduction is capped by the amount of “earned income received by family members who are 18 years of age or older and who are able to work” because of the expense [24 CFR §5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

### PHA Policy

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family’s request, the PHA will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

When the PHA determines that the disability assistance expenses enable more than one family member to work, the expenses will be capped by the sum of the family members’ incomes.

### **Eligible Disability Expenses**

Examples of auxiliary apparatus are provided in the *HCV Guidebook* as follows: “Auxiliary apparatus are items such as wheelchairs, ramps, adaptations to vehicles, or special equipment to enable a blind person to read or type, but only if these items are directly related to permitting the disabled person or other family member to work” [HCV GB, p. 5-30].

HUD advises PHAs to further define and describe auxiliary apparatus [VG, p.30].

### **Eligible Auxiliary Apparatus**

#### PHA Policy

Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost of service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.

### **Eligible Attendant Care**

The family determines the type of attendant care that is appropriate for the person with disabilities.

#### PHA Policy

Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.

Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. However, if the person enabled to work is the person with disabilities, personal services necessary to enable the person with disabilities to work are eligible.

If the care attendant also provides other services to the family, the PHA will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For example, if the care provider also cares for a child who is not the person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

### **Payments to Family Members**

No disability assistance expenses may be deducted for payments to a member of an assisted family [24 CFR §5.603(b)]. However, expenses paid to a relative who is not a member of the assisted family may be deducted if they are not reimbursed by an outside source.

### **Necessary and Reasonable Expenses**

The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.

#### PHA Policy

The PHA determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, the PHA will collect information from organizations that provide services and support to persons with disabilities. A family may present, and the PHA will consider, the family's justification for costs that exceed typical costs in the area.

#### **Families that Qualify for Both Medical and Disability Assistance Expenses**

##### PHA Policy

This policy applies only to families in which the head or spouse is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the PHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

#### **6.H.F. CHILD CARE EXPENSE DEDUCTION**

HUD defines *child care expenses* at 24 CFR §5.603(b) as “amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.”

##### **Clarifying the Meaning of Child for This Deduction**

Child care expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household [VG, p. 26]. However, child care expenses for foster children that are living in the assisted family's household, are included when determining the family's child care expenses [HCV GB, p. 5-29].

##### **Qualifying for the Deduction**

##### **Determining Who Is Enabled to Pursue an Eligible Activity**

##### PHA Policy

The family must identify the family member(s) enabled to pursue an eligible activity. The term *eligible activity* in this section means any of the activities that may make the family eligible for a child care deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family's request, the PHA will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

## **Seeking Work**

### PHA Policy

If the child care expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member's job search efforts do not commensurate with the childcare expense being allowed by the PHA.

## **Furthering Education**

### PHA Policy

If the child care expense being claimed is to enable a family member to further their education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-time student, but the time spent in educational activities must commensurate with the childcare claimed.

## **Being Gainfully Employed**

### PHA Policy

If the childcare expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that child care is being provided. Gainful employment is any legal work activity (full or part time) for which a family member is compensated.

## **Earned Income Limit on Child Care Expense Deduction**

When a family member looks for work or furthers their education, there is no cap on the amount that may be deducted for childcare—although the care must still be necessary and reasonable.

However, when childcare enables a family member to work, the deduction is capped by “the amount of employment income that is included in annual income” [24 CFR §5.603(b)].

The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

When the person who is enabled to work is a person with disabilities who receives the earned income disallowance (EID) or a full-time student whose earned income above \$480 is excluded, childcare costs related to enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes \$15,000 but because of the EID only \$5,000 is included in annual income, child care expenses are limited to \$5,000.

The PHA must not limit the deduction to the least expensive type of childcare. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HCV GB, p. 5-30].

### PHA Policy

When the childcare expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, the PHA generally will limit allowable childcare expenses to the earned income of the lowest paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

### **Eligible Child Care Expenses**

The type of care to be provided is determined by the assisted family. The PHA may not refuse to give a family the childcare expense deduction because there is an adult family member in the household that may be available to provide childcare [VG, p. 26].

### **Allowable Child Care Activities**

#### PHA Policy

For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of childcare.

The costs of general housekeeping and personal services are not eligible. Likewise, childcare expenses paid to a family member who lives in the family's unit are not eligible; however, payments for childcare to relatives who do not live in the unit are eligible.

If a childcare provider also renders other services to a family or childcare is used to enable a family member to conduct activities that are not eligible for consideration, the PHA will prorate the costs and allow only that portion of the expenses that is attributable to childcare for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated. Unless otherwise specified by the childcare provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

### **Necessary and Reasonable Costs**

Child care expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further their education, and (2) the family certifies, and the child care provider verifies, that the expenses are not paid or reimbursed by any other source.

#### PHA Policy

Child care expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For childcare that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

~~To establish the reasonableness of childcare costs, the PHA will use the schedule of childcare costs from the local welfare agency that either subsidizes child care costs or licenses child care providers. Families may present, and the PHA will consider, justification for costs that exceed typical costs in the area.~~



## PART III: ADJUSTED INCOME ~~CALCULATING FAMILY SHARE AND PHA~~ SUBSIDY

### 6-III.A. INTRODUCTION ~~OVERVIEW OF RENT AND SUBSIDY CALCULATIONS~~

#### Overview

HUD regulations require PHAs to deduct from annual income any of five mandatory deductions for which a family qualifies and allow the PHA to deduct other permissive deductions in accordance with PHA policy. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.

5.611 *Adjusted income* 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:

#### (a) Mandatory deductions

(1) \$480 for each dependent (adjusted annually by HUD, rounded to the next lowest multiple of \$25);

(2) \$525 for any elderly family or disabled family (adjusted annually by HUD, rounded to the next lowest multiple of \$25);

(3) The sum of the following, to the extent the sum exceeds ten percent of annual income:

(i) Unreimbursed health and medical care expenses of any elderly family or disabled family;

(ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed; and

(4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

This part covers policies related to these mandatory deductions. Verification requirements related to these deductions are found in Chapter 7.

#### Anticipating Expenses

##### PHA Policy

Generally, the PHA will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., child care during school and non-school periods and cyclical medical expenses), the PHA will estimate costs based on historic data and known future costs.

If a family has an accumulated debt for medical or disability assistance expenses, the PHA will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as

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expected in a preceding period. The PHA may require the family to provide documentation of payments made in the preceding year.

When calculating health and medical care expenses, the PHA will include those expenses anticipated to be incurred during the 12 months following the certification date which are not covered by an outside source, such as insurance. The allowance is not intended to give a family an allowance equal to last year's expenses, but to anticipate regular ongoing and anticipated expenses during the coming year. Since these expenses are anticipated, the *PH Occupancy Guidebook* states "it is likely that actual expenses will not match what was anticipated. Typically, this would not be considered an underpayment as long as at the time of the annual reexamination, the expenses were calculated based on the appropriate verification" [New PH OCC GB, *Income Determinations*, p. 30]. For annual reexaminations, the PHA will use information for the previous 12-month period.

#### **TTP Formula [24 CFR §5.628]**

HUD regulations specify the formula for calculating the total tenant payment (TTP) for an assisted family. TTP is the highest of the following amounts, rounded to the nearest dollar:

- ◆ ~~30 percent of the family's monthly adjusted income (adjusted income is defined in Part H)~~
- ◆ ~~10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)~~
- ◆ ~~A minimum rent between \$0 and \$50 that is established by the PHA~~

The PHA has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in Section 6 III.B.

The amount that a family pays for rent and utilities (the family share) will never be less than the family's TTP but may be greater than the TTP depending on the rent charged for the unit the family selects.

#### **Welfare Rent [24 CFR §5.628]**

##### PHA Policy

~~Welfare rent does not apply in this locality.~~

#### **Minimum Rent [24 CFR §5.630]**

##### PHA Policy

~~The minimum rent for this locality is \$50.~~

#### **Family Share [24 CFR §982.305(a)(5)]**

If a family chooses a unit with a gross rent (rent to owner plus an allowance for tenant paid utilities) that exceeds the PHA's applicable payment standard: (1) the family will pay more than the TTP, and (2) at initial occupancy the PHA may not approve the tenancy if it would require the family share to exceed 40 percent of the family's monthly adjusted income.

The income used for this determination must have been verified no earlier than 60 days before the family's voucher was issued. (For a discussion of the application of payment standards, see Section 6 III.C.)

#### **PHA Subsidy [24 CFR §982.505(b)]**

The PHA will pay a monthly housing assistance payment (HAP) for a family that is equal to the lower of (1) the applicable payment standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP. (For a discussion of the application of payment standards, see Section 6 III.C.)

#### **Utility Reimbursement [24 CFR §982.514(b); §982.514(e)]**

When the PHA subsidy for a family exceeds the rent to owner, the family is due a utility reimbursement. HUD permits the PHA to pay the reimbursement to the family or directly to the utility provider.

##### PHA Policy

The PHA will make utility reimbursements monthly to the electric utility company(s) of their choice, and the family will be notified in writing.

#### **~~Partial Month Calculations for Housing Assistance Payment (HUD letter dated 10/29/2009 and Chapter 9 of HUD Handbook 4350.3)~~**

##### PHA Policy

The partial month calculation for move-ins, move-outs and transfers are by dividing the monthly assistance amount by the actual number of days in the month and multiplying the result by actual number of days the resident lived in the unit.

#### **6-III.B. DEPENDENT DEDUCTION**

An allowance of \$480 is deducted from annual income 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) [24 CFR 5.611(a)(1)]. *Dependent* is defined as any family member other than the head, spouse, or cohead who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

#### **6-III.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR §5.630]**

##### **Overview**

If the PHA establishes a minimum rent greater than zero, the PHA must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the PHA determines that a hardship exists, the family share is the highest of the remaining components of the family's calculated TTP.

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## **HUD-Defined Financial Hardship**

Financial hardship includes the following situations:

- (1) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

### PHA Policy

A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.

For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following (1) implementation of assistance, if approved, or the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

- (2) The family would be evicted because it is unable to pay the minimum rent.

### PHA Policy

For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent to the owner or tenant-paid utilities.

- (3) Family income has decreased because of changed family circumstances, including the loss of employment.

- (4) A death has occurred in the family.

### PHA Policy

In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).

- (5) The family has experienced other circumstances determined by the PHA.

### PHA Policy

The PHA has not established any additional hardship criteria.

## **Implementation of Hardship Exemption**

### **Determination of Hardship**

When a family requests a financial hardship exemption, the PHA must suspend the minimum rent requirement beginning the first of the month following the family's request.

The PHA then determines whether the financial hardship exists and whether the hardship is temporary (expected to last 90 days or less) or long term.

When the minimum rent is suspended, the family share reverts to the highest of the remaining components of the calculated TTP. The example below demonstrates the effect of the minimum rent exemption.

<b>Example: Impact of Minimum Rent Exemption</b> Assume the PHA has established a minimum rent of \$50.			
Family Share—No Hardship		Family Share—With Hardship	
\$0.....	30% of monthly adjusted income	\$0.....	30% of monthly adjusted income
\$15.....	10% of monthly gross income	\$15.....	10% of monthly gross income
N/A.....	Welfare Rent	N/A.....	Welfare Rent
\$50.....	Minimum Rent	\$50.....	Minimum Rent
Minimum rent applies: TTP = \$50		Hardship exemption granted: TTP = \$15	

#### PHA Policy

To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay the minimum rent.

The PHA will make the determination of hardship within 30 calendar days.

#### **No Financial Hardship**

If the PHA determines there is no financial hardship, the PHA will reinstate the minimum rent and require the family to repay the amounts suspended.

#### PHA Policy

The PHA will require the family to repay the suspended amount within 30 calendar days of the PHA's notice that a hardship exemption has not been granted.

#### **Temporary Hardship**

If the PHA determines that a qualifying financial hardship is temporary, the PHA must suspend the minimum rent for the 90-day period beginning the first of the month following the date of the family's request for a hardship exemption.

At the end of the 90-day suspension period, the family must resume payment of the minimum rent and must repay the PHA the amounts suspended. HUD requires the PHA to offer a reasonable repayment agreement, on terms and conditions established by the PHA. The PHA also may determine that circumstances have changed and the hardship is now a long-term hardship.

#### PHA Policy

The PHA will enter into a repayment agreement in accordance with the procedures found in Chapter 16 of this plan.

### **Long-Term Hardship**

If the PHA determines that the financial hardship is long-term, the PHA must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship.

When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

#### **PHA Policy**

The hardship period ends when any of the following circumstances apply:

- (1) At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.
- (2) For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a \$60/month child support payment, the hardship will continue to exist until the family receives at least \$60/month in income from another source or once again begins to receive the child support.
- (3) For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

### **6-III.C. ELDERLY OR DISABLED FAMILY DEDUCTION APPLYING PAYMENT STANDARDS [24 CFR §982.505; §982.503(B)]**

A single deduction of \$525 is taken for any elderly 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) [24 CFR 5.611(a)(2)].

An *elderly family* is a family whose head, spouse, cohead, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, cohead, or sole member is a person with disabilities [24 CFR 5.403].

## Overview

The PHA's schedule of payment standards is used to calculate housing assistance payments for HCV families. This section covers the application of the PHA's payment standards. The establishment and revision of the PHA's payment standard schedule are covered in Chapter 16.

*Payment standard* is defined as “the maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family)” [24 CFR §982.4(b)]. The payment standard for a family is the lower of (1) the payment standard for the family unit size, which is defined as the appropriate number of bedrooms for the family under the PHA's subsidy standards [24 CFR §982.4(b)], or (2) the payment standard for the size of the dwelling unit rented by the family.

If the PHA has established an exception payment standard for a designated part of a zip code area or FMR area and a family's unit is located in the exception area, the PHA must use the appropriate payment standard for the exception area.

The PHA is required to pay a monthly housing assistance payment (HAP) for a family that is the lower of (1) the payment standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP.

If during the term of the HAP contract for a family's unit, the owner lowers the rent, the PHA will recalculate the HAP using the lower of the initial payment standard or the gross rent for the unit [HCV GB, p. 7-8].

## Changes in Payment Standards

When the PHA revises its payment standards during the term of the HAP contract for a family's unit, it will apply the new payment standards in accordance with HUD regulations.

### Decreases

If a PHA changes its payment standard schedule, resulting in a lower payment standard amount, during the term of a HAP contract, the PHA is not required to reduce the payment standard used to calculate subsidy for families under HAP contract as long as the HAP contract remains in effect [FR Notice 11/16/16].

However, if the PHA does choose to reduce the payment standard for families currently under HAP contract, the initial reduction to the payment standard may not be applied any earlier than the effective date of the family's second regular reexamination following the effective date of the decrease in the payment standard amount. At that point, the PHA may either reduce the payment standard to the current amount in effect on the PHA's payment standard schedule, or may reduce the payment standard to another amount that is higher than the normally applicable amount on the schedule. The PHA may also establish different policies for designated areas within their jurisdiction (e.g., different zip code areas).

In any case, the PHA must provide the family with at least 12 months' notice that the payment standard is being reduced before the effective date of the change. The PHA's policy on decreases in the payment standard during the term of the HAP contract apply to all families under HAP



contract at the time of the effective date of the decrease in the payment standard within the designated area.

#### PHA Policy

If a PHA changes its payment standard schedule resulting in a lower payment standard amount, during the term of a HAP contract, the PHA will not reduce the payment standard used to calculate subsidy for families under HAP contract as long as the HAP contract remains in effect.

The PHA will not establish different policies for decreases in the payment standard for designated areas within their jurisdiction.

#### **Increases**

If the payment standard is increased during the term of the HAP contract, the increased payment standard will be used to calculate the monthly housing assistance payment for the family beginning on the effective date of the family's first regular reexamination on or after the effective date of the increase in the payment standard.

Families requiring or requesting interim reexaminations will not have their HAP payments calculated using the higher payment standard until their next annual reexamination [HCV GB, p. 7–8].

#### **Changes in Family Unit Size (Voucher Size)**

Irrespective of any increase or decrease in the payment standard, if the family unit size increases or decreases during the HAP contract term, the new family unit size must be used to determine the payment standard for the family beginning at the family's first regular reexamination following the change in family unit size.

#### **Reasonable Accommodation**

If a family requires a higher payment standard as a reasonable accommodation for a family member who is a person with disabilities, the PHA is allowed to establish a higher payment standard for the family of not more than 120 percent of the published FMR.

Exception payment standards must remain in effect until or unless a higher exception payment standard is warranted, requested, and subsequently approved [PIH Notice 2013–18].

#### **6-III.D. HEALTH AND MEDICAL CARE EXPENSES DEDUCTION [24 CFR 5.611(A)(3)(I) AND 5.603(B)]APPLYING UTILITY ALLOWANCES [2014 APPROPRIATIONS ACT]**

Unreimbursed health and medical care expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed ten percent of annual income.

This deduction is permitted only for families in which the head, spouse, or cohead is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted.

### **Definition of Medical Expenses**

HUD regulations define *health and medical care expenses* at 24 CFR 5.603(b) to mean “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.” Medical insurance premiums continue to be eligible health and medical care expenses. Health and medical care expenses may be deducted from annual income only if they are eligible and not otherwise reimbursed and may only be deducted for elderly or disabled families.

Although HUD revised the definition of *health and medical care expenses* to reflect the Internal Revenue Service (IRS) general definition of medical expenses, HUD is not permitting PHAs to specifically align their policies with IRS Publication 502 for determining which expenses are included in HUD’s mandatory deduction for health and medical care expenses. PHAs must review each expense to determine whether it is eligible in accordance with HUD’s definition of *health and medical care expenses*.

### **Families That Qualify for Both Health and Medical and Disability Assistance Expenses**

#### **PHA Policy**

This policy applies only to families in which the head, spouse, or cohead is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either a health and medical care or disability assistance expenses, the PHA will consider them health and medical care expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

## Overview

A PHA established utility allowance schedule is used in determining family share and PHA subsidy. A family's utility allowance is determined by the size of dwelling unit leased by a family or the voucher unit size for which the family qualifies using PHA subsidy standards, whichever is the lowest of the two. See Chapter 5 for information on the PHA's subsidy standards.

For policies on establishing and updating utility allowances, see Chapter 16.

## Reasonable Accommodation

HCV program regulations require a PHA to approve a utility allowance amount higher than shown on the PHA's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, the PHA will approve an allowance for air conditioning, even if the PHA has determined that an allowance for air conditioning generally is not needed.

The family must request the higher allowance and provide the PHA with an explanation of the need for the reasonable accommodation and information about the amount of additional allowance required [HCV GB, p. 18-8].

## Utility Allowance Revisions

At reexamination, the PHA must use the current schedule [HCV GB p.18-8].

### PHA Policy

Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination that is effective after the allowance is adopted.

Under Section 242 of the 2014 Appropriations Act effective July 01, 2014, the utility allowance for a family shall be the lower of: (1) The utility allowance amount for the family unit size; or (2) the utility allowance amount for the unit size the unit rented by the family. The utility allowance will be implemented for current program participants at the next annual reexamination, provided that the PHA is able to provide a family with at least 60 days' notice prior to the reexamination.

### PHA Policy

The current participants received notification of the 2014 appropriations act on July 1, 2014.

## **6-III.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(B) AND 24 CR 5.611(A)(3)(II)]PRORATED ASSISTANCE FOR MIXED FAMILIES [24 CFR §5.520]**

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Unreimbursed reasonable expenses for attendant care and auxiliary apparatus for each member of the family who is a person with disabilities may be deducted if they: (1) are necessary to enable a family member 18 years or older to work, (2) are not paid to a family member or reimbursed by an outside source, (3) in combination with any medical expenses, exceed ~~ten~~<sup>three</sup> percent of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.

#### **Earned Income Limit on the Disability Assistance Expense Deduction**

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)].

The disability expense deduction is capped by the amount of “earned income received by family members who are 18 years of age or older and who are able to work” because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

#### **PHA Policy**

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family’s request, the PHA will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

When the PHA determines that the disability assistance expenses enable more than one family member to work, the expenses will be capped by the sum of the family members’ incomes.

#### **Eligible Auxiliary Apparatus [Notice PIH 2023-27]**

Auxiliary apparatus items may include expenses for wheelchairs, ramps, adaptations to vehicles, guide dogs, assistance animals, or special equipment to enable a person who is blind or has low vision to read or type or special equipment to assist a person who is deaf or hard of hearing.

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### Eligible Attendant Care [Notice PIH 2023-27]

Examples of attendant care expenses can include teaching a person with disabilities how to perform day-to-day tasks independently like cleaning, bathing, doing laundry, and cooking. Attendant care can be 24-hour care, or care during sporadic periods throughout the day. The family determines the type of attendant care that is appropriate for the person with disabilities.

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### PHA Policy

Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. However, if the person enabled to work is the person with disabilities, personal services necessary to enable the person with disabilities to work are eligible.

If the care attendant also provides other services to the family, the PHA will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For example, if the care provider also cares for a child who is not the person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

### Payments to Family Members

No disability assistance expenses may be deducted for payments to a member of an assisted family [24 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the assisted family may be deducted if they are not reimbursed by an outside source.

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### Necessary and Reasonable Expenses

The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.

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### PHA Policy

The PHA determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, the PHA will collect information from organizations that provide services and support to persons with disabilities. A family may present, and the PHA will consider, the family's justification for costs that exceed typical costs in the area.

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## Families That Qualify for Both Health and Medical and Disability Assistance Expenses

### PHA Policy

This policy applies only to families in which the head or spouse is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either health and medical care or disability assistance expenses, the PHA will consider them health and medical care expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

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HUD REGULATIONS PROHIBIT ASSISTANCE TO INELIGIBLE FAMILY MEMBERS. A MIXED FAMILY IS ONE THAT INCLUDES AT LEAST ONE U.S. CITIZEN OR ELIGIBLE IMMIGRANT AND ANY NUMBER OF INELIGIBLE FAMILY MEMBERS. THE PHA MUST PRORATE THE ASSISTANCE PROVIDED TO A MIXED FAMILY. THE PHA WILL FIRST DETERMINE ASSISTANCE AS IF ALL FAMILY MEMBERS WERE ELIGIBLE AND THEN PRORATE THE ASSISTANCE BASED UPON THE PERCENTAGE OF FAMILY MEMBERS THAT ACTUALLY ARE ELIGIBLE. FOR EXAMPLE, IF THE PHA SUBSIDY FOR A FAMILY IS CALCULATED AT \$500 AND TWO OF FOUR FAMILY MEMBERS ARE INELIGIBLE, THE PHA SUBSIDY WOULD BE REDUCED TO \$250.

## EXHIBIT 6-1: Annual Income Inclusions

### 24 CFR §5.609

~~(a) Annual income means all amounts, monetary or not, which:~~

~~(1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or~~

~~(2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and~~

~~(3) Which are not specifically excluded in paragraph (c) of this section.~~

~~(4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.~~

~~(b) Annual income includes, but is not limited to:~~

~~(1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;~~

~~(2) The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is~~

~~reimbursement of cash or assets invested in the operation by the family;~~

~~(3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;~~

~~(4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);~~

~~(5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);~~

~~(6) Welfare assistance payments:~~

~~(a) Welfare assistance payments made under the Temporary Assistance for Needy Families~~

(TANF) program are included in annual income only to the extent such payments:

(A) Qualify as assistance under the TANF program definition at 45 CFR 260.311; and

(B) Are not otherwise excluded under paragraph (c) of this section

(b) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

(A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or 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 calculated under this paragraph shall be the amount resulting from one application of the percentage.

(7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;

(8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (e)(7) of this section)

(9) For section 8 programs only and as provided in 24 CFR §5.612, any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or from an institution of higher education (as defined

under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, "financial assistance" does not include loan proceeds for the purpose of determining income.

#### HHS DEFINITION OF "ASSISTANCE"

##### **45 CFR: GENERAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES**

##### **§260.31—What does the term "assistance" mean?**

(a)(1) 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).

(2) It includes such benefits even when they are:

(i) Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and

(ii) Conditioned on participation in work experience or community service (or any other work activity under 261.30 of this chapter);

(3) Except where excluded under paragraph (b) of this section, it also includes supportive services such as transportation and child care provided to families who are not employed.

(b) [The definition of "assistance"] excludes:

(1) Nonrecurrent, short-term benefits that:

(i) Are designed to deal with a specific crisis situation or episode of need;



~~(ii) Are not intended to meet recurrent or ongoing needs; and~~  
~~(iii) Will not extend beyond four months.~~  
~~(2) Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);~~  
~~(3) Supportive services such as child care and transportation provided to families who are employed;~~  
~~(4) Refundable earned income tax credits;~~  
~~(5) Contributions to, and distributions from, Individual Development Accounts;~~

~~(6) Services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement, and other employment related services that do not provide basic income support; and~~  
~~(7) Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of [the Social Security] Act, to an individual who is not otherwise receiving assistance.~~

## **EXHIBIT 6-2: Annual Income Exclusions**

### **24 CFR §5.609 (cont'd)**

*(c) Annual income does not include the following:*

(1) Income from employment of children (including foster children) under the age of 18 years;

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

(3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section);

(4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;

(5) Income of a live-in aide, as defined in Sec. 5.403;

(6) Subject to paragraph (b)(9) of this section, the full amount of student financial assistance paid directly to the student or to the educational institution;

(7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;

(8) (i) Amounts received under training programs funded by HUD;

(ii) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

(iii) 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, child care, etc.) and which are made solely to allow participation in a specific program;

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

(v) Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program;

(9) Temporary, nonrecurring or sporadic income (including gifts);

(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;

(11) Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);

~~(12) Adoption assistance payments in excess of \$480 per adopted child;~~

~~(13) [Reserved]~~

~~(14) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or prospective monthly amounts.~~

~~(15) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;~~

~~(16) Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or~~

~~(17) 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(e) apply. A notice will be published in the Federal Register and distributed to PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary. [See Section 6 I.M. for a list of benefits that qualify for this exclusion.]~~

## EXHIBIT 6-3: TREATMENT OF FAMILY ASSETS

### 24 CFR §5.603 Net Family Assets

(1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

(2) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under Sec. §5.609.

(3) In determining net family assets, PHAs or owners, as applicable, shall include the

value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceeding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

(4) For purposes of determining annual income under Sec. 5.609, the term "net family assets" does not include the value of a home currently being purchased with assistance under part 982, subpart M of this title. This exclusion is limited to the first 10 years after the purchase date of the home.

#### EXHIBIT 6-4: EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES

##### **24 CFR §5.617 Self-sufficiency incentives for persons with disabilities—Disallowance of increase in annual income**

*(a) Applicable programs.* The disallowance of earned income provided by this section is applicable only to the following programs: HOME Investment Partnerships Program (24 CFR part 92); Housing Opportunities for Persons with AIDS (24 CFR part 574); Supportive Housing Program (24 CFR part 583); and the Housing Choice Voucher Program (24 CFR part 982).

*(b) Definitions.* The following definitions apply for purposes of this section:

*Baseline income.* The annual income immediately prior to implementation of the disallowance described in paragraph (c)(1) of this section of a person with disabilities (who is a member of a qualified family).

*Disallowance.* Exclusion from annual income.

*Previously unemployed* includes a person with disabilities who has earned, in the twelve 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.

*Qualified family.* A family residing in housing assisted under one of the programs listed in paragraph (a) of this section or receiving tenant-based rental assistance under one of the programs listed in paragraph (a) of this section.

(1) 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;

(2) 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

(3) 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 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.

*(c) Disallowance of increase in annual income—*

*(1) Initial twelve-month exclusion.* During the 12-month period beginning on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income (as defined in the

regulations governing the applicable program listed in paragraph (a) of this section) of a qualified family any increase in income of the family member who is a person with disabilities as a result of employment over prior income of that family member.

*(2) Second twelve month exclusion and phase in.* Upon expiration of the 12 month period defined in paragraph (c)(1) of this section and for the subsequent 12 month period, the responsible entity must exclude from annual income of a qualified family at least 50 percent of any increase in income of such family member as a result of employment over the family member's baseline income.

*(3) Maximum 2 year disallowance.* The disallowance of increased income of an individual family member who is a person with disabilities as provided in paragraph (c)(1) or (c)(2) of this section is limited to a lifetime 24 month period. The disallowance

applies for a maximum of 12 months for disallowance under paragraph (c)(1) of this section and a maximum of 12 months for disallowance under paragraph (c)(2) of this section, during the 24 month period starting from the initial exclusion under paragraph (c)(1) of this section.

*(4) Effect of changes on currently participating families.* Families eligible for and participating in the disallowance of earned income under this section prior to May 9, 2016 will continue to be governed by this section in effect as it existed immediately prior to that date (see 24 CFR parts 0 to 199, revised as of April 1, 2016).

*(d) Inapplicability to admission.* The disallowance of increases in income as a result of employment of persons with disabilities under this section does not apply for purposes of admission to the program (including the determination of income eligibility or any income targeting that may be applicable.)

## **EXHIBIT 6-5: THE EFFECT OF WELFARE BENEFIT REDUCTION**

### **24 CFR §5.615—Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.**

*(a) Applicability.* This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

*(b) Definitions.* The following definitions apply for purposes of this section:

*Covered families.* Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare 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 for such assistance.

*Economic self-sufficiency program.* See definition at Sec. 5.603.

*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.

*Specified welfare benefit reduction.*

(1) 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 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.

(2) "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:

- (i) at expiration of a lifetime or other time limit on the payment of welfare benefits;
- (ii) 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
- (iii) because a family member has not complied with other welfare agency requirements.

*(c) Imputed welfare income.*

(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to the PHA by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.

(2) At the request of the PHA, the welfare agency will inform the PHA in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform the PHA of any subsequent changes in the term or amount of such specified welfare benefit reduction. The PHA will use this information to determine the amount of imputed welfare income for a family.

(3) A family's annual income includes imputed welfare income in family annual income, as determined at the PHA's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to the PHA by the welfare agency).

(4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed

~~(5) The PHA may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.~~

~~(d) Review of PHA decision.~~

~~(1) Public housing. If a public housing tenant claims that the PHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the tenant written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. The PHA notice shall also state that if the tenant does not agree with the PHA determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review the PHA determination. The tenant is not required to pay an escrow deposit pursuant to Sec. 966.55(c) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on the PHA determination.~~

~~(2) Section 8 participants. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the PHA determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the family written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the PHA determination, the family may request an informal hearing on the determination under the PHA hearing procedure.~~

~~(e) PHA relation with welfare agency.~~

~~(1) The PHA must ask welfare agencies to inform the PHA of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the PHA written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.~~

~~(2) The PHA is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency, and specified in the notice by the welfare agency to the PHA. However, the PHA is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.~~

~~(3) Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The PHA shall be entitled to rely on the welfare agency's notice to the PHA of the welfare agency's determination of a specified welfare benefits reduction.~~



### **6-III.F. CHILD CARE EXPENSE DEDUCTION**

HUD defines *child care expenses* at 24 CFR 5.603(b) as “amounts anticipated to be paid by the family for the care of children under 13 years of age (including foster children) during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.”

#### **Clarifying the Meaning of *Child* for This Deduction**

Child care expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family’s household [VG, p. 26]. However, child care expenses for foster children that are living in the assisted family’s household are included when determining the family’s child care expenses [HCV GB, p. 5-29].

#### **Qualifying for the Deduction**

##### **Determining Who Is Enabled to Pursue an Eligible Activity**

###### PHA Policy

The family must identify the family member(s) enabled to pursue an eligible activity. The term *eligible activity* in this section means any of the activities that may make the family eligible for a child care deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family’s request, the PHA will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

##### **Seeking Work**

###### PHA Policy

If the child care expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member’s efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the

family member's job search efforts are not commensurate with the child care expense being allowed by the PHA.

### **Furthering Education**

#### **PHA Policy**

If the child care expense being claimed is to enable a family member to further their education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the child care claimed.

### **Being Gainfully Employed**

#### **PHA Policy**

If the child care expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that child care is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

### **Earned Income Limit on Child Care Expense Deduction**

When a family member looks for work or furthers their education, there is no cap on the amount that may be deducted for child care – although the care must still be necessary and reasonable. However, when child care enables a family member to work, the deduction is capped by “the amount of employment income that is included in annual income” [24 CFR 5.603(b)].

The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

When the person who is enabled to work is a person with disabilities who receives the earned income disallowance (EID) or a full-time student whose earned income above \$480 is excluded, child care costs related to enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes \$15,000 but because of the EID only \$5,000 is included in annual income, child care expenses are limited to \$5,000.

The PHA must not limit the deduction to the least expensive type of child care. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HCV GB, p. 5-30].

#### **PHA Policy**

When the child care expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, the PHA generally will limit

allowable child care expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

### **Eligible Child Care Expenses**

The type of care to be provided is determined by the assisted family. The PHA may not refuse to give a family the child care expense deduction because there is an adult family member in the household that may be available to provide child care [VG, p. 26].

### **Allowable Child Care Activities**

#### **PHA Policy**

For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of child care.

The costs of general housekeeping and personal services are not eligible. Likewise, child care expenses paid to a family member who lives in the family's unit are not eligible; however, payments for child care to relatives who do not live in the unit are eligible.

If a child care provider also renders other services to a family or child care is used to enable a family member to conduct activities that are not eligible for consideration, the PHA will prorate the costs and allow only that portion of the expenses that is attributable to child care for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated. Unless otherwise specified by the child care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

### **Necessary and Reasonable Costs**

Child care expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further their education, and (2) the family certifies, and the child care provider verifies, that the expenses are not paid or reimbursed by any other source.

#### **PHA Policy**

Child care expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For child care that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

To establish the reasonableness of child care costs, the PHA will use the schedule of child care costs from a qualified local entity that either subsidizes child care costs or licenses

child care providers. Families may present, and the PHA will consider, justification for costs that exceed typical costs in the area.

### **6-III.G. HARDSHIP EXEMPTIONS [24 CFR 5.611(c), (d), and (e)]**

#### **Health and Medical Care and Disability Assistance Expenses [24 CFR 5.611(c); Notice PIH 2023-27]**

The regulations provide for two types of hardship exemption categories for families that qualify for unreimbursed health and medical care expenses and/or disability assistance expenses. A family will benefit from this hardship exemption only if the family has eligible expenses that can be deducted in excess of five percent of annual income. In order to claim unreimbursed health and medical care expenses, the family must have a head, cohead, or spouse that is elderly or a person with a disability. In order to claim unreimbursed reasonable attendant care and auxiliary apparatus expenses, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed.

Families may be eligible for relief under one of two categories; phased-in relief or general relief, as defined below.

#### **Phased-In Relief**

The first category is applicable to all families who received a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based on their most recent income review prior to ~~prior to January 1, 2024~~. The family must receive phased-in relief if they are determined to be eligible ~~as of January 1, 2024~~. These families will begin receiving a 24-month phased-in relief at their next annual or interim reexamination, whichever occurs first.

For these families, the threshold amount is phased-in as follows:

- The family is eligible for a deduction totaling the sum of expenses that exceeds 5 percent of annual income for the first 12 months.
- At the conclusion of 12 months, the family is eligible for a deduction totaling the sum of their expenses that exceed 7.5 percent of annual income for another 12 months.
- At the conclusion of 24 months, the standard threshold amount of 10 percent would be used, unless the family qualifies for relief under the general hardship relief category.
  - When an eligible family's phased-in relief begins at an interim reexamination, the PHA will need to process another transaction one year later to move the family along to the next phase. The transaction can be either an interim reexamination if triggered, or a non-interim reexamination transaction.

Prior to the end of the 24-month period, the family may request a hardship exemption under the second category as described below. If the family is found eligible under the second category, the hardship exemption under the first category ends, and the family's hardship is administered in accordance with the requirements listed below. Once a family requests general relief, the family may no longer receive phased-in relief.

PHAs must track the 24-month phase-period for each eligible family, even if a family's expenses go below the appropriate phase-in percentage, during the first or second 12-month phase-in period. The phase-in must continue for families who move to another public housing unit at the same PHA. When the family is treated as a new admission under a different property/program (e.g., the family moves from public housing to the HCV program), unless the PHA has a written policy to continue the phased-in relief upon admission, the family's expense deduction will be calculated using the 10-percent threshold unless request for general relief is approved by the PHA. When a family moves with continued assistance or ports to a new PHA, the family must continue to receive the phased-in relief. The family must receive the remaining calendar months of the percentage phase-in. The PHA must use the existing phase-in documentation to determine the remaining calendar months and the percentage phase-in.

#### PHA Policy

The PHA will not continue the phased-in relief for families who move from public housing to HCV. These families will be treated as new admissions and the sum of expenses that exceeds 10 percent of annual income will be used to calculate their adjusted income.

#### **General Relief**

The second category is for families that can demonstrate:

- Their health and medical and/or disability assistance expenses increased (other than the transition to the higher threshold); or
- The family's financial hardship is a result of a change in circumstances (as defined in PHA policy) that would not otherwise trigger an interim reexamination.

The family may request a hardship exemption under the second category regardless of whether the family previously received the health and medical and/or disability assistance deductions or are currently or were previously receiving relief under the phased-in relief category above. HUD requires that PHAs develop policies defining what constitutes a hardship for purposes of this exemption.

The PHA must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. PHAs must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

#### PHA Policy

To qualify for a hardship exemption, a family must submit a request in writing. The request must show that the family's health and medical and/or disability assistance expenses have increased (other than the transition to the higher threshold) and that the family's financial hardship is a result of a change in circumstances. The PHA defines a change in circumstances as a decrease in income or increase in other expenses that has resulted in the family's financial hardship but does not, on its own, trigger an interim reexam in accordance with PHA policies.

Examples of circumstances constituting a financial hardship may include the following situations:

The family is awaiting an eligibility determination for a federal, state, or local assistance program, such as a determination for unemployment compensation or disability benefits;

The family's income decreased because of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster; or

Other circumstances as determined by the PHA.

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, the PHA will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

The PHA must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions. The notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)].

#### PHA Policy

The PHA will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

If the PHA denies the hardship exemption request, the PHA notice will also state that if the family does not agree with the PHA determination, the family may request a hearing.

If the family qualifies for an exemption, the PHA will include the date the hardship exemption will begin and the date it will expire as well as information on how to request a 90-day extension based on family circumstances.

If the family qualifies, the family will receive a deduction for the sum of eligible expenses that exceed five percent of annual income.

The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever is earlier. However, the PHA may, at its discretion, extend the relief for one or more additional 90-day periods while the family's hardship condition continues. PHAs are not limited to a maximum number of 90-day extensions.

PHAs must establish written policies regarding the types of circumstances that will allow a family to qualify for a financial hardship and when such deductions may be eligible for additional 90-day extensions. PHAs must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

#### PHA Policy

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The PHA will extend relief for an additional 90-days if the family demonstrates to the PHA's satisfaction that the family continues to qualify for the hardship exemption based on circumstances described above. The PHA will require updated verification based on the family's current circumstances. Additional extension(s) may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, the PHA may terminate the hardship exemption if the PHA determines that the family no longer qualifies for the exemption.

#### Child Care Expense Hardship Exemption [24 CFR 5.611(d) and Notice PIH 2023-27]

A family whose eligibility for the child care expense deduction is ending may request a financial hardship exemption to continue receiving the deduction. If the family demonstrates to the PHA's satisfaction that the family is unable to pay their rent because of the loss of the child care expense deduction, and that the child care expense is still necessary even though the family member is not working, looking for work, or seeking to further their education, the PHA must recalculate the family's adjusted income and continue the child care deduction.

The PHA must develop a policy to define what constitutes a hardship, which includes the family's inability to pay rent. The PHA must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. PHAs must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.



#### PHA Policy

For a family to qualify, they must demonstrate that their inability to pay rent would be as a result of the loss of this deduction. The PHA defines this hardship as a potential decrease in income or increase in other expenses that would result from the loss of the child care expense and such loss would impact the family's ability to pay their rent.

Some factors to consider when determining if the family is unable to pay rent may include determining that the rent, utility payment, and applicable expenses (child care expenses or health and medical expenses) are more than 40 percent of the family's adjusted income, or verifying whether the family has experienced unanticipated expenses, such as large medical bills, that have affected their ability to pay their rent.

The family must also demonstrate that the child care expense is still necessary even though the family member is no longer employed or furthering their education. The PHA will consider qualification under this criterion on a case-by case basis (for example, if the family member who was employed has left their job in order to provide uncompensated care to an elderly friend or family member who is severely ill and lives across town).

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, the PHA will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

The PHA must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions.

If the PHA denies the request, the notice must specifically state the reason for the denial. PHAs must provide families 30 days' notice of any increase in rent.

If the PHA approves the request, the notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)]. The notice must also state the requirement for the family to report to the PHA if the circumstances that made the family eligible for relief are no longer applicable and that the family's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption [Notice PIH 2023-27].

#### PHA Policy

The PHA will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

If the PHA denies the hardship exemption request, the PHA notice will also state that if the family does not agree with the PHA determination, the family may request an informal grievance hearing.

If the family qualifies for an exemption, the PHA will include all required information listed above as well as information on how to request a 90-day extension based on family circumstances.

If the family qualifies, the hardship exemption and the resulting alternative adjusted income calculation must remain in place for a period of up to 90 days.

The PHA may, at its discretion, extend the hardship exemptions for additional 90-day periods based on family circumstances and as stated in PHA policies. PHAs are not limited to a maximum number of 90-day extensions. PHAs must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

PHAs must promptly notify families in writing if they are denied either an initial hardship exemption or an additional 90-day extension of the exemption. If the PHA denies the request, the notice must specifically state the reason for the denial.

PHAs must notify the family if the hardship exemption is no longer necessary and the hardship exemption will be terminated because the circumstances that made the family eligible for the exemption are no longer applicable. The notice must state the termination date and provide 30 days' notice of rent increase, if applicable.

#### PHA Policy

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The PHA will extend relief for an additional 90-days if the family demonstrates to the PHA's satisfaction that the family continues to qualify for the hardship exemption. The PHA will require updated verification based on the family's current circumstances. Additional extension may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, the PHA may terminate the hardship exemption if the PHA determines that the family no longer qualifies for the exemption.

#### **6-III.H. PERMISSIVE DEDUCTIONS [24 CFR 5.611(b)(1)(ii)]**

The PHA may adopt additional permissive deductions from annual income if they establish a policy in the administrative plan. Permissive deductions are additional, optional deductions that may be applied to annual income. As with mandatory deductions, permissive deductions must be based on need or family circumstance and deductions must be designed to encourage self-sufficiency or other economic purpose. If the PHA offers permissive deductions, they must be granted to all families that qualify for them and should complement existing income exclusions

and deductions [PH Occ GB, p. 128]. Permissive deductions may be used to incentivize or encourage self-sufficiency and economic mobility.

A PHA that adopts such deductions must have sufficient funding to cover the increased housing assistance payment cost of the deductions. A PHA will not be eligible for an increase in HCV renewal funding for subsidy costs resulting from such deductions.

PHA Policy

The PHA has opted not to use permissive deductions.

#### **PART IV: CALCULATING FAMILY SHARE AND PHA SUBSIDY**

##### **6-IV.A. OVERVIEW OF RENT AND SUBSIDY CALCULATIONS**

###### **TTP Formula [24 CFR 5.628]**

HUD regulations specify the formula for calculating the total tenant payment (TTP) for an assisted family. TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- The welfare rent (in as-paid states only)
- A minimum rent between \$0 and \$50 that is established by the PHA

The PHA has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6-IV.B.

The amount that a family pays for rent and utilities (the family share) will never be less than the family's TTP but may be greater than the TTP depending on the rent charged for the unit the family selects.

###### **Welfare Rent [24 CFR 5.628]**

PHA Policy

Welfare rent does not apply in this locality.

###### **Minimum Rent [24 CFR 5.630]**

PHA Policy

The minimum rent for this locality is \$50.

###### **Family Share [24 CFR 982.305(a)(5)]**

If a family chooses a unit with a gross rent (rent to owner plus an allowance for tenant-paid utilities) that exceeds the PHA's applicable payment standard: (1) the family will pay more than the TTP, and (2) at initial occupancy the PHA may not approve the tenancy if it would require the family share to exceed 40 percent of the family's monthly adjusted income. The income used for this determination must have been verified no earlier than 60 days before the family's voucher was issued. (For a discussion of the application of payment standards, see section 6-IV.C.)

#### **PHA Subsidy [24 CFR 982.505(b)]**

The PHA will pay a monthly housing assistance payment (HAP) for a family that is equal to the lower of (1) the applicable payment standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP. (For a discussion of the application of payment standards, see section 6-IV.C.)

#### **Utility Reimbursement [24 CFR 982.514(b); 982.514(c)]**

When the PHA subsidy for a family exceeds the rent to owner, the family is due a utility reimbursement. HUD permits the PHA to pay the reimbursement to the family or directly to the utility provider.

##### PHA Policy

The PHA will make utility reimbursements monthly to the electric utility company(s) of their choice, and the family will be notified in writing.

The PHA may make all utility reimbursement payments to qualifying families on a monthly basis or may make quarterly payments when the monthly reimbursement amount is \$15.00 or less. Reimbursements must be made once per calendar-year quarter and must be prorated if the family leaves the program in advance of its next quarterly reimbursement. The PHA must also adopt hardship policies for families for whom receiving quarterly reimbursement would create a financial hardship.

##### PHA Policy

The PHA will issue all utility reimbursements monthly.

#### **6-IV.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]**

##### **Overview**

If the PHA establishes a minimum rent greater than zero, the PHA must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the PHA determines that a hardship exists, the family share is the highest of the remaining components of the family's calculated TTP.

##### **HUD-Defined Financial Hardship**

Financial hardship includes the following situations:

- (1) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

##### **PHA Policy**

A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.

For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following: (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

- (2) The family would be evicted because it is unable to pay the minimum rent.

##### **PHA Policy**

For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent to the owner or tenant-paid utilities.

- (3) Family income has decreased because of changed family circumstances, including the loss of employment.

(4) A death has occurred in the family.

PHA Policy

In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).

(5) The family has experienced other circumstances determined by the PHA.

PHA Policy

The PHA has not established any additional hardship criteria.

**Implementation of Hardship Exemption**

**Determination of Hardship**

When a family requests a financial hardship exemption, the PHA must suspend the minimum rent requirement beginning the first of the month following the family's request.

The PHA then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

PHA Policy

The PHA defines temporary hardship as a hardship expected to last 90 days or less. Long-term hardship is defined as a hardship expected to last more than 90 days.

When the minimum rent is suspended, the family share reverts to the highest of the remaining components of the calculated TTP. The example below demonstrates the effect of the minimum rent exemption.

<b><u>Example: Impact of Minimum Rent Exemption</u></b>	
<u>Assume the PHA has established a minimum rent of \$50.</u>	
<b><u>Family Share – No Hardship</u></b>	<b><u>Family Share – With Hardship</u></b>
<u>\$0 30% of monthly adjusted income</u>	<u>\$0 30% of monthly adjusted income</u>
<u>\$15 10% of monthly gross income</u>	<u>\$15 10% of monthly gross income</u>
<u>N/A Welfare rent</u>	<u>N/A Welfare rent</u>
<u>\$50 Minimum rent</u>	<u>\$50 Minimum rent</u>
<u>Minimum rent applies.</u>	<u>Hardship exemption granted.</u>

<u>TTP = \$50</u>	<u>TTP = \$15</u>
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PHA Policy

To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay the minimum rent.

The PHA will make the determination of hardship within 30 calendar days.

**No Financial Hardship**

If the PHA determines there is no financial hardship, the PHA will reinstate the minimum rent and require the family to repay the amounts suspended.

PHA Policy

The PHA will require the family to repay the suspended amount within 30 calendar days of the PHA's notice that a hardship exemption has not been granted.

**Temporary Hardship**

If the PHA determines that a qualifying financial hardship is temporary, the PHA must suspend the minimum rent for the 90-day period beginning the first of the month following the date of the family's request for a hardship exemption.

At the end of the 90-day suspension period, the family must resume payment of the minimum rent and must repay the PHA the amounts suspended. HUD requires the PHA to offer a reasonable repayment agreement, on terms and conditions established by the PHA. The PHA also may determine that circumstances have changed and the hardship is now a long-term hardship.

PHA Policy

The PHA will enter into a repayment agreement in accordance with the procedures found in Chapter 16 of this plan.

**Long-Term Hardship**

If the PHA determines that the financial hardship is long-term, the PHA must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

PHA Policy

The hardship period ends when any of the following circumstances apply:

- (1) At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.
- (2) For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a \$60/month child support payment, the hardship will continue to exist until the family receives at least \$60/month in income from another source or once again begins to receive the child support.
- (3) For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

#### **6-IV.C. APPLYING PAYMENT STANDARDS [24 CFR 982.505; 982.503(b)]**

##### **Overview**

The PHA's schedule of payment standards is used to calculate housing assistance payments for HCV families. This section covers the application of the PHA's payment standards. The establishment and revision of the PHA's payment standard schedule are covered in Chapter 16.

Payment standard is defined as "the maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family)" [24 CFR 982.4(b)].

The payment standard for a family is the lower of (1) the payment standard for the family unit size, which is defined as the appropriate number of bedrooms for the family under the PHA's subsidy standards [24 CFR 982.4(b)], or (2) the payment standard for the size of the dwelling unit rented by the family.

If the PHA has established an exception payment standard for a designated part of a zip code area or FMR area and a family's unit is located in the exception area, the PHA must use the appropriate payment standard for the exception area.

The PHA is required to pay a monthly housing assistance payment (HAP) for a family that is the lower of (1) the payment standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP.

If during the term of the HAP contract for a family's unit, the owner lowers the rent, the PHA will recalculate the HAP using the lower of the initial payment standard or the gross rent for the unit [HCV GB, p. 7-8].



### Changes in Payment Standards

When the PHA revises its payment standards during the term of the HAP contract for a family's unit, it will apply the new payment standards in accordance with HUD regulations.

#### Decreases

If a PHA changes its payment standard schedule, resulting in a lower payment standard amount, during the term of a HAP contract, the PHA is not required to reduce the payment standard used to calculate subsidy for families under HAP contract as long as the HAP contract remains in effect [FR Notice 11/16/16].

However, if the PHA does choose to reduce the payment standard for families currently under HAP contract, the initial reduction to the payment standard may not be applied any earlier than the effective date of the family's second regular reexamination following the effective date of the decrease in the payment standard amount. At that point, the PHA may either reduce the payment standard to the current amount in effect on the PHA's payment standard schedule, or may reduce the payment standard to another amount that is higher than the normally applicable amount on the schedule. The PHA may also establish different policies for designated areas within their jurisdiction (e.g., different zip code areas).

In any case, the PHA must provide the family with at least 12 months' notice that the payment standard is being reduced before the effective date of the change. The PHA's policy on decreases in the payment standard during the term of the HAP contract apply to all families under HAP contract at the time of the effective date of the decrease in the payment standard within the designated area.

#### PHA Policy

If a PHA changes its payment standard schedule resulting in a lower payment standard amount, during the term of a HAP contract, the PHA will not reduce the payment standard used to calculate subsidy for families under HAP contract as long as the HAP contract remains in effect.

The PHA will not establish different policies for decreases in the payment standard for designated areas within their jurisdiction.

#### Increases

If the payment standard is increased during the term of the HAP contract, the increased payment standard will be used to calculate the monthly housing assistance payment for the family beginning on the effective date of the family's first regular reexamination on or after the effective date of the increase in the payment standard.

Families requiring or requesting interim reexaminations will not have their HAP payments calculated using the higher payment standard until their next annual reexamination [HCV GB, p. 7-8].

### **Changes in Family Unit Size (Voucher Size)**

Irrespective of any increase or decrease in the payment standard, if the family unit size increases or decreases during the HAP contract term, the new family unit size must be used to determine the payment standard for the family beginning at the family's first regular reexamination following the change in family unit size.

### **Reasonable Accommodation**

If a family requires a higher payment standard as a reasonable accommodation for a family member who is a person with disabilities, the PHA is allowed to establish a higher payment standard for the family of not more than 120 percent of the published FMR.

## **6-IV.D. APPLYING UTILITY ALLOWANCES [24 CFR 982.517]**

### **Overview**

A PHA-established utility allowance schedule is used in determining family share and PHA subsidy. A family's utility allowance is determined by the size of dwelling unit leased by a family or the voucher unit size for which the family qualifies using PHA subsidy standards, whichever is the lowest of the two. See Chapter 5 for information on the PHA's subsidy standards.

For policies on establishing and updating utility allowances, see Chapter 16.

### **Reasonable Accommodation and Individual Relief**

On request from a family that includes a person with disabilities, the PHA must 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 and usable by the family member with a disability [24 CFR 982.517(e)]. (See Chapter 2 for policies regarding the request and approval of reasonable accommodations.)

Further, the PHA may grant requests for individual relief from charges in excess of the utility allowance on reasonable grounds, such as special factors not within control of the resident, as the PHA deems appropriate. The family must request the higher allowance and provide the PHA an explanation of the need for individual relief and an explanation about the amount of additional allowance required [see HCV GB, p. 18-8].

PHAs should develop criteria for granting individual relief, notify residents about the availability of individual relief, and notify participants about the availability of individual relief programs (sometimes referred to as "Medical Baseline discounts") offered by the local utility company.

### PHA Policy

The family must request the higher allowance and provide the PHA with information about the amount of additional allowance required.

The PHA will consider the following criteria as valid reasons for granting individual relief:

The family's consumption was mistakenly portrayed as excessive due to defects in the meter or errors in the meter reading.

The excessive consumption is caused by a characteristic of the unit or owner-supplied equipment that is beyond the family's control, such as a particularly inefficient refrigerator or inadequate insulation. The allowance should be adjusted to reflect the higher consumption needs associated with the unit until the situation is remedied. The resident should be granted individual relief until the allowance is adjusted.

The excessive consumption is due to special needs of the family that are beyond their control, such as the need for specialized equipment in the case of a family member who is ill, elderly, or who has a disability.

In determining the amount of the reasonable accommodation or individual relief, the PHA will allow a reasonable measure of additional usage as necessary. To arrive at the amount of additional utility cost of specific equipment, the family may provide information from the manufacturer of the equipment, or the family or PHA may conduct an internet search for an estimate of usage or additional monthly cost.

Information on reasonable accommodation and individual relief for charges in excess of the utility allowance will be provided to all families at admission as part of the information on payment standards and utility allowances in the briefing packet. The PHA will also provide information on utility relief programs or medical discounts (sometimes referred to as "Medical Baseline discounts") that may be available through local utility providers.

At its discretion, the PHA may reevaluate the need for the increased utility allowance at any regular reexamination.

If the excessive consumption is caused by a characteristic of the unit or PHA-supplied equipment that is beyond the family's control, such as a particularly inefficient refrigerator or inadequate insulation, the individual relief to the resident will cease when the situation is remedied.

### Utility Allowance Revisions

At reexamination, the PHA must use the current utility allowance schedule [HCV GB, p. 18-8].

### PHA Policy

Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination that is effective after the allowance is adopted.

#### **6-IV.E. PRORATED ASSISTANCE FOR MIXED FAMILIES [24 CFR 5.520]**

HUD regulations prohibit assistance to ineligible family members. A *mixed family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. The PHA must prorate the assistance provided to a mixed family. The PHA will first determine assistance as if all family members were eligible and then prorate the assistance based upon the percentage of family members that actually are eligible. For example, if the PHA subsidy for a family is calculated at \$500 and two of four family members are ineligible, the PHA subsidy would be reduced to \$250.

## **EXHIBIT 6-1: ANNUAL INCOME FULL DEFINITION**

### **24 CFR 5.609**

(a) Annual income includes, with respect to the family:

(1) All amounts, not specifically excluded in paragraph (b) of this section, 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

(2) 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.

(b) Annual income does not include the following:

(1) Any imputed return on an asset when net family assets total \$50,000 or less (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and no actual income from the net family assets can be determined.

(2) The following types of trust distributions:

(i) For an irrevocable trust or a revocable trust outside the control of the family or household excluded from the definition of net family assets under § 5.603(b):

(A) Distributions of the principal or corpus of the trust; and

(B) Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.

(ii) 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.

(3) Earned income of children under the 18 years of age.

(4) Payments received for the care of foster children or foster adults, or State or Tribal kinship or guardianship care payments.

(5) Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation.

(6) 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.

(7) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled.

(8) Income of a live-in aide, foster child, or foster adult as defined in §§ 5.403 and 5.603, respectively.

(9)

(i) Any assistance that section 479B of the Higher Education Act of 1965, as amended (20 U.S.C. 1087uu), requires be excluded from a family's income; and

(ii) Student financial assistance for tuition, books, and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and other fees required and charged to a student by an institution of higher education (as defined under Section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) 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.

(A) Student financial assistance, for purposes of this paragraph (9)(ii), means a grant or scholarship received from—

1) The Federal government;

(2) A State, 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.

(B) Student financial assistance, for purposes of this paragraph (9)(ii), does not include—

(1) Any assistance that is excluded pursuant to paragraph (b)(9)(i) of this section;

(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 pursuant to paragraph (b)(9)(i) of this section);

3) Gifts, including gifts from family or friends; or

(4) Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under this paragraph or paragraph (b)(9)(i), exceeds the actual covered costs of the student. The actual covered costs of the student are the actual costs of tuition, books and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, or other fees required and charged to a student by the education institution, 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. This calculation is described further in paragraph (b)(9)(ii) of this section.

(C) Student financial assistance, for purposes of this paragraph (b)(9)(ii) must be:

(1) Expressly for tuition, books, room and board, or other fees required and charged to a student by the education institution;

(2) Expressly to assist a student with the costs of higher education; or

(3) 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.

(D) Student financial assistance, for purposes of this paragraph (b)(9)(ii), may be paid directly to the student or to the educational institution on the student's behalf. Student financial assistance paid to the student must be verified by the responsible entity as student financial assistance consistent with this paragraph (b)(9)(ii).

(E) When the student is also receiving assistance excluded under paragraph (b)(9)(i) of this section, the amount of student financial assistance under this paragraph (b)(9)(ii) is determined as follows:

(1) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is equal to or exceeds the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, none of the assistance described in this paragraph (b)(9)(ii) of this section is considered student financial assistance excluded from income under this paragraph (b)(9)(ii)(E).

(2) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is less than the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, the amount of assistance described in paragraph (b)(9)(ii) of this section that is considered student financial assistance excluded under this paragraph is the lower of:

(i) the total amount of student financial assistance received under this paragraph (b)(9)(ii) of this section, or

(ii) the amount by which the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section exceeds the assistance excluded under paragraph (b)(9)(i) of this section.

(10) Income and distributions from any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and income earned by government contributions to, and distributions from, "baby bond" accounts created, authorized, or funded by Federal, State, or local government.

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

(12)

(i) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

(ii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (e.g., special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;

(iii) Amounts received under a resident service stipend not to exceed \$200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development.

(iv) 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. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the employment training program unless those amounts are excluded under paragraph (b)(9)(i) of this section.

(13) 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.

(14) Earned income of dependent fulltime students in excess of the amount of the deduction for a dependent in § 5.611.

(15) Adoption assistance payments for a child in excess of the amount of the deduction for a dependent in § 5.611.

(16) Deferred periodic amounts from Supplemental Security Income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts.

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

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

(19) Payments made by or authorized by a State Medicaid agency (including through a managed care entity) or other State or Federal agency to a family to enable a family member who has a disability to reside in the family's assisted unit. 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.

(20) 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).

(21) Payments received by Tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other Federal law.

(22) Amounts that HUD is required by Federal statute to exclude 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 paragraph (b) of this section apply. HUD will publish a notice in the Federal Register to identify the benefits that qualify for this exclusion. Updates will be published when necessary.

(23) 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) Nonrecurring income, which is income that will not be repeated in the coming year based on information provided by the family. Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under this paragraph, even if the source, date, or amount of the income varies. Nonrecurring income includes:

(i) 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.

(ii) Direct Federal or State payments intended for economic stimulus or recovery.

(iii) Amounts directly received by the family as a result of State refundable tax credits or State tax refunds at the time they are received.



(iv) Amounts directly received by the family as a result of Federal refundable tax credits and Federal tax refunds at the time they are received.

(v) Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries).

(vi) Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization.

(vii) Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings.

(25) Civil rights settlements or judgments, including settlements or judgments for back pay.

(26) Income received from any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; except that any distribution of periodic payments from such

accounts shall be income at the time they are received by the family.

(27) Income earned on amounts placed in a family's Family Self Sufficiency Account.

(28) 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:

(i) Net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations; and

(ii) 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.

## **EXHIBIT 6-2: TREATMENT OF FAMILY ASSETS**

### **24 CFR 5.603(b) Net Family Assets**

(1) 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.

(2) In determining net family assets, PHAs or owners, as applicable, must include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

(3) Excluded from the calculation of net family assets are: (i) The value of necessary items of personal property; (ii) The combined value of all nonnecessary items of personal property if the combined total value does not exceed \$50,000 (which amount will be adjusted by HUD in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers); (iii) The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement

plans, and retirement plans for self-employed individuals; (iv) 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; (v) 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 family member being a person with a disability; (vi) The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986, the value of any qualified tuition program under section 529 of such Code, the value of any Achieving a Better Life Experience (ABLE) account authorized under Section 529A of such Code, and the value of any "baby bond" account created, authorized, or funded by Federal, State, or local government. (vii) Interests in Indian trust land; (viii) Equity in a manufactured home where the family receives assistance under 24 CFR part 982; (ix) Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982; (x) Family Self-Sufficiency Accounts; and (xi) Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family.

(4) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the trust fund is not a family asset and the value of the trust is not included in the calculation of net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household.

## **EXHIBIT 6-3: THE EFFECT OF WELFARE BENEFIT REDUCTION**

### **24 CFR 5.615**

#### **Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.**

(a) Applicability. This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

(b) Definitions. The following definitions apply for purposes of this section:

Covered families. Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare 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 for such assistance.

Economic self-sufficiency program. See definition at Sec. 5.603.

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.

Specified welfare benefit reduction.

(1) 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 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.

(2) "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency;

(i) at expiration of a lifetime or other time limit on the payment of welfare benefits;

(ii) 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

(iii) because a family member has not complied with other welfare agency requirements.

(c) Imputed welfare income.

(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to the PHA by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.

(2) At the request of the PHA, the welfare agency will inform the PHA in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform the PHA of any subsequent changes in the term or amount of such specified welfare benefit reduction. The PHA will use this information to determine the amount of imputed welfare income for a family.

(3) A family's annual income includes imputed welfare income in family annual income, as determined at the PHA's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to the PHA by the welfare agency).

(4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed

(5) The PHA may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

(d) Review of PHA decision.

(1) Public housing. If a public housing tenant claims that the PHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the tenant written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. The PHA notice shall also state that if the tenant does not agree with the PHA determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review the PHA determination. The tenant is not required to pay an escrow deposit pursuant to Sec. 966.55(e) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on the PHA determination.

(2) Section 8 participant. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the PHA determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the family written notice of such denial, with a brief explanation of the

basis for the PHA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the PHA determination, the family may request an informal hearing on the determination under the PHA hearing procedure.

(e) PHA relation with welfare agency.

(1) The PHA must ask welfare agencies to inform the PHA of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the PHA written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(2) The PHA is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency, and specified in the notice by the welfare agency to the PHA. However, the PHA is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

(3) Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The PHA shall be entitled to rely on the welfare agency notice to the PHA of the welfare agency's determination of a specified welfare benefits reduction.

## VERIFICATION

[24 CFR §982.516, 24 CFR §982.551, 24 CFR §5.230, ~~Notice PIH 2023-27-PIH Notice 2018-18~~]

### INTRODUCTION~~Introduction~~

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The PHA must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain the written authorization from the family in order to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. The PHA must not pass on the cost of verification to the family.

The PHA ~~must~~will follow the verification guidance provided by HUD in ~~PIH-Notice PIH 2023-27-2018-18~~ and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary PHA policies.

~~Part I describes the general verification process. Part II provides more detailed requirements related to family information. Part III provides information on income and assets, and Part IV covers mandatory deductions.~~

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~~**Part I. General Verification Process.** Part I describes the general verification process. The family must supply any information that the PHA or HUD determines is necessary to the administration of the program and must consent to PHA verification of that information [24 CFR §982.551].~~

~~**Part II. Family Information.** Part II provides more detailed requirements related to family information that must be provided to the PHA.~~

~~**Part III. Income and Assets.** Part III provides PHA policies that supplement the general verification procedures specified in Part I of this chapter. Any assets and income reported by the family must be verified.~~

~~**Part IV. Verifying Mandatory Deductions.** Part IV details income deductions that are required in federal program regulation(s).~~

Verification policies, rules, and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies of the PHA.

## PART I. GENERAL VERIFICATION REQUIREMENTS

### 7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION

[24 CFR §982.516; ~~24 CFR §982.551~~; ~~24 CFR §5.230~~; AND NOTICE PIH 2023-27]

~~The family must supply any information that the PHA or HUD determines is necessary to the administration of the program and must consent to PHA verification of that information [24 CFR §982.551].~~

#### Consent Forms

The family must supply any information that the PHA or HUD determines is necessary to the administration of the program and must consent to PHA verification of that information [24 CFR §982.551]. All adult family members must sign consent forms as needed to collect information relevant to the family's eligibility and level of assistance. While PHAs must use form HUD-9886, this form does not release all the information necessary to the administration of the program. The PHA must also develop its own release forms to cover all other necessary information.

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~~It is required that all adult applicants and participants sign form HUD-9886, Authorization for Release of Information.~~

~~The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the PHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.~~

#### Form HUD-9886 [24 CFR 5.230(b)(1), b(2), (c)(4), and (c)(5)]; Notice PIH 2023-27

All adult applicants and participants sign form HUD-9886, Authorization for Release of Information. All adult family members (and the head and spouse/cohead, regardless of age) are required to sign the Form HUD-9886 at admission. Participants, prior to January 1, 2024, signed and submitted Form HUD-9886 at each annual reexamination. HOTMA eliminated this requirement and instead required that the Form HUD-9886 be signed only once. On or after January 1, 2024 (regardless of the PHA's HOTMA compliance date), current program participants must sign and submit a new Form HUD-9886 at their next interim or annual reexamination. This form will only be signed once. Another Form HUD-9886 will not be submitted to the PHA except under the following circumstances:

- When any person 18 years or older becomes a member of the family;
- When a current member of the family turns 18; or
- As required by HUD or the PHA in administrative instructions.

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The PHA has the discretion to establish policies around when family members must sign consent forms when they turn 18. PHAs must establish these policies stating when family members will be required to sign consent forms at intervals other than at reexamination.

#### PHA Policy

Family members turning 18 years of age between annual recertifications will be notified in writing that they are required to sign the required Consent to the Release of Information Form HUD-9886 at the family's next annual or interim reexamination, whichever is earlier.

The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the PHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA).

The PHA may 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 [24 CFR 5.230(c)(4)].

The executed form will remain effective until the family is denied assistance, assistance is terminated, or the family provides written notification to the PHA to revoke consent.

#### **Penalties for Failing to Consent [24 CFR §5.232]**

If any family member who is required to sign a consent form fails to do so, the PHA ~~must~~<sup>will</sup> deny admission to applicants and terminate assistance of participants. The family may request an informal review (applicants) or informal hearing (participants) in accordance with PHA procedures.

However, this does not apply if the applicant, participant, or any member of their family, revokes their consent with respect to the ability of the PHA to access financial records from financial institutions, unless the PHA establishes a policy that revocation of consent to access financial records will result in denial or termination of assistance or admission [24 CFR 5.232(c)]. PHAs may not process interim or annual reexaminations of income without the family's executed consent forms.

#### PHA Policy

The PHA has established a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance in accordance with PHA policy.

In order for a family to revoke their consent, the family must provide written notice to the PHA.

Within 10 business days of the date the family provides written notice, the PHA will send the family a notice acknowledging receipt of the request and explaining that revocation of consent will result in denial or termination of assistance, as applicable. At the same time, the PHA will notify their local HUD office.



**7-I.B. USE OF OTHER PROGRAMS' INCOME DETERMINATIONS**  
**[24 CFR 5.609(c)(3) and Notice PIH 2023-27]**

PHAs may, but are not required to, determine a family's annual income, including income from assets, prior to the application of any deductions, based on income determinations made within the previous 12-month period, using income determinations from means-tested federal public assistance programs. PHAs are not required to accept or use determinations of income from other federal means-tested forms of assistance. If the PHA adopts a policy to accept this type of verification, the PHA must establish in policy when they will accept Safe Harbor income determinations and from which programs. PHAs must also create policies that outline the course of action when families present multiple verifications from the same or different acceptable Safe Harbor programs.

Means-tested federal public assistance programs include:

- Temporary Assistance for Needy Families (TANF) (42 U.S.C. 601, et seq.);
- Medicaid (42 U.S.C. 1396 et seq.);
- Supplemental Nutrition Assistance Program (SNAP) (42 U.S.C. 2011 et seq.);
- Earned Income Tax Credit (EITC) (26 U.S.C. 32);
- Low-Income Housing Credit (LIHTC) program (26 U.S.C. 42);
- Special Supplemental Nutrition Program for Woman, Infants, and Children (WIC) (42 U.S.C. 1786);
- Supplemental Security Income (SSI) (42 U.S.C. 1381 et seq.);
- Other programs administered by the HUD Secretary;
- Other means-tested forms of federal public assistance for which HUD has established a memorandum of understanding; and
- 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*.

If the PHA elects to use the annual income determination from one of the above-listed forms of means-tested federal public assistance, then they must obtain the income information by means of a third-party verification. The third-party verification must state the family size, must be for the entire family, and must state the amount of the family's annual income. The annual income need not be broken down by family member or income type. Annual income includes income earned from assets, therefore when using Safe Harbor to verify a family's income, PHAs will neither further inquire about a family's net family assets, nor about the income earned from those assets, except with respect to whether or not the family owns assets that exceed the asset limitation in 24 CFR 5.618. The Safe Harbor documentation will be considered acceptable if any of the following dates fall into the 12-month period prior to the receipt of the documentation by the PHA:

- Income determination effective date;
- Program administrator's signature date;
- Family's signature date;
- Report effective date; or
- Other report-specific dates that verify the income determination date.

The only information that PHAs are permitted to use to determine income under this method is the total income determination made by the federal means-tested program administrator. Other federal programs may provide additional information about income inclusions and exclusions in their award letters; however, these determinations and any other information must not be considered by the PHA. PHAs are not permitted to mix and match Safe Harbor income determinations and other income verifications.

If the PHA is unable to obtain Safe Harbor documentation or if the family disputes the other program's income determination, the PHA must calculate the family's annual income using traditional methods as outlined in Notice PIH 2023-27 and this chapter.

If the PHA uses a Safe Harbor determination to determine the family's income, the family is obligated to report changes in income that meet the PHA's reporting requirement and occur after the effective date of the transaction.

The amounts of unreimbursed reasonable attendant care expenses and child-care expenses deducted from a family's annual income, except for when a family is approved for a child-care expense hardship exemption, must still be capped by the amount earned by any family member who is enabled to work as a result of the expense. PHAs are therefore required to obtain third-party verification of the applicable employment income and cap the respective expense deductions accordingly.

#### PHA Policy

When available and applicable, the PHA will accept other programs' Safe Harbor determinations of income at annual reexamination to determine the family's total annual income. The PHA will still require third-party verification of all deductions such as the health and medical care expense or child care expense deductions. Further, if the family is eligible for and claims the disability assistance expense or child care expense deductions, where applicable, the PHA will obtain third-party verification of the amount of employment income of the individual(s) enabled to work in order to cap the respective expenses as required.

Prior to using any Safe Harbor determination from another program, the PHA will ask the family if they agree with the income amounts listed. If the family disputes the income amounts on the Safe Harbor determination, the PHA will obtain third-party verification of all sources of income and assets (as applicable).

The PHA will not accept other programs' determinations of income for any new admission or interim reexamination.

With the exception of income determinations made under the Low-Income Housing Tax Credit (LIHTC) program, the PHA will accept Safe Harbor determinations from any of the programs listed above.

In order to be acceptable, the income determination must:

Be dated within 12 months of the dates listed above;

State the family size

Be for the entire family (i.e., the family members listed in the documentation must match the family's composition in the assisted unit, except for household members); and

Must state the amount of the family's annual income.

The determination need not list each source of income individually. If the PHA does not receive any acceptable income determination documentation or is unable to obtain documentation, then the PHA will revert to third-party verification of income for the family.

When families present multiple verifications from the same or different acceptable Safe Harbor programs, the PHA will use the most recent income determination, unless the family presents acceptable evidence that the PHA should consider an alternative verification from a different Safe Harbor source.

When the PHA uses a Safe Harbor income determination from another program, and the family's income subsequently changes, the family is required to report the change to the PHA. Depending on when the change occurred, the change may or may not impact the PHA's calculation of the family's total annual income. Changes that occur between the time the PHA receives the Safe Harbor documentation and the effective date of the family's annual reexam will not be considered. If the family has a change in income that occurs after the annual reexam effective date, the PHA will conduct an interim reexam if the change meets the requirements for performing an interim reexamination as outlined in Chapter 11. In this case, the PHA will use third-party verification to verify the change.

**7.I.B. OVERVIEW OF VERIFICATION REQUIREMENTS**

**HUD's Verification Hierarchy [PHI Notice 2018-18]**

~~HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the PHA to use the most reliable form of verification that is available and to document the reasons when the PHA uses a lesser form of verification.~~

~~PHAs should begin with the highest level of verification techniques.~~

~~The following chart identifies the levels and techniques for verification:~~

Level	Verification Technique	Ranking
6	Upfront Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system (not available for income verifications of applicants.)	Highest (Mandatory)
5	Upfront Income Verification (UIV) using non HUD system	Highest (Optional)
4	Written Third Part Verification	High (Mandatory to supplement EIV reported income sources and when EIV has no data; Mandatory for non EIV reported income sources; Mandatory when tenant disputes EIV reported employment and income information <b>and</b> is

		unable to provide acceptable documentation to support dispute)
3	<b>Written Third Party Verification Form</b>	<b>Medium-Low</b> (Mandatory if written third party verification documents are not available or rejected by the PHA; <u>and</u> when the applicant or tenant is unable to provide acceptable documentation)
2	<b>Oral Third Party Verification</b>	<b>Low</b> (Mandatory if written third party verification is not available)
1	<b>Tenant Declaration</b>	<b>Low</b> (Use as a last resort when unable to obtain any type of third party verification)

**Note:** This verification hierarchy applies to income determinations for applicants and participants. However, EIV is not available for verifying income of applicants.

Each of the verification methods is discussed in subsequent sections below.

#### **Requirements for Acceptable Documents**

##### PHA Policy

Any documents used for verification must be the original (not photocopies) and generally must be dated within 60 days of the PHA request. The documents must not be damaged, altered or in any way illegible.

Print outs from Web pages are considered original documents.

The PHA staff member who views the original document must make a photocopy, annotate the copy with the name of the person who provided the document and the date the original was viewed, and sign the copy.

Any family self-certifications must be made in a format acceptable to the PHA and must be signed by the family member whose information or status is being verified.

If a waiver is in place, self-certification may be received without a notary public stamp and the originals will be viewed and notarized at a later date in line with current waivers.

#### **File Documentation**

The PHA must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that the PHA has followed all of the verification policies set forth in this plan. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

##### PHA Policy

The PHA will document, in the family file, the following:

- Reported family annual income
- Value of assets
- Expenses related to deductions from annual income
- Other factors influencing the adjusted income or income-based rent determination

When the PHA is unable to obtain third-party verification, the PHA will document in the family file the reason that third-party verification was not available [24 CFR §982.516(a)(2); PIH Notice 2018-18]]

#### **7-I.C. STREAMLINED INCOME DETERMINATIONS [24 CFR 960.257(c); Notice PIH 2023-27]**

HUD permits PHAs to streamline the income determination process for family members with fixed sources of income. While third-party verification of all income sources must be obtained during the intake process and every three years thereafter, in the intervening years, the PHA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or other inflationary adjustment factor. Streamlining policies are optional. The PHA may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the PHA must perform third-party verification of all income sources.

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Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

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Two streamlining options are available, depending upon the percentage of the family's income that is received from fixed sources.

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When 90 percent or more of a family's unadjusted income is from fixed sources, the PHA may apply the inflationary adjustment factor to the family's fixed-income sources, provided that the family certifies both that 90 percent or more of their unadjusted income is fixed and that their sources of fixed income have not changed from the previous year. Sources of non-fixed income are not required to be adjusted and must not be adjusted by a COLA, but PHAs may choose to adjust sources of non-fixed income based on third-party verification. PHAs have the discretion to either adjust the non-fixed income or carry over the calculation of non-fixed income from the first year to years two and three.

When less than 90 percent of a family's unadjusted income consists of fixed income, PHAs may apply a COLA to each of the family's sources of fixed income. PHAs must determine all other income using standard verification requirements as outlined in Notice PIH 2023-27.

#### PHA Policy

When the PHA does not use a Safe Harbor income determination from a federal assistance program to determine the family's annual income as outlined above, then PHA will use a streamlined income determinations where applicable.

If 90 percent or more of a family's unadjusted income is from fixed income sources:

The PHA will streamline the annual reexamination process by applying the verified inflationary adjustment factor to fixed-income sources.

The family will be required to sign a self-certification stating that 90 percent or more of their unadjusted income is fixed income and that their sources of fixed income have not changed from the previous year.

The PHA will document in the file how the determination that a source of income was fixed was made.

Third-party verification of non-fixed income will be obtained annually regardless of the percentage of family income received from fixed sources.

If the family's sources of fixed income have changed from the previous year, the PHA will obtain third-party verification of any new sources of fixed income.

When less than 90 percent 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.

All other income will be verified using third-party verification as outlined in Notice PIH 2023-27 and Chapter 7 of this policy.

In the following circumstances, regardless of the percentage of income received from fixed sources, the PHA will obtain third-party verification as outlined in Notice PIH 2023-27 and Chapter 7 of this policy:

Of all assets when net family assets exceed \$50,000;

Of all deductions and allowances from annual income;

If a family member with a fixed source of income is added;

If verification of the COLA or rate of interest is not available;

During the intake process and at least once every three years thereafter.

## **7-I.C. UP-FRONT INCOME VERIFICATION (UIV)**

Up-front income verification (UIV) refers to the PHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. UIV will be used to the extent that these systems are available to the PHA.

There may be legitimate differences between the information provided by the family and UIV generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until the PHA has independently verified the UIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of the PHA. See Chapter 6 for the PHA's policy on the use of UIV/EIV to project annual income.

### **Upfront Income Verification Using HUD's Enterprise Income Verification (EIV) System (Mandatory)**

PHAs must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during mandatory annual reexaminations of family composition and income in accordance with 24 CFR 5.236, HOTMA, and administrative guidance issued by HUD. EIV is not required for interim reexaminations, unless needed to provide clarification or used in the process of calculating the 10 percent threshold. The EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families. The following policies apply to the use of HUD's EIV system:

Effective Jan. 1, 2024, PHAs must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during mandatory annual reexaminations of family composition and income in accordance with 24 CFR 5.236, HOTMA, and administrative guidance issued by HUD. EIV is not required for interim reexaminations, unless needed to provide clarification or used in the process of calculating the 10 percent threshold. The EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families. The following policies apply to the use of HUD's EIV system:

### **EIV Income and IVT Reports**

The data shown on income and income validation tool (IVT) reports is updated quarterly. Data may be between 3 and 6 months old at the time reports are generated.

#### **PHA Policy**

The PHA will obtain EIV and IVT income reports for annual reexaminations on a monthly basis. Reports are generated as part of the regular reexamination process.



Income and IVT reports will be compared to family-provided information as part of the annual reexamination process. Income reports may be used in the calculation of annual income, as described in Chapter 6 I.C. Income reports may also be used to meet the regulatory requirement for third-party verification, as described above.

Policies for resolving discrepancies between income reports and family-provided information will be resolved as described in Chapter 6 I.C. and in this chapter.

Income and IVT reports will be used in interim reexaminations to identify any discrepancies between reported income and income shown in the EIV system, and as necessary to verify earned income, and to verify and calculate unemployment benefits, Social Security and/or SSI benefits. EIV will also be used to verify that families claiming zero income are not receiving income from any of these sources.

Income and IVT reports will be retained in participant files with the applicable annual or interim reexamination documents.

When the PHA determines through EIV reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

#### **EIV Identity Verification**

The EIV system verifies tenant identities against SSA records. These records are compared to PIC data for a match on social security number, name, and date of birth.

PHAs are required to use the *EIV Identity Verification Report* on a monthly basis to improve the availability to income information in EIV [PIH Notice 2018-18].

When identity verification for a participant fails, a message will be displayed within the EIV system and no income information will be displayed.

##### PHA Policy

The PHA will identify participants whose identity verification has failed by reviewing EIV's *Identity Verification Report* on a monthly basis.

The PHA will attempt to resolve PIC/SSA discrepancies by obtaining appropriate documentation from the participant. When the PHA determines that discrepancies exist due to PHA errors such as spelling errors or incorrect birth dates, the errors will be corrected promptly.

#### **Upfront Income Verification Using Non-HUD Systems (Optional)**

In addition to mandatory use of the EIV system, HUD encourages PHAs to utilize other upfront verification sources.

##### PHA Policy

The PHA will inform all applicants and participants of its possible use of the following UIV resources during the admission and reexamination process:

- HUD EIV system
- Verifydirect.com
- The Work Number
- PastEmploy.com
- Verifytoday.com

#### **7-I.D. VERIFICATION HIERARCHY [Notice PIH 2023-27]**

When the PHA does not use a streamlined determination of income or an income determination from a means-tested federal assistance program, HUD requires the PHA to obtain third-party verification of:

- Reported family annual income;
- The value of net family assets when the net value exceeds \$50,000 (as adjusted annually);
- Expenses related to deductions from annual income; and
- Other factors that affect the determination of adjusted income.

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HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the PHA to use the most reliable form of verification that is available and to document the reasons when the PHA uses a lesser form of verification.

HUD developed a hierarchy that described verification documentation from most acceptable to least acceptable. The PHA must demonstrate efforts to obtain third party verification prior to accepting self-certification except instances when self-certification is explicitly allowed.

In order of priority, the hierarchy is:

- Highest: Level 6: Up-front Income Verification (UIV) using HUD’s Enterprise Income Verification (EIV) system
- Highest: Level 5: Up-front Income Verification (UIV) using a non-EIV system
- High: Level 4:
  - Written third-party verification from the source, also known as “family-provided verification”
  - Or EIV plus self-certification
- Medium: Level 3: Written third-party verification form
- Medium: Level 2: Oral third-party verification
- Low: Level 1: Self-certification (not third-party verification)

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Each of the verification methods is discussed in subsequent sections below.

### **File Documentation**

The PHA must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that the PHA has followed all of the verification policies set forth in this plan. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

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### **7-I.D. THIRD-PARTY WRITTEN AND ORAL VERIFICATION**

HUD's current verification hierarchy defines two types of written third-party verification. The more-preferable form, "written third-party verification," consists of an original document generated by a third-party source, which may be received directly from a third-party source or provided to the PHA by the family. If written third-party verification is not available, the PHA must attempt to obtain a "written third-party verification form." This is a standardized form used to collect information from a third party.

#### **Written Third-Party Verification [PHI Notice 2018-18]**

Written third-party verification documents must be original and authentic and may be supplied by the family or received from a third-party source.

Examples of acceptable tenant provided documents include, but are not limited to: pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices.

The PHA is required to obtain, at minimum, two current and consecutive pay stubs for determining annual income from wages.

The PHA may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible.

#### **PHA Policy**

Third-party documents provided by the family must be dated within 60 days of the PHA request date.

If the PHA determines that third-party documents provided by the family are not acceptable, the PHA will explain the reason to the family and request additional documentation.

As verification of earned income, the PHA will require the family to provide the two most current, consecutive pay stubs, or where at least two months' worth of income can be verified. At the PHA's discretion, if additional paystubs (or verification of income) are

needed due to the family's circumstances (e.g., sporadic income, fluctuating schedule, etc.), the PHA may request additional paystubs, payroll record, or other types of verification of income.

#### **Written Third-Party Verification Form**

When upfront verification is not available and the family is unable to provide written third-party documents, the PHA must request a written third-party verification form. HUD's position is that this traditional third-party verification method presents administrative burdens and risks, which may be reduced through the use of family-provided third-party documents.

PHAs may mail, fax, or e-mail third-party written verification form requests to third-party sources.

##### PHA Policy

The PHA will send third-party verification forms directly to the third party. Third-party verification forms will be sent when third-party verification documents are unavailable or are rejected by the PHA.

#### **Oral Third-Party Verification [PIH Notice 2018-18]**

For third-party oral verification, PHAs contact sources, identified by UIV techniques or by the family, by telephone or in person.

Oral third-party verification is mandatory if neither form of written third-party verification is available.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 10 business days.

PHAs should document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

##### PHA Policy

In collecting third-party oral verification, PHA staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.

When any source responds verbally to the initial written request for verification the PHA will accept the verbal response as oral verification but will also request that the source complete and return any verification forms that were provided.

#### **When Third-Party Verification is Not Required [PIH Notice 2018-18]**

Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

##### PHA Policy

If the family cannot provide original documents, the PHA will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost [VG, p. 18].

### **Primary Documents**

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

### **Imputed Assets**

HUD permits PHAs to accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28].

#### PHA Policy

The PHA will accept a self-certification from the family as verification of assets disposed of for less than fair market value.

### **Value of Assets and Asset Income [24 CFR §982.516(a)]**

For families with net assets totaling \$5,000 or less, the PHA may accept the family's declaration of asset value and anticipated asset income. However, the PHA is required to obtain third-party verification of all assets regardless of the amount during the intake process and at least every three years thereafter.

#### PHA Policy

For families with net assets totaling \$5,000 or less, the PHA will accept the family's self-certification of the value of family assets and anticipated asset income when applicable. The family's declaration must show each asset and the amount of income expected from that asset. All family members 18 years of age and older must sign the family's declaration.

The PHA will use third-party documentation for assets as part of the intake process, whenever a family member is added to verify the individual's assets, and every three years thereafter.

HOTMA: Effective Jan. 1, 2024, for families with net assets totaling \$50,000 or less, the PHA may accept the family's declaration of asset value and anticipated asset income. However, the PHA is required to obtain third-party verification of all assets regardless of the amount during the intake process and when fraud is suspected.

#### PHA Policy

Effective Jan. 1, 2024, for families with net assets totaling \$50,000 or less, the PHA will accept the family's self-certification of the value of family assets and anticipated asset income when applicable. The family's declaration must show each asset and the amount

~~of income expected from that asset. All family members 18 years of age and older must sign the family's declaration.~~

~~The PHA will use third-party documentation for assets as part of the intake process, whenever a family member is added to verify the individual's assets, and if fraud is suspected every three years thereafter.~~

## **7-I.E. LEVEL 5 AND 6 VERIFICATION: UP FRONT INCOME VERIFICATION (UIV)SELF CERTIFICATION**

Up-front income verification (UIV) refers to the PHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits for a number of individuals. PHAs may use UIV sources before or during a family reexamination.

UIV will be used to the extent that these systems are available to the PHA.

There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until the PHA has independently verified the UIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of the PHA.

### **Upfront Income Verification Using HUD's Enterprise Income Verification (EIV) System (Mandatory)**

PHAs must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during annual and streamlined reexaminations of family composition and income in accordance with 24 CFR 5.236 and Notice PIH 2023-27.

HUD's EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families.

The income validation tool (IVT) in EIV provides projections of discrepant income for wages, unemployment compensation, and SSA benefits pursuant to HUD's data sharing agreements with other departments.

The following policies apply to the use of HUD's EIV system.

### **EIV Income and IVT Reports**

PHAs are required to obtain an EIV Income and IVT report for each family any time the PHA conducts an annual reexamination. However, PHAs are not required to use the EIV Income and IVT reports:

- At annual reexamination if the PHA used Safe Harbor verification from another means-test federal assistance program to determine the family's income; or

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- During any interim reexaminations.

The EIV Income and IVT Reports are also not available for program applicants at admission.

When required to use the EIV Income Report, in order for the report to be considered current, the PHA must pull the report within 120 days of the effective date of the annual reexamination.

The EIV Income Report may be used to verify and calculate income at annual reexamination if the family self-certifies that the amount is accurate and representative of current income. The family must be provided with the information in EIV.

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#### PHA Policy

Except for when Safe Harbor verification from another means-tested federal assistance program is used to determine the family's annual income, the PHA will obtain EIV income and IVT reports for all annual reexaminations for all families on a monthly basis. The PHA will ensure that all EIV Income Reports are pulled within 120 days of the effective date of the annual reexamination.

Income and IVT reports will only be used for interim reexaminations as necessary. For example, EIV may be used to verify that families claiming zero income are not receiving income from any sources listed in EIV.

Income and IVT reports will be retained in participant files with the applicable annual documents or interim reexamination documents (if applicable) for the duration of the family's participation.

When the PHA determines through EIV reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

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#### *New Hires Report [Notice PIH 2023-27]*

The New Hires Report identifies participant families who have new employment within the last six months. The report is updated monthly.

PHAs must review this information at annual reexamination except when the PHA uses Safe Harbor verification from another means-tested federal assistance program to determine the family's income.

PHAs that do not require families to undergo interim reexaminations for earned income increases after an interim decrease are not required to review this report between a family's annual reexamination. If the PHA requires an interim for increases in earned income after an interim decrease, then the PHA must review the report quarterly after the family's interim decrease.

#### PHA Policy

In accordance with PHA policies in Chapter 11, the PHA does not process interim reexaminations for families who have increases in earned income. Except for instances in

which the PHA uses Safe Harbor income determinations to determine a family's annual income, the PHA will only review the New Hires Report at annual reexamination.

#### **No Income Reported by HHS or SSA Report**

This report is a tool for PHAs to identify participants who passed the SSA identity test, but no income information was reported by either HHS or SSA records. This scenario does not mean that the participant does not have any income. PHAs obtain written, third-party verification of any income reported by the participant. The PHA must identify in its policies and procedures when this report will be pulled [Notice PIH 2023-27].

##### **PHA Policy**

The PHA will generate the No Income Reported by HHS or SSA Report quarterly and will retain the report.

The PHA will re-verify the status of participants identified on the report quarterly. Based on the information provided by the family and in EIV, the PHA may require that family members provide verifications or sign release forms in order to obtain additional verification.

When the PHA determines through this report and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity

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#### **EIV Identity Verification Report**

The EIV system verifies tenant identities against SSA records. These records are compared to HUD data for a match on social security number, name, and date of birth.

PHAs are required to use EIV's Identity Verification Report on a monthly basis to improve the availability of income information in EIV [Notice PIH 2023-27].

When identity verification for a participant fails, a message will be displayed within the EIV system and no income information will be displayed.

##### **PHA Policy**

The PHA will identify participants whose identity verification has failed by reviewing EIV's Identity Verification Report on a monthly basis.

The PHA will attempt to resolve discrepancies by obtaining appropriate documentation from the participant. When the PHA determines that discrepancies exist as a result of PHA errors such as spelling errors or incorrect birth dates, it will correct the errors promptly.

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#### **Deceased Tenants Reports [Notice PIH 2012-4 and Notice PIH 2023-27]**

The Deceased Tenant Report identifies residents that have been reported by the SSA as deceased. The PHA is required to review the report at least quarterly.

##### PHA Policy

The PHA will review the Deceased Tenants Report on a monthly basis.

When the Deceased Tenants Report identifies an individual as being deceased, PHAs must 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. The PHA must notify the owner in writing of the deceased head of household.

PHAs may list the EOP as the last day of the month in which the death occurred. The landlord is entitled to receive the full HAP amount for the month in which the tenant death occurred.

##### PHA Policy

The PHA will list the EOP as the last day of the month in which the death occurred. The landlord is entitled to receive the full HAP amount for the month in which the tenant death occurred.

When the only remaining household member is the live-in aide, the live-in aide is not entitled or eligible for any rental assistance or continued occupancy. The PHA may not designate the live-in aide as the new head of household or change the relation code on the Form HUD-50058.

#### **Other EIV Reports [Notice PIH 2023-27]**

The PHA is required to review the Multiple Subsidy Report at least quarterly and the Failed EIV Pre-Screening and Failed Verification (Failed SSA Identity Test) reports at least monthly.

#### **Upfront Income Verification Using Non-HUD Systems**

HUD encourages PHAs to utilize other upfront verification sources such as the Work Number and web-based state benefits systems.

##### PHA Policy

The PHA will inform all applicants and participants of its use of the following UIV resources.

#### **7-I.F. LEVEL 4 VERIFICATION [Notice PIH 2023-27]**

HUD identifies two types of Level 4 verification: written-third party verification from the source and EIV + self-certification.

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### **EIV + Self-Certification**

EIV may be used as written third-party verification and may be used to calculate income if the family agrees with the information in EIV and self-certifies that the amount is accurate and representative of current income. This practice is known as *EIV + self-certification*. When calculating income using this method, the PHA may use its discretion to determine which method of calculation is reasonable: the last four quarters combined or an average of any number of quarters. The family must be provided with the information from EIV.

#### **PHA Policy**

At annual reexamination, if the PHA is unable to use a determination of income from a means-tested federal assistance program and if there are no reported changes to an income source, the PHA will use EIV + self-certification as verification of employment income, provided the family agrees with the amounts listed in EIV.

The PHA will use an average of the last two quarters of income listed in EIV to determine income from employment. The PHA will provide the family with the information in EIV. The family will be required to sign a self-certification stating that the amount listed in EIV is accurate and representative of current income. If the family disagrees with the amount in EIV, the amount is not reflective of current income, or if less than two quarters are available in EIV, the PHA will use written third-party verification from the source as outlined below.

The PHA will not use this method of verification at new admission since EIV is not available for applicant families or at interim reexamination since the income information in EIV is not current.

### **Written Third-Party Verification from the Source**

Written, third-party verification from the source is also known as “tenant-provided verification.” In order to qualify as written-third party verification from the source, the documents must be original or authentic and (generally) dated within 120 days of the date received by the PHA. For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation. Documents may be supplied by the family or received from a third-party source.

Examples of acceptable tenant-provided documents include, but are not limited to pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices. Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer’s transmittal receipt, summary of transmittal from online source, etc.) are an acceptable form of written, third-party verification.

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The PHA is required to obtain, at minimum, two current and consecutive pay stubs when calculating income using third-party verification from the source. For new income sources or when two pay stubs are not available, the PHA should determine income based on the information from a traditional written, third-party verification form or the best available information.

When the family disputes EIV-reported employment income, the PHA uses written third-party verification.

When verification of assets is required, PHAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

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#### PHA Policy

In general, the PHA will use third-party verification from the source in the following circumstances:

At annual reexamination when EIV + self-certification is not used;

For all new admissions; and

For all interim reexaminations.

The PHA will not use this method if the PHA is able to use an income determination from a means-tested federal assistance program or if the PHA uses EIV + self-certification as outlined above.

In general, third-party documents provided by the family or the source must be dated within 120 days of the date received by the PHA. However, for fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation.

The PHA may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible. If the PHA determines that third-party documents provided by the family are not acceptable, the PHA will explain the reason to the family and request additional documentation from the family or will use a lower form of verification such as a written third-party verification form.

When verification of assets held by a banking or financial institution is required, the PHA will obtain one statement that reflects the current balance of the account.

When pay stubs are used, the PHA will require the family to provide the two most current, consecutive pay stubs. At the PHA's discretion, if additional paystubs are needed due to the family's circumstances (e.g., sporadic income, fluctuating schedule, etc.), the PHA may request additional paystubs or a payroll record.

### **WHEN HUD REQUIRES THIRD-PARTY VERIFICATION, SELF-CERTIFICATION, OR “TENANT DECLARATION”, IS USED AS A LAST RESORT WHEN THE PHA IS UNABLE TO OBTAIN THIRD-PARTY VERIFICATION.**

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Self-certification, however, is an acceptable form of verification when:

- A source of income is fully excluded
- Net family assets total \$5,000 or less and the PHA has adopted a policy to accept self-certification at annual recertification, when applicable
- HOTMA: Effective Jan. 1, 2024, net family assets totaling \$50,000 or less and the PHA has adopted a policy to accept self-certification at annual recertification, when applicable
- The PHA has adopted a policy to implement streamlined annual recertifications for fixed sources of income (See Chapter 11)

When the PHA was required to obtain third-party verification, but instead relies on a tenant declaration for verification of income, assets, or expenses, the family's file must be documented to explain why third-party verification was not available.

#### **PHA Policy**

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to the PHA.

The PHA may require a family to certify that a family member does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to the PHA and must be signed by the family member whose information or status is being verified.

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### **7-I.G. LEVEL 3 VERIFICATION: WRITTEN, THIRD-PARTY FORM** **[Notice PIH 2023 -27]**

This type of verification is a form developed by the PHA and used uniformly for all families when needed to collect information from a third-party source. This is known as “traditional third-party verification.” PHAs send a PHA-developed form directly to the third-party source by mail, fax, or email and the source completes the form by hand (in writing or typeset).

The PHA may use this method when higher forms are unavailable or are rejected by the PHA or when the family is unable to provide acceptable verification. The PHA may skip this level of verification and may instead substitute oral third-party verification before moving to self-certification.

PHA Policy

Typically, the PHA will attempt to send written third-party verification forms to the verification source whenever higher forms of verification are unavailable.

However, on a case-by-case basis, the PHA may choose to obtain oral third-party verification without first attempting, and in lieu of, a written-third party verification form.

**7.I.H. LEVEL 2: ORAL THIRD-PARTY VERIFICATION [Notice PIH 2023-27]**

For third-party oral verification, PHAs contact sources, identified by UIV techniques or by the family, by telephone or in person.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 10 business days.

PHAs must document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

The PHA may skip this level of verification if they attempted written third-party verification via a form and the source did not respond and move directly to self-certification.

PHA Policy

In general, the PHA will attempt to obtain written third-party verification via a form from the verification source. If written third-party verification forms are not returned within 10 business days, the PHA will accept self-certification from the family without attempting to obtain oral third-party verification.

However, if the PHA chooses to obtain oral third-party verification, the PHA will document in the file the date and time of the telephone call or visit, the name of the person contacted and the telephone number, as well as the information confirmed.

**When Third-Party Verification is Not Required [Notice PIH 2023-27]**

Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

PHA Policy

If the family cannot provide original documents, the PHA will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost [VG, p. 18].

### **Primary Documents**

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

### **Imputed Assets**

HUD permits PHAs to accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28].

#### **PHA Policy**

The PHA will accept a self-certification from a family as verification of assets disposed of for less than fair market value.

### **Value of Assets and Asset Income [24 CFR 982.516(a)]**

For families with net assets totaling \$5,000 or less, the PHA may accept the family's declaration of asset value and anticipated asset income. However, the PHA is required to obtain third-party verification of all assets regardless of the amount during the intake process and at least every three years thereafter.

#### **PHA Policy**

For families with net assets totaling \$5,000 or less, the PHA will accept the family's self-certification of the value of family assets and anticipated asset income when applicable. The family's declaration must show each asset and the amount of income expected from that asset. All family members 18 years of age and older must sign the family's declaration.

The PHA will use third-party documentation for assets as part of the intake process, whenever a family member is added to verify the individual's assets, and every three years thereafter.

### **7-1.I. LEVEL 1: NON-THIRD-PARTY VERIFICATION TECHNIQUE: SELF-CERTIFICATION [Notice PIH 2023-27]** **7-1.E. SELF-CERTIFICATION**

Non-third-party verification consists of a signed statement of reported income and/or expenses. This verification method should be used as a last resort when the PHA has not been successful in obtaining information via all other required verification techniques.

Self-certification, however, is an acceptable form of verification when:

- A source of income is fully excluded
- Net family assets total \$50,000 or less and the PHA has adopted a policy to accept self certification
- The family declares that they do not have any present ownership in any real property
- A family states that they have non-recurring income that will not be repeated in the coming year; and/or
- The PHA has adopted a policy to implement streamlined annual recertifications for fixed sources of income (See Chapter 11)

When the PHA was required to obtain third-party verification but instead relies self-certification, the family's file must be documented to explain why third-party verification was not available.

HUD does not require that a self-certification be notarized; however, HUD recommends including language on any self-certification to ensure the certifier understands the consequences of knowingly providing false information.

#### PHA Policy

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to the PHA.

The PHA may require a family to certify that a family member does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to the PHA and must be signed by the family member whose information or status is being verified.

All self-certifications will include the following language:

"I/We, the undersigned, certify under penalty of perjury that the information provided here is true and correct, to the best of my knowledge and recollection. WARNING: Anyone who knowingly submits a false claim or knowingly makes a false statement is subject to criminal and/or civil penalties, including confinement for up to five years, fines, and civil and administrative penalties (18 U.S.C. 287, 1001, 1010, 1012; 31 U.S.C. 3279, 3802)."

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## PART II. VERIFYING FAMILY INFORMATION

### **7-II.A. VERIFICATION OF LEGAL IDENTITY**

#### PHA Policy

The PHA will require families to furnish verification of legal identity for each household member.

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
Certificate of birth, naturalization papers	Certificate of birth
Church issued baptismal certificate	Adoption papers
Current, valid driver's license or	Custody agreement
Department of Motor Vehicles identification card	Health and Human Services ID
U.S. military discharge (DD 214)	Certified school records
Current U.S. passport	
Current <u>government e</u> Employer identification card with photo	

If a document submitted by a family is illegible for any reason or otherwise questionable, more than one of these documents may be required.

If none of these documents can be provided and at the PHA's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to the PHA and must be signed in the presence of a PHA representative by the family member whose information or status is being verified.

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where the PHA has reason to doubt the identity of a person representing themselves to be a participant.

### **7-II.B. SOCIAL SECURITY NUMBERS [24 CFR §5.216, ~~NOTICE PIH 2023-27-PIH NOTICE 2018-18~~**

The family must provide documentation of a valid ~~s~~Social ~~s~~Security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include existing program participants who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

Note that an individual who previously declared to have eligible immigration status may not change their declaration for the purpose of avoiding compliance with the SSN disclosure and documentation requirements or penalties associated with noncompliance with these

requirements. Nor may the head of household opt to remove a household member from the family composition for this purpose.

The PHA must accept the following documentation as acceptable evidence of the social security number:

- An original SSN card issued by the Social Security Administration (SSA)
- An original SSA-issued document, which contains the name and SSN of the individual
- ~~An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual, along with other identifying information of the individual~~
- ~~Such other evidence of the SSN as HUD may prescribe in administrative instructions~~

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While PHAs must attempt to gather third-party verification of SSNs prior to admission as listed above, PHAs also have the option of accepting a self-certification and a third-party document (such as a bank statement, utility or cell phone bill, or benefit letter) with the applicant's name printed on it to satisfy the SSN disclosure requirement if the PHA has exhausted all other attempts to obtain the required documentation. If verifying an individual's SSN using this method, the PHA must document why the other SSN documentation was not available.

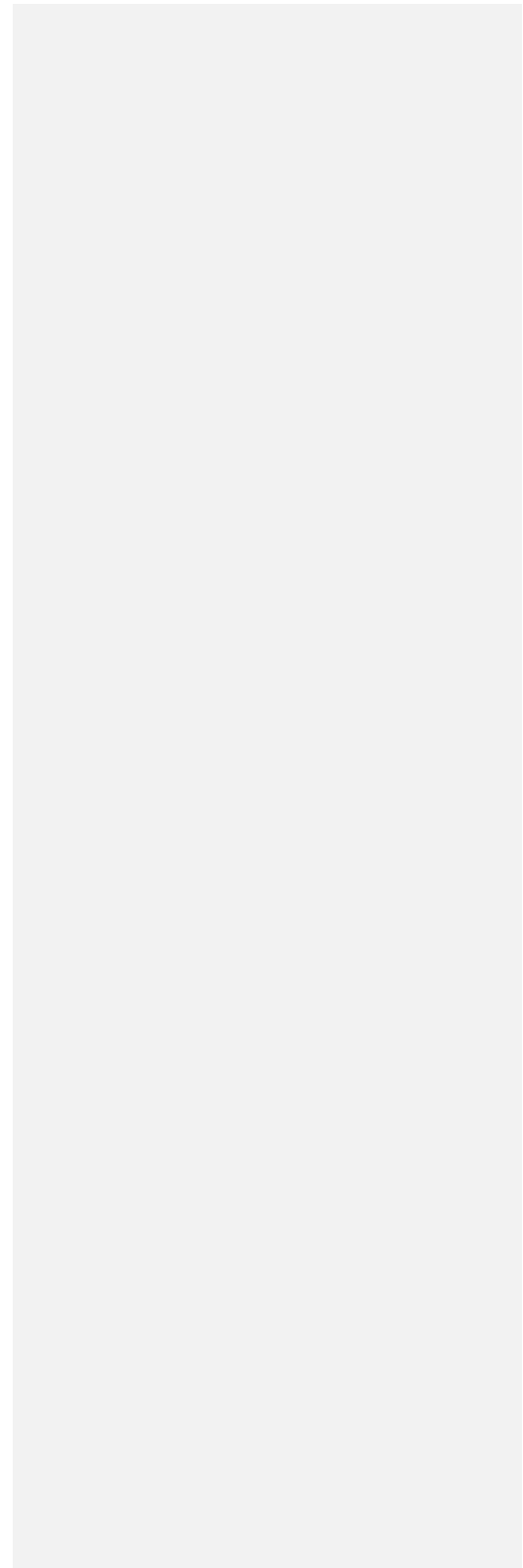
If the tenant's SSN becomes verified in EIV, then no further verification is required. If the tenant's SSN fails the SSA identity match, then the PHA must obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name of the individual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

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#### PHA Policy

The PHA will verify an individual's SSN in the situations described above using the method described above as a last resort when no other forms of verification of the individual's SSN are available.

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The PHA may only reject documentation of an SSN provided by an applicant or participant if the document is not an original document or if the original document has been altered, mutilated, is illegible, or appears to be forged.

PHA Policy

The PHA will explain to the applicant or participant the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to the PHA within 90 days.

In the case of Moderate Rehabilitation Single Room Occupancy (SRO) individuals, the required documentation must be provided within 90 calendar days from the date of admission into the program. The PHA must grant one additional 90-day extension if it determines that the applicant's failure to comply was due to circumstances that were beyond the applicant's control and could not have been reasonably foreseen.

PHA Policy

The PHA will grant one additional 90-day extension if needed for reasons beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency. If the individual fails to comply with SSN disclosure and documentation requirements upon expiration of the provided time period, the PHA will terminate the individual's assistance.

If an applicant family includes a child under 6 years of age who joined the household within the 6 months prior to the date of voucher issuance, an otherwise eligible family may be admitted to the program and the family must provide documentation of the child's SSN within 90 days of the effective date of the initial HAP contract. A 90-day extension will be granted if the PHA determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control.

PHA Policy

The PHA will grant one additional 90-day extension if needed for reasons beyond the applicant's control, such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

When a participant requests to add a new household member who is at least 6 years of age, or who is under the age of 6 and has an SSN, the participant must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. The PHA may not add the new household member until such documentation is provided.

When a participant requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the participant must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if the PHA determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control. During the period the PHA is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

PHA Policy

The PHA will grant one additional 90-day extension if needed for reasons beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

Social security numbers must be verified only once during continuously assisted occupancy.

PHA Policy

The PHA will verify each disclosed SSN by:

- Obtaining documentation from applicants and participants that is acceptable as evidence of social security numbers
- Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the case file

Once the individual's verification status is classified as "verified," the PHA may, at its discretion, remove and destroy copies of documentation accepted as evidence of social security numbers. The retention of the EIV Summary Report or Income Report is adequate documentation of an individual's SSN. by no later than the next reexamination.

PHA Policy

Once an individual's status is classified as "verified" in HUD's EIV system, the PHA will not remove and destroy copies of documentation accepted as evidence of social security numbers.

**7-II.C. DOCUMENTATION OF AGE**

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

PHA Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, the PHA will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

Age must be verified only once during continuously assisted occupancy.

**7-II.D. FAMILY RELATIONSHIPS**

Applicants and program participants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

PHA Policy

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

## **Marriage**

### PHA Policy

Certification by the head of household is normally sufficient verification. If the PHA has reasonable doubts about a marital relationship, the PHA will require the family to document the marriage.

A marriage certificate generally is required to verify that a couple is married.

In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

## **Separation or Divorce**

### PHA Policy

Certification by the head of household is normally sufficient verification. If the PHA has reasonable doubts about a separation or divorce, the PHA will require the family to provide documentation of the divorce, or separation.

A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced.

A copy of a court-ordered maintenance or other court record is required to document a separation.

If no court document is available, documentation from a community-based agency will be accepted.

## **Absence of Adult Member**

### PHA Policy

At the PHA request, if an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill).

## **Foster Children and Foster Adults**

### PHA Policy

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

## **7-ILE. VERIFICATION OF STUDENT STATUS**

### **General Requirements**

PHA Policy

The PHA requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

- The family reports full-time student status for an adult other than the head, spouse, or cohead.
- The family reports child care expenses to enable a family member to further their education.
- The family includes a student enrolled in an *institution of higher education*.

**Restrictions on Assistance to Students Enrolled in Institutions of Higher Education**

This section applies only to students who are seeking assistance on their own, separately from their parents. It does not apply to students residing with parents who are seeking or receiving HCV assistance.

PHA Policy

In accordance with the verification hierarchy described in Section 7-1.B, the PHA will determine whether the student is exempt from the restrictions in 24 CFR §5.612 by verifying any one of the following exemption criteria:

- The student is enrolled at an educational institution that does not meet the definition of *institution of higher education* in the Higher Education Act of 1965 (see Section Exhibit 3-2).
- The student is at least 24 years old.
- The student is a veteran, as defined in Section 3-II.E.
- The student is married.
- The student has at least one dependent child, as defined in Section 3-II.E.
- ~~The student is a person with disabilities, as defined in section 3-II.E, and was receiving assistance prior to November 30, 2005~~

If the PHA cannot verify at least one of these exemption criteria, the PHA will conclude that the student is subject to the restrictions on assistance at 24 CFR §5.612. In addition to verifying the student's income eligibility, the PHA will then proceed to verify either the student's parents' income eligibility (see Section 7-III.J) or the student's independence from their parents (see below).

**Independent Student**PHA Policy

The PHA will verify a student's independence from their parents to determine that the student's parents' income is not relevant for determining the student's eligibility by doing all of the following:

- Either reviewing and verifying previous address information to determine whether the student has established a household separate from their parents for at least one year, or reviewing and verifying documentation relevant to determining whether the student meets the U.S. Department of Education's definition of *independent student* (see Section 3-II.E)
- Reviewing the student's prior year income tax returns to verify the student is independent or verifying the student meets the U.S. Department of Education's definition of *independent student* (see Section 3-II. E.)
- Requesting and obtaining written certification directly from the student's parents identifying the amount of support they will be providing to the student, even if the amount of support is \$0 , except in cases in which the PHA determines that the student is a *vulnerable youth* (see Section 3-II.E)

#### **7-II.F. DOCUMENTATION OF DISABILITY**

The PHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The PHA is not permitted to inquire about the nature or extent of a person's disability [24 CFR §100.202(c)]. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA will not place this information in the tenant file. Under no circumstances will the PHA request a participant's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' website at <http://www.hhs.gov/ocr/privacy/>.

The above cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability
- Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance
- Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

#### **Family Members Receiving SSA Disability Benefits**

Verification of the receipt of disability benefits from the Social Security Administration (SSA) is sufficient verification of disability for the purpose of qualifying for waiting list preferences (if applicable) or certain income disallowances and deductions [VG, p. 23].



#### PHA Policy

For family members claiming disability who receive disability benefits from the SSA, the PHA will attempt to obtain information about disability benefits through the HUD Enterprise Income Verification (EIV) system. If documentation from HUD's EIV System is not available, the PHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member claiming disability status. If the family is unable to provide the document(s), the PHA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from [www.ssa.gov](http://www.ssa.gov). Once the applicant or participant receives the benefit verification letter they will be required to provide it to the PHA.

#### **Family Members Not Receiving SSA Disability Benefits**

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR §5.4603.

#### PHA Policy

For family members claiming disability who do not receive disability benefits from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

### **7-IL.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR §5.508]**

#### **Overview**

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. A detailed discussion of eligibility requirements is in the Eligibility chapter. This verifications chapter discusses HUD and PHA verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously-assisted occupancy [24 CFR §5.508(g)(5)].

#### **U.S. Citizens and Nationals**

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

The PHA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

PHA Policy

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

## **Eligible Immigrants**

### **Documents Required**

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance.

Exhibit 7- 2 at the end of this chapter summarizes documents family members must provide.

### **PHA Verification [HCV GB, pp. 5-3 and 5-7]**

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this plan. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, the PHA must verify immigration status with the United States Citizenship and Immigration Services (USCIS).

The PHA will follow all USCIS protocols for verification of eligible immigration status.

## **7-II.H. VERIFICATION OF PREFERENCE STATUS**

The PHA must verify any preferences claimed by an applicant that determined placement on the waiting list.

### **PHA Policy**

The following preferences will determine the place of an applicant on the waitlist after the lottery:

- A. Displaced person(s): Individuals or families displaced by local government action or whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws. This preference may be verified through a partnering service agency or other documentation showing eligibility for this preference.
- B. Living or working in City of Chandler: Applicant must physically live, work, or be hired to work in the City of Chandler.
- C. Chronically Homeless: The following definition must be met:
  - A chronically homeless person as defined by the U.S. Department of HUD (24 CFR §578.3):
    - (1) A “homeless individual with a disability,” as defined in Section 401(9) of the McKinney–Vento Homeless Assistance Act (42 U.S.C. 11360(9)), who:

- (i) Lives in a place not meant for human habitation, a safe haven, or in an emergency shelter; and
  - ii) Has been homeless and living as described in paragraph (1)(i) of this definition continuously for at least 12 months or on at least 4 separate occasions in the last 3 years, as long as the combined occasions equal at least 12 months and each break in homelessness separating the occasions included at least 7 consecutive nights of not living as described in paragraph (1)(i). Stays in institutional care facilities for fewer than 90 days will not constitute as a break in homelessness, but rather such stays are included in the 12-month total, as long as the individual was living or residing in a place not meant for human habitation, a safe haven, or an emergency shelter immediately before entering the institutional care facility;
  - (2) An individual who has been residing in an institutional care facility, including a jail, substance abuse or mental health treatment facility, hospital, or other similar facility, for fewer than 90 days and met all of the criteria in paragraph (1) of this definition, before entering that facility; or
  - (3) A family with an adult head of household (or if there is no adult in the family, a minor head of household) who meets all of the criteria in paragraph (1) or (2) of this definition, including a family whose composition has fluctuated while the head of household has been homeless.
- D. Currently Employed/Employment Program: Families whose head, Spouse, or Sole Member is employed. Applicants with an adult family member enrolled in an employment training program or currently working (20) hours a week, or attending school on a full-time basis. Documentation for head of household and/or spouse to prove this preference may include: Verification of employment training or full-time student status; check stubs or letter from an employer based in the City of Chandler.
- E. Elderly families where the head of household or spouse is at least 62+ years of age.
- F. Disabled families and families with a disabled household member. Verification of disability to include either a letter from a medical provider stating permanent disability or proof of receiving Social Security benefits for disability.

#### PHA Policy

The PHA offers a preference for Displaced persons, Living or working in the City of Chandler, families currently employed or attending a training program, elderly families where the head of household or spouse is at least 62+ years of age, and disabled families and families with a disabled household member.

The PHA may verify that the family qualifies for Displaced person(s) preference based on the verification received from the local government that displaced the family or verification from Federal Emergency Management Agency (FEMA). Additionally, the PHA may document any external risk factors that have occurred in the past 12 months that affect the PHA (e.g., natural disasters and PHA's Continuity of Operations planning,

local environmental risks, negative media attention, market conditions, local hostility towards subsidized housing, etc.).

The PHA may verify that the family qualifies for Living in the City of Chandler preference based on the verification received from the landlord, driver's license, post office, employer, or other valid, third-party source.

The PHA may verify that the family qualifies for Chronically Homeless based on 1) referral letter from a non-profit organization in which the applicant is enrolled or verifying their status as an unaccompanied homeless person with a disabling condition and 2) printout from the Homeless Management Information System (HMIS).

The PHA may verify that the family qualifies for Working in the City of Chandler preference based on the verification received from the employer or the Internal Revenue Service (IRS) documents.

The PHA may verify that the family qualifies for the working family preference based on the verification received from the employer. If the employment verification is not received from the employer within a reasonable amount of time, the family's submission of the working member's most recent paycheck stub indicating that the working member works at least 20 hours per week is acceptable. The paycheck stub must have been issued to the working member within the last thirty days.

The PHA may verify that the family qualifies for adult family member(s) enrolled in an employment-training program preference based on the verification received from the institution or agency that is providing the employment-training program.

The PHA may verify that the family qualifies for an adult family member(s) attending school preference based on the verification received from the school that indicates that the adult family member(s) is attending on a full-time basis.

Elderly status will be verified by a birth certificate or other form of valid identification showing birth date (e.g., Social Security documents, passport, etc.). Disabled status will be verified by a Social Security Administration letter/document showing the person is disabled, or by a letter received from a disability or medical professional willing to sign under oath that an individual is disabled.

### **PART III. VERIFYING INCOME AND ASSETS**

Chapter 6, ~~Part I~~ of this plan describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any ~~assets and~~ income reported by the family must be verified. This part provides PHA policies that supplement the general verification procedures specified in Part I of this chapter.

#### PHA Policy

The following policies do not apply when the PHA uses a safe harbor income determination from a means-tested federal assistance program.

### **7-III.A. EARNED INCOME**

#### **Tips**

##### PHA Policy

Unless tip income is included in a family member's W-2 by the employer or in UIV verification sources, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and/or tips anticipated to be received in the coming year.

#### **Wages**

##### PHA Policy

When the PHA requires third-party verification of wages, fFor wages other than tips, the family must provide originals of the two most current, consecutive pay stubs.

### **7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME**

The PHA must obtain written, third-party verification when the income type is not available in EIV. This includes income from self-employment.

##### PHA Policy

Business owners and self-employed persons will be required to provide:

- ~~• An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.~~
- Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.).
- ~~• All schedules completed for filing federal and local taxes in the preceding year. If~~ accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

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For self-employed individuals who claim they do not to file tax returns, The PHA will obtain a completed copy of IRS Form 4506-T to verify that no return has been filed.

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For those employed in "gig employment" (i.e., those in formal agreements with on-demand companies such as Uber, Lyft, or DoorDash), the PHA will provide a format for the individual to declare their income and expenses. The PHA will also review the printed statement of monthly income from the applicable app for all hours worked and pay received as well as the Schedule C of the individual's tax return and the corresponding IRS Form 1099 or 1099k.

The PHA will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

At any reexamination the PHA may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three (3) months, the PHA will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months the PHA will require the family to provide documentation of income and expenses for this period and use that information to project income.

### **7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS**

For policies governing streamlined income determinations for fixed sources of income, please see Chapter 11.

#### **Social Security/SSI Benefits [Notice PIH 2023-27]**

~~To ensure consistency in the determination of annual Social Security and SSI income, PHAs are required to use EIV-reported Social Security and SSI benefit amounts unless the tenant disputes the EIV-reported amount [Notice PIH 2018-24]. Verification requirements for Social Security (SS) and Supplemental Security Income (SSI) benefits differ for applicants and participants.~~

~~For applicants, since EIV does not contain SS or SSI benefit information, the PHA must ask applicants to provide a copy of their current SS and/or SSI benefit letter (dated within the last 120 calendar days) for each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the PHA should help the applicant request a benefit verification letter from SSA's website at [www.ssa.gov](http://www.ssa.gov) or ask the family to request one by calling SSA at 1-800-772-1213. The PHA must obtain the original benefit letter from the applicant, make a photocopy of the document for the file, and return the original to the family.~~

~~For participants, the PHA must obtain information through the HUD EIV system and confirm with the participants that the current listed benefit amount is correct.~~

- ~~• If the participant agrees with the amount reported in EIV, the PHA must use the EIV-reported gross benefit amount to calculate annual income from Social Security. PHAs are required to use the EIV-reported SS and SSI benefit amounts when calculating income unless the tenant disputes the EIV-reported amount. For example, an SSA benefit letter may list the monthly benefit amount as \$450.80 and EIV displays the amount as \$450.00. The PHA must use the EIV-reported amount unless the participant disputes the amount.~~
- ~~• If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in EIV, the PHA must request a current SSA benefit verification letter (dated within the last 120 calendar days) from each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the PHA should help the participant request a benefit verification letter from SSA's website at [www.ssa.gov](http://www.ssa.gov) or ask the~~

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family to request one by calling SSA at 1-800-772-1213. The PHA must obtain the original benefit letter from the participant, make a photocopy of the document for the file, and return the original to the family.

Photocopies of social security checks or bank statements are not acceptable forms of verification for SS/SSI benefits.

**PHA Policy**

To verify the SS/SSI benefits of applicants, the PHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member that receives social security benefits.

If the family is unable to provide the document(s), the PHA will help the applicant request a benefit verification letter from SSA's Website at [www.ssa.gov](http://www.ssa.gov) or ask the family to request one by calling SSA at 1-800-772-1213. Once the applicant has received the benefit verification letter they will be required to provide it to the PHA.

To verify the SS/SSI benefits of participants, the PHA will obtain information about social security/SSI benefits through the HUD EIV System and confirm with the participant(s) that the current listed benefit amount is correct. If the participant disputes the EIV reported benefit amount, or if benefit information is not available in HUD systems, the PHA will request a current SSA benefit verification letter from each family member that receives social security benefits.

If the family is unable to provide the document(s) the PHA will help the participant request a benefit verification letter from SSA's Web site at [www.ssa.gov](http://www.ssa.gov) or ask the family to request one by calling SSA at 1-800-772-1213. Once the participant has received the benefit verification letter they will be required to provide it to the PHA.

7-III.D. Alimony or Child Support **[Notice PIH 2023-27]**

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. For example, a family's child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders. A copy of a court order or other written payment agreement alone may not be sufficient verification of amounts received by a family.

**PHA Policy**

The methods the PHA will use to verify alimony and child support payments differ depending on whether the family declares that it receives regular payments.

If the family declares that it **receives regular payments**, verification will be obtained in the following order of priority:

- Copies of the receipts and/or payment stubs for the 60 days-12 months prior to PHA request.

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- Third-party verification form from the state or local child support enforcement agency
- Third-party verification form from the person paying the support
- Family's self-certification of amount received.

If the family declares that it ~~receives irregular or no payments~~, in addition to the verification process listed above, the family must provide evidence that it has taken all reasonable efforts to collect amounts due. This may include:

- ~~A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts.~~
- ~~If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts.~~

~~\*\*~~ **Note:** Families are not required to undertake independent enforcement action.

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### **7-III.E. NONRECURRING INCOME [Notice PIH 2023-27]**

Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. PHAs may accept a self-certification from the family stating that the income will not be repeated in the coming year.

#### PHA Policy

The PHA will accept self-certification from the family stating that income will not be repeated in the coming year. However, the PHA may choose, on a case-by-case basis, to require third-party verification that income sources will not be repeated in the coming year.

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### **7-III.FF. ASSETS AND INCOME FROM ASSETS**

#### **Net Family Assets [24 CFR 5.603]**

At admission and reexam, for families with net assets totaling \$50,000 or less (adjusted annually), the PHA may, but is not required to, accept the family's self-certification that the family's assets do not exceed \$50,000 without taking any additional steps to verify the accuracy of the declaration. The declaration must include the amount of income the family expects to receive from assets which must be included in the family's income. This includes declaring income from checking and savings accounts which, although excluded from the calculation of net family assets (because the combined value of non-necessary personal property does not exceed \$50,000), may generate asset income. PHAs must clarify during the self-certification process which assets are included/excluded from net family assets.

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For PHAs that choose to accept self-certification, the PHA is required to obtain third-party verification of all assets, regardless of the amount, at least once every three years.

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PHAs who choose not to accept self-certifications of assets must verify all families' assets on an annual

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basis.

When net family assets have a total value over \$50,000, the PHA may not rely on the family's self-certification. Third-party verification of assets is required when net family assets exceed \$50,000, adjusted annually by HUD.

When verification of assets is required, PHAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

#### PHA Policy

For families with net assets totaling \$50,000 or less, the PHA will accept the family's self-certification of the value of family assets and anticipated asset income. The family's declaration must show each asset and the amount of income expected from that asset. All family members 18 years of age and older must sign the family's declaration. The PHA reserves the right to require additional verification in situations where the accuracy of the declaration is in question. Any income the family expects to receive from assets will be included in the family's annual income. The family will be required to provide third-party verification of net family assets every three years.

When verification is required, in determining the value of checking or savings accounts, the PHA will use the current balance.

In determining the anticipated income from an interest-bearing checking or savings account when verification is required and the rate of return is known, the PHA will multiply the current balance of the account by the current rate of interest paid on the account. If a checking account does not bear interest, the anticipated income from the account is zero.

#### Self-Certification of Real Property Ownership [24 CFR 5.618(b)(2)]

The PHA must determine whether a family has present ownership in real property that is suitable for occupancy for purposes of determining whether the family is compliant with the asset limitation described in Chapters 3 and 12. At admission and reexam, the PHA may accept a self-certification from the family that the family does not have any present ownership in any real property that is suitable for occupancy. If the family declares they have present ownership in real property, the PHA must obtain third-party verification.

#### PHA Policy

Both at admission and reexam, the PHA will accept self-certification from the family that the family does not have any present ownership in any real property. The certification will state that the family does not have any present ownership interest in any real property and must be signed by all family members 18 years of age and older. The PHA reserves the right to require additional verification in situations where the accuracy of the declaration is in question.

If the family declares they have a present ownership in real property, the PHA will obtain third-party verification of the following factors: whether the family has the legal right to

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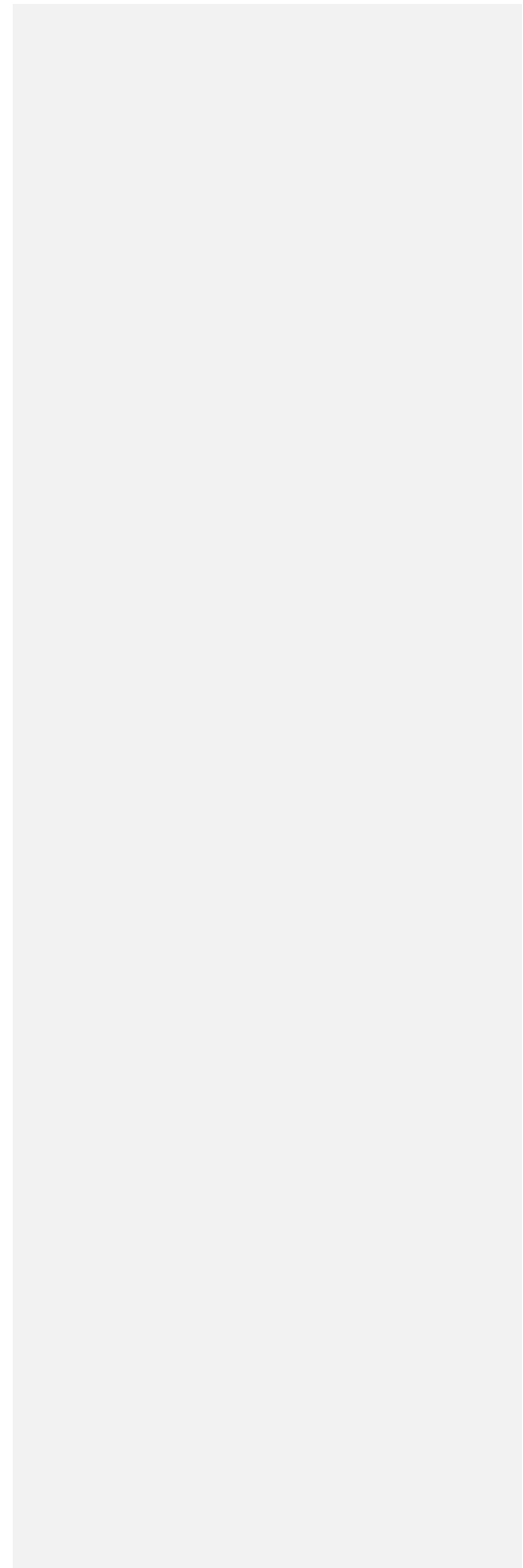
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reside in the property; whether the family has effective legal authority to sell the property; and whether the property is suitable for occupancy by the family as a residence. However, in cases where a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, the PHA will comply with confidentiality requirements under 24 CFR 5.2007 and will accept a self-certification.

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### 7-III.G. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE

#### Assets Disposed of for Less than Fair Market Value

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. HUD permits PHAs to accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28]. The PHA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

#### PHA Policy

The PHA will accept a self-certification from a family as verification of assets disposed of for less than fair market value.

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The PHA will verify the value of assets disposed of only if:

- The PHA does not already have a reasonable estimation of its value from previously collected information, or
- The amount reported by the family in the certification appears obviously in error.

Example 1: An elderly participant reported a \$10,000 certificate of deposit at the last annual reexamination and the PHA verified this amount. Now the person reports that she has given this \$10,000 to her son. The PHA has a reasonable estimate of the value of the asset; therefore, re-verification of the value of the asset is not necessary.

Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately \$5,000. Based upon market conditions, this declaration does not seem realistic.

Therefore, the PHA will verify the value of this asset.

### 7-III.FH. NET INCOME FROM RENTAL PROPERTY

#### PHA Policy

The family must provide:

- A current executed lease for the property that shows the rental amount or certification from the current tenant
- A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income).
- If schedule E was not prepared, the PHA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable

maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

**7-III.I. FEDERAL TAX REFUNDS OR REFUNDABLE TAX CREDITS**  
**[Notice PIH 2023-27]**

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

**7-III.GJ. RETIREMENT ACCOUNTS**

~~HOTMA: Effective Jan. 1, 2024, retirement and educational savings accounts will be excluded.~~

**PHA Policy**

The PHA will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken, and any regular payments.

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~~The PHA will accept written third-party documents supplied by the family as evidence of the status of retirement accounts.~~

~~Type of original document that will be accepted depends upon the family member's retirement status.~~

- ~~— Before retirement, the PHA will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.~~
- ~~— Upon retirement, the PHA will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.~~
- ~~— After retirement, the PHA will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.~~

~~7-III.HK. INCOME FROM EXCLUDED SOURCES~~~~Income From Excluded Sources [Notice PIH 2023-27]~~

~~HOTMA: Effective Jan. 1, 2024, retirement and educational savings accounts will be excluded as assets, but income from a retirement account will be handled according to policy.~~

A detailed discussion of excluded income is provided in Chapter 6, Part I.

HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.

~~For fully excluded income, the PHA is **not** required to document why third-party verification is not available, or report the income on the 50058. *Fully excluded income* is defined as income where the entire amount qualifies to be excluded from the annual income determination in accordance with 24 CFR 5.609(b) and any *Federal Register* notice on mandatory exclusions issued by HUD (for example, food stamps, earned income of a minor, or foster care funds).~~

~~For fully excluded income, the PHA is **not** required to follow the verification hierarchy, document why third-party verification is not available, or report the income on the 50058.~~

~~Fully excluded income is defined as income that is entirely excluded from the annual income determination (for example, food stamps, earned income of a minor, or foster care funds) [PIH Notice 2013-04].~~

PHAs may accept a family's signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional documentation. However, if there

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is any doubt that a source of income qualifies for full exclusion, PHAs have the option of requiring additional verification.

For partially excluded income, the PHA is required to follow the verification hierarchy and all applicable regulations, and to report the income on the 50058. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, the income of an adult full-time student, ~~or income excluded under the earned income disallowance~~).

#### PHA Policy

The PHA will accept the family's self-certification as verification of fully excluded income. The PHA may request additional documentation if necessary to document the income source.

The PHA will verify the source and amount of partially excluded income as described in Part 1 of this chapter.

### **7-III.L. ZERO ANNUAL INCOME STATUS REVIEWS [NOTICE PIH 2023-27]**

A zero income review is an assessment, sometimes periodic, performed by the PHA of the income of a family who claims that they do not receive income from any source, including from assets. During such reviews, it is common for PHAs to request that families complete and sign a worksheet explaining how they pay for the household's expenses. HUD does not require PHAs to conduct periodic zero income reviews. In calculating annual income, PHAs must not assign monetary value to nonmonetary in-kind donations from a food bank or similar organization received by the family [24 CFR § 5.609(b)(24)(vi)]. PHAs that perform zero income reviews must update local discretionary policies, procedures, and forms. Families who begin receiving income which does not trigger an interim reexamination should no longer be considered zero income even though the family's income is not reflected on the Form HUD-50058.

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#### PHA Policy

The PHA will check UIV sources and/or may request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SS, SSI, ~~and earned income, child support, etc., earnings~~ are not being received by ~~f~~families claiming to have zero annual income.

The PHA will also require that each family member who claims zero income status complete a zero-income form. If any sources of income are identified on the form, the PHA will verify the income in accordance with the policies in this chapter prior to including the income in the family's annual income.

The PHA will only conduct interims in accordance with PHA policy in Chapter 11.



7-III.~~JM~~. STUDENT FINANCIAL ASSISTANCE~~Student Financial Assistance~~ [PHI Notice 2015-24] [24 CFR 5.609(b)(9)]

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The regulations under HOTMA distinguish between two categories of student financial assistance paid to both full-time and part-time students. Any assistance to students under section 479B of the Higher Education Act of 1965 (Title IV of the HEA) must be excluded from the family's annual income [24 CFR 5.609(b)(9)(i)]. Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education not otherwise excluded by the federally mandated income exclusions are excluded [24 CFR 5.609(b)(9)(ii)].

Any financial assistance, in excess of amounts received for tuition, fees, and other required charges that a person attending an institution of higher education receives under the Higher Education Act of 1965, from private sources, or from an institution of higher education must be considered income unless:

- The student is over the age of 23 with dependent children or is residing with parents who are seeking or receiving HCV assistance [24 CFR §5.609(b)(9) and FR 4/10/06].

~~For students over the age of 23 with dependent children or students residing with parents who are seeking or receiving HCV assistance, the full amount of student financial assistance is excluded from annual income [24 CFR §5.609(e)(6)]. The full amount of student financial assistance is also excluded for students attending schools that do not qualify as institutions of higher education (as defined in Exhibit 3-2). Excluded amounts are verified only if, without verification, the PHA would not be able to determine whether or to what extent the income is to be excluded (see Section 7-III.H).~~

PHA Policy

~~For a student subject to having a portion of their student financial assistance included in annual income in accordance with 24 CFR §5.609(b)(9), t~~The PHA will request written third-party verification of both the source and the amount of student financial assistance. Family provided documents from the educational institution attended by the student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student.

In addition, unless the student's only source of assistance is assistance under Title IV of the HEA, the PHA will request written verification of the cost of the student's tuition, books, supplies, room and board, fees, and other required fees and charges to the student from the educational institution.

If the PHA is unable to obtain third-party written verification of the requested information, the PHA will pursue other forms of verification following the verification hierarchy in Section 7-I.B.

7-III.~~KN~~. PARENTAL INCOME OF STUDENTS SUBJECT TO ELIGIBILITY RESTRICTIONS

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, and does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the income of the student's parents must be considered when determining income eligibility, unless the student is determined independent from their parents or a *vulnerable youth* in accordance with PHA policy [24 CFR §5.612; FR Notice 4/10/06, p. 18146 and FR Notice 9/21/16].

This provision does not apply to students residing with parents who are seeking or receiving HCV assistance. It is limited to students who are seeking or receiving assistance on their own, separately from their parents.

#### PHA Policy

If the PHA is required to determine the income eligibility of a student's parents, the PHA will request an income declaration and certification of income from the appropriate parent(s) (as determined in Section 3-II.E).

The PHA will send the request directly to the parents, who will be required to certify to their income under penalty of perjury. The parents will be required to submit the information directly to the PHA. The required information must be submitted (postmarked) within 10 business days of the date of the PHA's request or within any extended timeframe approved by the PHA.

The PHA reserves the right to request and review supporting documentation at any time if it questions the declaration or certification. Supporting documentation may include, but is not limited to, Internal Revenue Service (IRS) tax returns, consecutive and original pay stubs, bank statements, pension benefit statements, benefit award letters, and other official and authentic documents from a federal, state, or local agency.

## PART IV. VERIFYING MANDATORY DEDUCTIONS

### **7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS**

The dependent and elderly/disabled family deductions require only that the PHA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

#### **Dependent Deduction**

See Chapter 6 (~~6-H.B.~~) for a full discussion of this deduction. The PHA will verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or cohead of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

#### **Elderly/Disabled Family Deduction**

See Eligibility chapter for a definition of elderly and disabled families and Chapter 6 (~~6-H.C.~~) for a discussion of the deduction. The PHA ~~must will~~ verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

### **7-IV.B. HEALTH AND MEDICAL CARE EXPENSE DEDUCTION**

Policies related to medical expenses are found in ~~6-H.D.~~Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I.

The PHA must comply with the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. 104-191, 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed health and medical care expenses. The PHA may not request documentation beyond what is sufficient to determine anticipated health and medical care costs. Before placing bills and documentation in the tenant file, the PHA must redact all personally identifiable information [FR Notice 2/14/23].

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#### **Amount of Expense**

##### PHA Policy

Medical expenses will be verified through:

- Written third-party documents provided by the family, such as pharmacy printouts or receipts.
- When income is projected at new admission or interim, The PHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The PHA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

- Written third-party verification forms, if the family is unable to provide acceptable documentation.
- When income is projected at new admission or interim, if third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months.

Before placing bills and documentation in the tenant file, the PHA will redact all personally identifiable information.

If the PHA receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of the person's disability, the PHA will immediately dispose of this confidential information; this information will never be maintained in the individual's file. If the information needs to be disposed of, the PHA will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will PHA include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

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In addition, the PHA must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified health and medical care expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

### **Eligible Household**

The health and medical care expense deduction is permitted only for households in which the head, spouse, or cohead is at least 62, or a person with disabilities. The PHA ~~must will~~ verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter and as described in Chapter 7 (7-IV.A.) of this plan.

### **Qualified Expenses**

To be eligible for the health and medical care expenses deduction, the costs must qualify as medical expenses. See Chapter 6 (~~6-H.D.~~) for the PHA's policy on what counts as a medical expense.

### **Unreimbursed Expenses**

To be eligible for the health and medical care expenses deduction, the costs must not be reimbursed by another source.

#### PHA Policy

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source. If expenses are verified through a third party,

the third party must certify that the expenses are not paid or reimbursed from any other source.

#### Expenses Incurred in Past Years

##### PHA Policy

At new admission and interim reexam, w~~When~~ anticipated costs are related to on-going payment of medical bills incurred in past years, the PHA will verify:

- The anticipated repayment schedule
- The amounts paid in the past, and
- Whether the amounts to be repaid have been deducted from the family's annual income in past years

#### 7-IV.C. DISABILITY ASSISTANCE EXPENSES

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

The PHA must comply with the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. 104-191, 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed auxiliary apparatus or attendance care costs. The PHA may not request documentation beyond what is sufficient to determine anticipated reasonable attendant care and auxiliary apparatus costs. Before placing bills and documentation in the tenant file, the PHA must redact all personally identifiable information [FR Notice 2/14/23].

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#### Amount of Expense

#### Attendant Care

##### PHA Policy

~~The PHA will accept written third-party documents provided by the family.~~

~~If family-provided documents are not available, the PHA will provide a third-party verification form directly to the care provider requesting the needed information.~~

Expenses for attendant care will be verified through:

- Written third-party documents provided by the family, such as receipts or cancelled checks.
- Third-party verification form signed by the provider, if family-provided documents are not available.
- When income is projected at new admission or interim, i~~f~~ third-party verification is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months

Before placing bills and documentation in the tenant file, the PHA will redact all personally identifiable information.

If the PHA receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of the person's disability, the PHA will immediately dispose of this confidential information; this information will never be maintained in the individual's file. If the information needs to be disposed of, the PHA will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will PHA include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

## Auxiliary Apparatus

### PHA Policy

Expenses for auxiliary apparatus will be verified through:

- Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.
- Third-party verification form signed by the provider, if family-provided documents are not available.
- If third-party verification is not possible, written family certification of estimated apparatus costs for the upcoming 12 months.

In addition, the PHA must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
- The expense permits a family member, or members, to work (as described in ~~6-H-E~~ Chapter 6).
- The expense is not reimbursed from another source (as described in ~~6-H-E~~ Chapter 6).

## Family Member is a Person with Disabilities

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The PHA will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

## Family Member(s) Permitted to Work

The PHA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

### PHA Policy

The PHA will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating ~~doctor indicating~~ that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.). This documentation may be provided by the family.

If third-party verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

## Unreimbursed Expenses

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

PHA Policy

The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

**7-IV.D. CHILD CARE EXPENSES**

Policies related to child care expenses are found in Chapter 6 (~~6-II.F~~). The amount of the deduction will be verified following the standard verification procedures described in Part I of this chapter. In addition, the PHA must verify that:

- The child is eligible for care (12 or younger).
- The costs claimed are not reimbursed.
- The costs enable a family member to work, actively seek work, or further their education.
- The costs are for an allowable type of childcare.
- The costs are reasonable.

**Eligible Child**

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. The PHA will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

**Unreimbursed Expense**

To be eligible for the child care deduction, the costs must not be reimbursed by another source.

PHA Policy

The family (and the care provider) will be required to certify that the child care expenses are not paid or reimbursed to the family from any source.

**Pursuing an Eligible Activity**

The PHA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

PHA Policy

Information to be Gathered -

The PHA will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work -

Whenever possible the PHA will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases



the PHA will request family-provided verification from the agency of the member's job seeking efforts to date and require the family to submit to the PHA any reports provided to the other agency.

In the event third-party verification is not available, the PHA will provide the family with a form on which the family member must record job search efforts. The PHA will review this information at each subsequent reexamination for which this deduction is claimed.

*Furthering Education -*

~~The PHA If the childcare expense being claimed is to enable a family member to further their education, the PHA~~ will request third-party documentation to verify that the person permitted to further their education by the child care is enrolled, and ~~to~~ provide information about the timing of classes for which the person is registered. The documentation may be provided by the family, ~~in the form of an official schedule from the educational institution.~~

*Gainful Employment -*

~~The PHA will seek third-party verification of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.~~

~~If the childcare expense being claimed is to enable a family member to be gainfully employed, the PHA will request third party verification of the work schedule of the person.~~

~~In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.~~

### **Allowable Type of Child Care**

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

#### PHA Policy

The PHA will verify that the type of child care selected by the family is allowable, as described in Chapter 6 ~~(6-H-F)~~.

The PHA will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The PHA will verify that the childcare provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

### **Reasonableness of Expenses**

Only reasonable childcare costs can be deducted.

#### PHA Policy

The actual costs the family incurs will be compared with the PHA's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, the PHA will request additional documentation, as required, to support a determination that the higher cost is appropriate.

**Exhibit 7-1: Summary of Documentation Requirements for Noncitizens**  
**[HCV GB, pp. 5-9 and 5-10]**

<ul style="list-style-type: none"> <li>• <b>All</b> noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the PHA.</li> <li>• Except for persons 62 or older, all noncitizens must sign a verification consent form</li> <li>• Additional documents are required based upon the person's status.</li> </ul>	
<b>Elderly Noncitizens</b> <ul style="list-style-type: none"> <li>• A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.</li> </ul>	
<b>All other Noncitizens</b> <ul style="list-style-type: none"> <li>• Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.</li> </ul>	
<ul style="list-style-type: none"> <li>• Form I-551 Alien Registration Receipt Card (for permanent resident aliens)</li> <li>• Form I-94 Arrival-Departure Record annotated with one of the following: <ul style="list-style-type: none"> <li>• “Admitted as a Refugee Pursuant to Section 207”</li> <li>• “Section 208” or “Asylum”</li> <li>• “Section 243(h)” or “Deportation stayed by Attorney General”</li> <li>• “Paroled Pursuant to Section 221 (d)(5) of the USCIS”</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Form I-94 Arrival-Departure Record with no annotation accompanied by: <ul style="list-style-type: none"> <li>• A final court decision granting asylum (but only if no appeal is taken);</li> <li>• A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);</li> <li>• A court decision granting withholding of deportation; or</li> <li>• A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).</li> </ul> </li> </ul>
<ul style="list-style-type: none"> <li>• Form I-688 Temporary Resident Card annotated “Section 245A” or Section 210”.</li> </ul>	<ul style="list-style-type: none"> <li>• Form I-688B Employment Authorization Card annotated “Provision of Law 274a. 12(11)” or “Provision of Law 274a.12”.</li> </ul>
<ul style="list-style-type: none"> <li>• A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant’s entitlement to the document has been verified; or</li> <li>• Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the <i>Federal Register</i></li> </ul>	

**Housing Quality Standards/Uniform Physical Condition Standards for  
HCV (NSPIRE) and Rent Reasonableness Determinations  
[24 CFR §982 Subpart I; 24 CFR §982.507]**

**Introduction**

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HUD requires that all units occupied by families receiving Housing Choice Voucher (HCV) assistance meet HUD's Housing Quality Standards (HQS/NSPIRE) and permits the PHA to establish additional requirements. The use of the term "HQS/NSPIRE" in this plan refers to the combination of both HUD and PHA-established requirements.

All units must pass an NSPIRE inspection prior to the approval of a lease and at least once every 24 months during the term of the contract and at other times as needed, to determine that the unit meets NSPIRE Protocol.

HUD also requires PHAs to determine that rents for under the program are reasonable when compared to comparable unassisted units in the market area.

This chapter explains HUD and PHA requirements related to housing quality and rent reasonableness as follows:

In 2018, HUD accepted volunteer housing authorities for a demonstration of the new Uniform Physical Condition Standards for Vouchers (NSPIRE) protocol that would replace HQS . The implementation of the new protocol is being overseen by REAC's Oversight and Evaluation Division (OED). HUD's Office of Lead Hazards Control and Health Homes (OLHCHH) also provided feedback on the new program.

The Uniform Physical Condition Standards for Vouchers (NSPIRE) is a Demonstration Program [24 CFR §982), implementing an improved inspection standard for HUD's Housing Choice Voucher (HCV) units. NSPIRE aims to enhance the accuracy, consistency, and objectivity of the inspection process, and provide more information about the condition of individual housing units. Through this initiative, HUD aims to clarify and streamline inspection processes for PHAs and inspectors, while increasing owners and tenants access to detailed information about their homes.

NSPIRE is a Demonstration Program developed to align with the Uniform Physical Condition Standards (UPCS).

- NSPIRE inspections are electronic and conducted using an app
- NSPIRE Pass/fail outcomes are decided by a protocol, not an inspector's judgement
- NSPIRE requires inspectors to identify deficiencies based on a standardized set of decisions

The City of Chandler Housing and Redevelopment Division began participation in the NSPIRE Demonstration July 2018 and will follow that protocol and decision tree for determining

inspection pass and fail decisions. All processes and requirements remain the same as HQS, except for when there is a conflict between NSPIRE and HQS pass and fail determinations.

**Part I. Physical Standards.** This part discusses the physical standards required of units occupied by HCV-assisted families and identifies decisions about the acceptability of the unit that may be made by the family based upon the family's preference. It also identifies life-threatening conditions that must be addressed on an expedited basis.

**Part II. The Inspection Process.** This part describes the types of inspections the PHA will make and the steps that will be taken when units do not meet NSPIRE.

**Part III. Rent Reasonableness Determinations.** This part discusses the policies the PHA will use to make rent reasonableness determinations.

Special NSPIRE requirements for homeownership, manufactured homes, and other special housing types are discussed in Chapter 15 to the extent that they apply in this jurisdiction.

## **Part I: PHYSICAL STANDARDS**

### **8-I.A. GENERAL HUD REQUIREMENTS**

#### **HUD Performance and Acceptability Standards**

HUD's performance and acceptability standards for HCV-assisted housing are provided in 24 CFR §982.401. These standards cover the following areas

- Sanitary facilities
- Food preparation and refuse disposal
- Space and Security
- Thermal Environment
- Illumination and electricity
- Structure and materials
- Interior Air Quality
- Water Supply
- Lead-based paint
- Access
- Site and neighborhood
- Sanitary condition
- Smoke Detectors

A summary of HUD performance criteria is provided in Attachment 8-1. Additional guidance on these requirements is found in the following HUD resources:

- Housing Choice Voucher Guidebook, Chapter 10
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)
- HUD Notice 2003-31, Accessibility Notice: Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Architectural Barriers Act of 1968 and the Fair Housing Act of 1988

#### **Tenant Preference Items**

HUD requires the PHA to enforce minimum NSPIRE standards but also recognizes that certain judgments about the acceptability of the unit are left to the family. For example, the PHA must ensure that the unit contains the required sanitary facilities, but the family decides whether the cosmetic appearance of the facilities is acceptable. Exhibit 8-2 summarizes those items that are considered tenant preferences.

### **Modifications to Provide Accessibility**

Under the Fair Housing Act of 1988 an owner must not refuse the request of a family that contains a person with a disability to make necessary and reasonable modifications to the unit. Such modifications are at the family's expense. The owner may require restoration of the unit to its original condition if the modification would interfere with the owner or next occupant's full enjoyment of the premises. The owner may not increase a customarily required security deposit. However, the landlord may negotiate a restoration agreement that requires the family to restore the unit and, if necessary to ensure the likelihood of restoration, may require the tenant to pay a reasonable amount into an interest bearing escrow account over a reasonable period of time. The interest in any such account accrues to the benefit of the tenant. The owner may also require reasonable assurances that the quality of the work will be acceptable and that any required building permits will be obtained.[24 CFR §100.203; Notice 2003-31].

Modifications to units to provide access for a person with a disability must meet all applicable NSPIRE requirements and conform to the design, construction, or alteration of facilities contained in the UFAS and the ADA Accessibility Guidelines (ADAAG) [28 CFR §35.151(c) and Notice 2003- 31]. See Chapter 2 of this plan for additional information on reasonable accommodations for persons with disabilities.

#### PHA Policy

Any owner that intends to negotiate a restoration agreement or require an escrow account must submit the agreement(s) to the PHA for review.

### **8-1.B. ADDITIONAL LOCAL REQUIREMENTS**

The PHA may impose variations to NSPIRE as long as the additional criteria are not likely to adversely affect the health or safety of participant families or severely restrict housing choice for families.

HUD approval is required for variations to the NSPIRE Protocol. HUD approval is not required if the variations are clarifications of HUD's acceptability criteria or performance standards [24 CFR §982.401(a)(4)].

#### **Thermal Environment [HCV GB p.10-7]**

The PHA must define a “healthy living environment” for the local climate. This may be done by establishing a temperature that the heating system must be capable of maintaining, that is appropriate for the local climate.

#### PHA Policy

- Heating:
  - If the PHA controls the temperature, the minimum heating temperature in each unit must be at least 68 degrees Fahrenheit.
  - If the resident controls the temperature, the heating equipment must have the capability of heating to at least 68 degrees Fahrenheit (PIH 2018-19).

- At no point should indoor temperatures in occupied space drop below 55 degrees Fahrenheit (PIH Notice 2018-19).
- Cooling:
  - If the PHA controls the temperature, the minimum cooling temperature in each unit must be at least 82 degrees Fahrenheit.
  - If the resident controls the temperature, the cooling equipment must have the capability of cooling to at least 82 degrees Fahrenheit (PIH Notice 2018-19)

#### **.Clarifications of HUD Requirements**

##### PHA Policy

As permitted by HUD, the PHA has adopted the following specific requirements that elaborate on HUD standards. \*\*These standards must be in alignment with the NSPIRE Protocol.

#### **Walls**

- In areas where plaster or drywall is sagging, severely cracked, or otherwise damaged, it must be repaired or replaced.

#### **Windows**

- Window sashes must be in good condition, solid and intact, and properly fitted to the window frame. Damaged or deteriorated sashes must be replaced.
- Windows must be weather-stripped as needed to ensure a weather-tight seal. Window screens must be in good condition (applies only if screens are present).

#### **Doors**

- All exterior doors must be weather-tight to avoid any air or water infiltration, be lockable, have no holes, have all trim intact, and have a threshold.
- All interior doors must have no holes, have all trim intact, and be openable without the use of a key.

#### **Floors**

- All wood floors must be sanded to a smooth surface and sealed. Any loose or warped boards must be re-secured and made level. If they cannot be leveled, they must be replaced.
- All floors must be in a finished state. Raw wood or unsealed concrete is not permitted.
- All floors include, except for carpeted floors, some type of base-shoe, trim, or sealing for a "finished look." Vinyl base-shoe is permitted.

#### **Sinks**

- All sinks and commode water lines must have shut off valves, unless faucets are wall mounted.



- All sinks must have functioning stoppers.

#### **Toilets**

- All worn or cracked toilet seats and tank lids must be replaced and toilet tank lid must fit properly.

#### **Security**

- If window security bars or security screens are present on emergency exit windows, they must be equipped with a quick release system. The owner is responsible for ensuring that the family is instructed on the use of the quick release system.

#### **8-I.C. LIFE THREATENING CONDITIONS [24 CFR §982.404(A): HOTMA, FR NOTICE 1/18/17] SEE GLOSSARY FOR ADDITIONAL CLARIFICATION AND EXAMPLES**

HUD requires the PHA to define life-threatening conditions and to notify the owner or the family (whichever is responsible) of the corrections required. The responsible party must correct life-threatening conditions within 24 hours of PHA notification.

##### **PHA Policy**

The following are considered life-threatening conditions as long as they are in alignment with NSPIRE Protocol:

- Any condition that jeopardizes the security of the unit
- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling
- Natural or LP gas or fuel oil leaks
  - A fuel storage vessel, fluid line, valve, or connection that supplies fuel to a HVAC unit is leaking or a strong odor is detected with potential for explosion or fire or that results in a health risk if inhaled
- Any electrical problem or condition that could result in shock or fire
  - A light fixture is readily accessible, is not securely mounted to the ceiling or wall, and electrical connections or wires are exposed
  - A light fixture is
    - hanging by its wires
  - 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
  - A receptacle (outlet) or switch is missing or broken and electrical connections or wires are exposed
  - 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

- A cover is missing from any electrical device box, panel box, switch gear box, control panel, etc., and there are exposed electrical connections
- Any nicks, abrasions, or fraying of the insulation that exposes conducting wire
- Exposed bare wires or electrical connections
- Any condition that results in openings in electrical panels or electrical control device enclosures
- Water leaking or ponding near any electrical device
- Any condition that poses a serious risk of electrocution or fire and poses an immediate life-threatening condition
- Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit.
- Absence of a working air conditioner or evaporative cooler when the outside temperature is 110 degrees or above.
- Utilities not in service
- Conditions that present the imminent possibility of injury
- Obstacles that prevent safe entrance or exit from the unit
  - Any components that affect the function of the fire escape are missing or damaged
  - Stored items or other barriers restrict or prevent the use of the fire escape in the event of an emergency
  - The building's emergency exit is blocked or impeded, thus limiting the ability of occupants to exit in a fire or other emergency
- Absence of a functioning toilet in the unit
- Inoperable or missing smoke detectors
- Missing or inoperable carbon monoxide detector
- Missing, damaged, discharged, overcharged, or expired fire extinguisher (where required)
- Gas/oil-fired water heater or heating, ventilation, or cooling system with missing, damaged, improper, or misaligned chimney venting
  - The chimney or venting system on a fuel-fired water heater is misaligned, negatively pitched, or damaged, which may cause improper or dangerous venting or gases
  - A gas dryer vent is missing, damaged, or is visually determined to be inoperable, or the dryer exhaust is not vented to the outside
  - A fuel-fired space heater is not properly vented or lacks available combustion air

- A non-vented space heater is present
- Safety devices on a fuel-fired space heater are missing or damaged
- 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 gas
- Deteriorating paint as defined at 24 CFR §35.110 in a unit built before 1978 that is to be occupied by a family with a child under six years of age if it would prevent the family from moving into the unit

If an owner fails to correct life-threatening conditions as required by the PHA, the PHA will enforce the NSPIRE Protocol in accordance with HUD requirements. See 8-II-G.

If a family fails to correct a family caused life threatening condition as required by the PHA, the PHA will enforce the family obligations See 8-II.H.

The owner will be required to repair an inoperable smoke detector unless the PHA determines that the family has intentionally disconnected it (by removing batteries or other means). In this case, the family will be required to repair the smoke detector within 24 hours.

#### **8-I.D. OWNER AND FAMILY RESPONSIBILITIES [24 CFR §982.404]**

##### **Family Responsibilities**

The family is responsible for correcting the following NSPIRE Protocol deficiencies:

- Tenant-paid utilities not in service
- Failure to provide or maintain appliances owned by the family
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear that result in a breach of the NSPIRE. "Normal wear and tear" is defined as items, which could not be charged against the tenant's security deposit under state law or court practice.

##### **Owner Responsibilities**

The owner is responsible for all NSPIRE violations not listed as a family responsibility above, even if the violation is caused by the family's living habits (e.g., vermin infestation). However, if the family's actions constitute a serious or repeated lease violation the owner may take legal action to evict the family.

##### **Determination of Responsibility For NSPIRE Protocol Violations**

The Inspector will make a determination of owner or family responsibility for the housing quality standards deficiencies found during the inspection. The owner or tenant may appeal the determination to the Housing and Redevelopment Manager within three (3) working days of notification of the inspection results.

**8-I-E. SPECIAL REQUIREMENTS FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL [24 CFR §35.1225; FR NOTICE 1/13/17; PIH NOTICE 2017-13]**

If a 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 elevated blood lead level, the PHA must complete an environmental investigation of the dwelling unit within 15 calendar days after being notified by a public health department or other medical health care provider. The environmental investigation must be completed in accordance with program requirements, and the result of the environmental investigation must be immediately provided to the owner of the dwelling unit. In cases where the public health department has already completed an evaluation of the unit, this information must be provided to the owner.

Within 30 days after receiving the environmental investigation 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 [24 CFR §35.1325 and §35.1330; 40 CFR §745.227]. If the owner does not complete the “hazard reduction” as required, the dwelling unit is in violation of UPCS-,V and the PHA will take action in accordance with Section 8-II.G.

PHA reporting requirements, data collection, and record keeping responsibilities related to children with an elevated blood lead level are discussed in Chapter 16.

**8-I-F. VIOLATION OF NSPIRE SPACE STANDARDS [24 CFR §982.401, 24 CFR §982.403]**

A dwelling unit must:

- Provide adequate space and security for the family
- Have at least one bedroom or living/sleeping room for each two persons

A unit that does not meet these NSPIRE space standards is defined as *overcrowded*.

A living room may be used as sleeping (bedroom) space, but no more than two persons may occupy the space [HCV GB p. 10-6]. A bedroom or living/sleeping room must have at least:

- One window
- Two electrical outlets in proper operating condition (permanent overhead or wall-mounted light fixtures may count as one of the required electrical outlets)

If the PHA determines that a unit is overcrowded because of an increase in family size or a change in family composition, the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms.

## **PART II: THE INSPECTION PROCESS**

### **8-II.A. OVERVIEW [24 CFR §982.405]**

#### **Types of Inspections**

The PHA conducts the following types of inspections as needed. Each type of inspection is discussed in the paragraphs that follow.

- *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.
- *Annual/Biennial Inspections.* HUD requires the PHA to inspect each unit under lease at least annually or biennially, depending on PHA policy to confirm that the unit still meets NSPIRE. The inspection may be conducted in conjunction with the family's annual reexamination but also may be conducted separately.
- *Special Inspections.* A special inspection may be requested by the owner, the family, or a third party as a result of problems identified with a unit between annual inspections.
- *Quality Control Inspections.* HUD requires that a sample of units be Inspected by a supervisor or other qualified individual to evaluate the work of the inspector(s) and to ensure that inspections are performed in compliance with the NSPIRE.

### **8-II.B. INSPECTION OF PHA-OWNED UNITS [24 CFR §982.352(B)]**

The PHA must obtain the services of an independent entity to perform all NSPIRE inspections in cases where an HCV family is receiving assistance in a PHA-owned unit. A PHA-owned unit is defined as a unit that is owned by the PHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the PHA).

The independent agency must communicate the results of each inspection to the family and the PHA.

The independent agency must be approved by HUD, and 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).

#### **Inspection Costs [PIH Notice 2016-05]**

The PHA may not charge the family for unit inspections or reinspection's [24 CFR §982.405(e)]. In the case of inspections of PHA-owned units, the PHA may compensate the independent agency from ongoing administrative fee for inspections performed. The PHA and the independent agency may not charge the family any fee or charge for the inspection [24 CFR §982.352(b)].

The PHA may not charge the owner for the inspection of the unit prior to the initial term of the lease or for a first inspection during assisted occupancy of the unit. However, the PHA may charge a reasonable fee to owners for reinspections in two situations:

- When the owner notifies the PHA that a repair has been made but the deficiency has not been corrected, and
- When the time for repairs has elapsed and the deficiency has not been corrected.

Fees may not be imposed for tenant-caused damages, for cases in which the inspector could not gain access to the unit, or for new deficiencies discovered during a reinspection.

The owner may not pass the cost of a reinspection fee to the family. Reinspection fees must be added to the PHA's administrative fee reserves and may only be used for activities related to the provision of tenant-based assistance.

PHA Policy

The PHA will not charge a fee for failed reinspections.

**Remote Video Inspections (RVIs) [PIH Notice 2020-31]**

As an alternative to some or all on-site inspections, the PHA may, but is not required to, perform HQS inspections from a remote location using video streaming technology and a proxy at the inspection site.

Since there may be some circumstances in which the application of technology provides insufficient information or evidence to allow the PHA to make appropriate determinations about whether a condition violates HQS, Notice PIH 2020-31 requires that if a PHA chooses to implement RVIs, the PHA should have policies and procedures in place to address such limitations.

PHA Policy

The PHA will not conduct any HQS inspection using RVI.

**Notice and Scheduling**

The family must allow the PHA to inspect the unit at reasonable times with reasonable notice [24 CFR §982.551(d)].

PHA Policy

Both the family and the owner will be given reasonable notice of all inspections. Except in the case of a life threatening emergency, reasonable notice is considered to be not less than 48 hours. Inspections may be scheduled between 8:00 a.m. and 7:00 p.m. Generally, inspections will be conducted on business days only. In the case of a life-threatening emergency, the PHA will give as much notice as possible, given the nature of the emergency.

### **Owner and Family Inspection Attendance**

HUD permits the PHA to set policy regarding family and owner presence at the time of inspection [HCV GB p. 10-27].

#### PHA Policy

When a family occupies the unit at the time of inspection an authorized adult must be present for the inspection. The presence of the owner or the owner's representative is encouraged but is not required.

At initial inspection of a vacant unit, the PHA will inspect the unit in the presence of the owner or owner's representative. The presence of a family representative is permitted, but is not required, however the family will be notified that the PHA is not a family representative.

### **8-II.C. INITIAL NSPIRE INSPECTION [24 CFR §982.401(A)]**

#### **Initial Inspections [FR Notice 1/18/17]**

The PHA may, but is not required to, approve assisted tenancy and start HAP if the unit fails NSPIRE inspection, but only if the deficiencies identified are non-life-threatening. Further, the PHA may, but is not required to, authorize occupancy if a unit passed an alternative inspection in the last 24 months.

#### PHA Policy

The unit must pass the NSPIRE inspection on or before the effective date of the HAP contract.

The PHA will not rely on alternative inspections and will conduct an NSPIRE inspection for each unit prior to executing a HAP contract with the owner.

#### **Timing of Initial Inspections**

HUD requires PHAs with fewer than 1,250 budgeted units to complete the initial inspection, determine whether the unit satisfies NSPIRE, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RTA). For PHAs with 1,250 or more budgeted units, to the extent practicable such inspection and determination must be completed within 15 days. The 15-day period is suspended for any period during which the unit is not available for inspection [24 CFR §982.305(b)(2)].

#### PHA Policy

The PHA will complete the initial inspection, determine whether the unit satisfies HQS/NSPIRE /NSPIRE, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RTA).

## **Inspection Results and Reinspections**

### PHA Policy

If any NSPIRE violations are identified, the owner will be notified of the deficiencies and be given a time frame to correct them. If requested by the owner, the time frame for correcting the deficiencies may be extended by the PHA for good cause. The PHA will reinspect the unit within five (5) business days of the date the owner notifies the PHA that the required corrections have been made.

If the time for correcting the deficiencies (or any PHA-approved extension) has elapsed, or the unit fails NSPIRE at the time of the reinspection, the PHA will notify the owner and the family that the unit has been rejected and that the family must search for another unit. The PHA may agree to conduct a second reinspection, for good cause, at the request of the family and owner.

Following a failed reinspection, the family may submit a new Request for Tenancy Approval after the owner has made repairs, if they are unable to locate another suitable unit.

## **Utilities**

Generally, at initial lease-up the owner is responsible for demonstrating that all utilities are in working order including those utilities that the family will be responsible for paying.

### PHA Policy

If utility service is not available for testing at the time of the initial inspection, the PHA will not conduct the inspection.

After the initial inspection has passed, and the owner does not provide the utility service, the electric utility must be turned on only in the head of household's name before the execution of the Housing Assistance Payment Contract. Written documentation must be provided to the PHA that will verify that the electric utility is turned on only in the head of household's name.

It is important that the electricity is in the head of household's name because the COCHRD submits utility reimbursement payments to the electric company only in the head of household's name.

## **Appliances [Form HUD-52580]**

### PHA Policy

If the family is responsible for supplying the stove and/or refrigerator, the PHA will allow the stove and refrigerator to be placed in the unit after the unit has met all other NSPIRE requirements. The required appliances must be in place before the HAP contract is executed by the PHA. The PHA will execute the HAP contract based upon a certification from the family that the appliances are installed and working. A confirmatory inspection will be scheduled within 30 days of HAP contract approval.



**8.II.D. ANNUAL/BIENNIAL NSPIRE INSPECTIONS [24 CFR §982.405; §982.406, PIH NOTICE 2016- 05; HOTMA 2016]**

Effective July 1, 2014, PHAs may establish a policy for performing unit inspections biennially rather than annually [*Federal Register* notice 06/25/14]. This policy could apply to some or all assisted units. PHAs still have the option to inspect every unit annually.

**PHA Policy**

**The PHA may decide to conduct annual inspections, instead of biennial inspection, for all units based on the needs of COCHRD, and if inspection results warrant more frequent HQS, it will be completed annually for all units.**

Each unit under HAP contract must be inspected within 24 months of the last full NSPIRE inspection; however, if a unit is found to have a life-threatening NSPIRE fail, the owner of that unit will be required to participate in annual inspections for all units for the period of 24 months before being returned to biennial inspections. This does not apply to life- threatening NSPIRE fails caused by tenants.

One or more substantiated complaints will also require the owner of that unit to participate in annual inspections for all units for the period of 24 months before being returned to biennial inspections.

The PHA reserves the right to require annual/biennial inspections of any owner at any time. The PHA will maintain documentation in the participant file to support the decision.

The PHA will not rely on alternative inspection standards.

**Scheduling the Inspection**

**PHA Policy**

If an authorized adult cannot be present on the scheduled date, the family should request that the PHA reschedule the inspection. The PHA and family will agree on a new inspection date that generally should take place within five (5) business days of the originally-scheduled date. The PHA may schedule an inspection more than five (5) business days after the original date for good cause.

If the family misses the first scheduled appointment without requesting a new inspection date, the PHA will automatically schedule a second inspection. If the family misses two scheduled inspections without PHA approval, the PHA will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family's assistance in accordance with Chapter 12.

**8.II.E. SPECIAL INSPECTIONS [24 CFR §982.405(G)]**

If a participant or government official reports a life-threatening condition which the owner would be required to repair within 24 hours, the PHA must inspect the unit within 24 hours of

notification. If the reported condition is not life-threatening, the PHA must inspect the unit within 15 days of notification.

PHA Policy

During a special inspection, the PHA generally will inspect only those deficiencies that were reported. However, the inspector will record any additional NSPIRE deficiencies that are observed and will require the responsible party to make the necessary repairs.

If the annual/biennial inspection has been scheduled or is due within 90 days of the date the special inspection is scheduled the PHA may elect to conduct a full annual/biennial inspection.

**8-IL.F. QUALITY CONTROL INSPECTIONS [24 CFR §982.405(B), HCV GB P. 10-32]**

HUD requires a PHA supervisor or other qualified person to conduct quality control inspections of a sample of units to ensure that each inspector is conducting accurate and complete inspections and that there is consistency in the application of the NSPIRE.

The unit sample must include only units that have been inspected within the preceding 3 months. The selected sample should be drawn to represent a cross section of neighborhoods and the work of a cross section of inspectors.

**8-IL.G. INSPECTION RESULTS AND REINSPECTIONS FOR UNITS UNDER HAP CONTRACT**

**Notification of Corrective Actions**

The owner and the family will be notified in writing of the results of all inspections. When an inspection identifies HQS failures, the PHA will determine (1) whether or not the failure is a life-threatening condition and (2) whether the family or owner is responsible.

PHA Policy

When life-threatening conditions are identified, the PHA will immediately notify both parties by telephone or email. The notice will specify who is responsible for correcting the violation. The corrective actions must be taken within 24 hours of the PHA's notice.

When failures that are not life-threatening are identified, the PHA will send the owner and the family a written notification of the inspection results within five (5) business days of the inspection. The written notice will specify who is responsible for correcting the violation, and the time frame within which the failure must be corrected. Generally, not more than 30 days will be allowed for the correction.

The notice of inspection results will inform the owner that if life-threatening conditions are not corrected within 24 hours, and non-life threatening conditions are not corrected within the specified time frame (or any PHA-approved extension), the owner's HAP will be abated in accordance with PHA policy (see 8-IL.G.).

Likewise, in the case of family caused deficiencies, the notice will inform the family that if corrections are not made within the specified time frame (or any PHA-approved extension, if applicable) the family's assistance will be terminated in accordance with PHA policy (see Chapter 12).

## **Extensions**

For conditions that are life-threatening, the PHA cannot grant an extension to the 24 hour corrective action period. For conditions that are not life-threatening, the PHA may grant an exception to the required time frames for correcting the violation, if the PHA determines that an extension is appropriate [24 CFR §982.404].

### PHA Policy

Extensions will be granted in cases where the PHA has determined that the owner has made a good faith effort to correct the deficiencies and is unable to for reasons beyond the owner's control. Reasons may include, but are not limited to:

- A repair cannot be completed because required parts or services are not available.
- A repair cannot be completed because of weather conditions.
- A reasonable accommodation is needed because the family includes a person with disabilities.

The length of the extension will be determined on a case-by-case basis, but will not exceed 60 days, except in the case of delays caused by weather conditions. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make repairs possible. The necessary repairs must be made within 15 calendar days, once the weather conditions have subsided.

## **Reinspections**

### PHA Policy

The PHA will conduct a reinspection immediately following the end of the corrective period, or any PHA approved extension.

The family and owner will be given reasonable notice of the reinspection appointment. If the deficiencies have not been corrected by the time of the reinspection, the PHA will send a notice of abatement to the owner, or in the case of family caused violations, a notice of termination to the family, in accordance with PHA policies. If the PHA is unable to gain entry to the unit in order to conduct the scheduled reinspection, the PHA will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family's assistance in accordance with Chapter 12.

The PHA ~~will not accept~~ may accept self-certification of HQNSPIRE repairs.



## **8-II.H. ENFORCING OWNER COMPLIANCE**

If the owner fails to maintain the dwelling unit in accordance with NSPIRE, the PHA must take prompt and vigorous action to enforce the owner obligations.

### **HAP Abatement**

If an owner fails to correct NSPIRE deficiencies by the time specified by the PHA, HUD requires the PHA to abate housing assistance payments no later than the first of the month following the specified correction period (including any approved extension) [24 CFR 985.2(f)]. No retroactive payments will be made to the owner for the period of time the rent was abated. Owner rents are not abated as a result of NSPIRE failures that are the family's responsibility.

#### **PHA Policy**

The PHA will make all HAP abatements effective the first of the month following the expiration of the PHA specified correction period (including any extension).

The PHA will inspect abated units within five (5) business days of the owner's notification that the work has been completed. Payment will resume effective on the day the unit passes inspection.

During any abatement period the family continues to be responsible for its share of the rent. The owner must not seek payment from the family for abated amounts and may not use the abatement as cause for eviction.

### **HAP Contract Termination**

The PHA must decide how long any abatement period will continue before the HAP contract will be terminated. The PHA should not terminate the contract until the family finds another unit, provided the family does so in a reasonable time [HCV GB p. 10-29] and must give the owner reasonable notice of the termination. The PHA will issue a voucher to permit the family to move to another unit as described in Chapter 10.

#### **PHA Policy**

The maximum length of time that HAP may be abated is 7 days. However, if the owner completes corrections and notifies the PHA before the termination date of the HAP contract, the PHA may rescind the termination notice if (1) the family still resides in the unit and wishes to remain in the unit and (2) the unit passes inspection.

Reasonable notice of HAP contract termination by the PHA is 30 days.

## **8-II.H. Enforcing Family Compliance with NSPIRE [24 CFR §982.404(b)]**

Families are responsible for correcting any NSPIRE violations listed in paragraph 8.I.D. If the family fails to correct a violation within the period allowed by the PHA (and any extensions), the PHA will terminate the family's assistance, according to the policies described in Chapter 12.

If the owner carries out a repair for which the family is responsible under the lease, the owner may bill the family for the cost of the repair.

### **PART III: RENT REASONABLENESS [24 CFR §982.507]**

#### **8-III.A. OVERVIEW**

No HAP contract can be approved until the PHA has determined that the rent for the unit is reasonable. The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit rented under the HCV program.

HUD regulations define a reasonable rent as one that does not exceed the rent charged for comparable, unassisted units in the same market area. HUD also requires that owners not charge more for assisted units than for comparable units on the premises. This part explains the method used to determine whether a unit's rent is reasonable.

#### **PHA-owned Units [24 CFR §982.352(b)]**

In cases where an HCV family is receiving assistance in a PHA-owned unit, the PHA must obtain the services of an independent entity to determine rent reasonableness in accordance with program requirements, and to assist the family in negotiating the contract rent when the family requests assistance. A PHA-owned unit is defined as a unit that is owned by the PHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the PHA). The independent agency must communicate the results of the rent reasonableness determination to the family and the PHA. The independent agency must be approved by HUD, and 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).

#### **8-III.B. WHEN RENT REASONABLENESS DETERMINATIONS ARE REQUIRED**

##### **Owner-initiated Rent Determinations**

The PHA must make a rent reasonableness determination at initial occupancy, and whenever the owner requests a rent adjustment.

The owner and family first negotiate the rent for a unit [24 CFR §982.506].

The PHA (or independent agency in the case of PHA-owned units) will assist the family with the negotiations upon request. At initial occupancy, the PHA must determine whether the proposed rent is reasonable before a HAP Contract is signed. The owner must not change the rent during the initial lease term. Subsequent requests for rent adjustments must be consistent with the lease between the owner and the family. Rent increases will not be approved unless any failed items identified by the most recent NSPIRE inspection have been corrected.

##### **PHA Policy**

After the initial occupancy period, the owner may request a rent adjustment in accordance with the owner's lease. For rent increase requests after initial lease-up, the

PHA may request owners to provide information about the rents charged for other units on the premises, if the premises include more than four (4) units. In evaluating the proposed rents in comparison to other units on the premises, the PHA will consider unit size and length of tenancy in the other units.

The PHA will determine whether the requested increase is reasonable within 10 business days of receiving the request from the owner. The owner will be notified of the determination in writing.

All rents adjustments will be effective the first of the month following 60 days after the PHA's receipt of the owner's request or on the date specified by the owner, whichever is later.

**PHA- and HUD-Initiated Rent Reasonableness Determinations [PIH Notice 2018-01; 24 CFR §982.507(a)(2)(ii); §983.302(a)(2); §983.303(b)(1); PIH Notice 2018-01]**

HUD requires the PHA to make a determination of rent reasonableness (even if the owner has not requested a change) if there is a 10 percent decrease in the fair market rent that goes into effect at least 60 days before the contract anniversary date. HUD also may direct the PHA to make a determination at any other time. The PHA may decide that a new determination of rent reasonableness is needed at any time.

**PHA Policy**

In addition to the instances described above, the PHA will make a determination of rent reasonableness at any time after the initial occupancy period if:

- (1) the PHA determines that the initial rent reasonableness determination was in error, or
- (2) the PHA determines that the information provided by the owner about the unit or other units on the same premises was incorrect.

This provision is designed to ensure that when the market goes down by a significant amount (i.e., a 10 percent or more reduction in FMR) the PHA must reexamine rent reasonableness at the contract anniversary date, even if the owner does not propose a rent increase. When determining if this provision applies, the PHA must compare the FMR in effect 60 days prior to the upcoming HAP contract anniversary date with the FMR in effect one year before the upcoming anniversary date [HCV Program Guidebook 7420.1].

PIH Notice 2018-01 provides guidance on the regulatory provisions implemented under the Small Area FMR (SAFMR) Final Rule (FR-5855-F-03), published in the Federal Register on November 16, 2016. The effective date of the Final Rule is January 17, 2017.

The Final Rule changes the percentage decrease in the FMR that triggers the need for a rent reasonableness determination from 5 to 10 percent

A rent reasonableness determination will be required only when the decrease in the FMR from the previous year *is exactly 10 percent*. (An FMR will never decrease by more than 10 percent from the previous year's FMR, regardless of whether a PHA is voluntarily using SAFMRs, is operating in a designated SAFMR area, or is not using SAFMRs.) (PIH Notice 2018-01)

A PHA is still required to re-determine rent reasonableness before any increase in rent to owner and/or if directed by HUD.

10 PERCENT DECREASE IN FMR	
HAP Contract Anniversary Date:	12/01/01
New FMR Effective Date:	10/01/01
Old FMR:	\$500
New FMR:	\$ 450
<i>Is Effective Date of new FMR 60 days or more before the contract anniversary date?</i>	
Yes. 31 days October + 30 days November = 61 days	
<i>Is the decrease in the FMR equal to or greater than 10 percent?</i>	
Yes. $\$500 - \$450 = \$50$ ( $500 \times .10 = \$50$ )	
In this example, the decrease from \$500 to \$450 represents a 10 percent decrease and would activate the provision. If the FMR decreased from \$500 to \$480, no rent reasonableness determination would be required. The PHA could choose; however, to initiate a review of rent reasonableness.	

#### **LIHTC- and HOME-Assisted Units [24 CFR §982.507(c)]**

For units receiving low-income housing tax credits (LIHTCs) or units assisted under HUD's HOME Investment Partnerships (HOME) Program, a rent comparison with unassisted units is not required if the voucher rent does not exceed the rent for other LIHTC- or HOME-assisted units in the project that are not occupied by families with tenant-based assistance.

For LIHTCs, if the rent requested by the owner does exceed the LIHTC rents for non-voucher families, the PHA must perform a rent comparability study in accordance with program regulations. In such cases, the rent shall not exceed the lesser of: (1) the reasonable rent as determined from the rent comparability study; or (2) the payment standard established by the PHA for the unit size involved.

#### **8-III.C. HOW COMPARABILITY IS ESTABLISHED**

##### **Factors to Consider**

HUD requires PHAs to take into consideration the factors listed below when determining rent comparability. The PHA may use these factors to make upward or downward adjustments to the rents of comparison units when the units are not identical to the HCV-assisted unit.

- Location and age
- Unit size including the number of rooms and square footage of rooms



- The type of unit including construction type (e.g., single family, duplex, garden, low-rise, high-rise)
- The quality of the units including the quality of the original construction, maintenance, and improvements made.
- Amenities, services, and utilities included in the rent.

#### **Units that Must Not be Used as Comparables**

Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that imposes rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs: Section 8 project-based assistance, Section 236 and Section 221(d)(3) Below Market Interest Rate (BMIR) projects, HOME or Community Development Block Grant (CDBG) program-assisted units in which the rents are subsidized; units subsidized through federal, state, or local tax credits; units subsidized by the Department of Agriculture rural housing programs, and units that are rent-controlled by local ordinance. [PIH Notice 2002-22, PIH Notice 2005-20, and PIH Notice 2020-19]

**Note:** PIH Notice 2020-19, issued August 21, 2020, provides further guidance on the issue of what constitutes an assisted unit.

#### **Rents Charged for Other Units on the Premises**

The Request for Tenancy Approval (form HUD-52517) requires owners to provide information, on the form itself, about the rent charged for other unassisted comparable units on the premises if the premises include more than 4 units.

By accepting the PHA payment each month the owner certifies that the rent is not more than the rent charged for comparable unassisted units on the premises. If asked to do so, the owner must give the PHA information regarding rents charged for other units on the premises.

### **8-III.D. PHA RENT REASONABLENESS METHODOLOGY**

#### **How Market Data Is Collected**

##### PHA Policy

The PHA will collect and maintain data on market rents in the PHA's jurisdiction. Information sources include newspapers, realtors, market surveys, inquiries of owners and other available sources. The data will be maintained by bedroom size and market areas.

Market areas may be defined by zip codes, census tract, neighborhood, and identifiable natural or man-made boundaries. The data will be updated on an ongoing basis and rent information that is more than 24 months old will be eliminated from the database.

## How Rents are Determined

### PHA Policy

The rent for a unit proposed for HCV assistance will be compared to the rent charged for comparable units in the same market area. The PHA will develop a range of prices for comparable units by bedroom size within defined market areas. Units proposed for HCV assistance will be compared to the units within this rent range. Because units may be similar, but not exactly like the unit proposed for HCV assistance, the PHA may make adjustments to the range of prices to account for these differences.

The adjustment must reflect the local market. Not all differences in units require adjustments (e.g., the presence or absence of a garbage disposal may not affect the rent in some market areas).

Adjustments may vary by unit type (e.g., a second bathroom may be more valuable in a three-bedroom unit than in a two-bedroom).

The adjustment must reflect the rental value of the difference – not its construction costs (e.g., it might cost \$20,000 to put on a new roof, but the new roof might not make any difference in what a tenant would be willing to pay because rents units are presumed to have functioning roofs).

When a comparable project offers rent concessions (e.g., first month rent-free, or reduced rent) reported monthly rents will be adjusted accordingly. For example, if a comparable project reports rents of \$500/month but new tenants receive the first month's rent free, the actual rent for the unit would be calculated as follows:  $\$500 \times 11 \text{ months} = 5500 / 12 \text{ months} = \text{actual monthly rent of } \$488$ .

The PHA will notify the owner of the rent the PHA can approve based upon its analysis of rents for comparable units. The owner may submit information about other comparable units in the market area. The PHA will confirm the accuracy of the information provided and consider this additional information when making rent determinations. The owner must submit any additional information within five (5) business days of the PHA's request for information or the owner's request to submit information.

## **EXHIBIT 8-1: Overview of HUD Inspection Standards**

Note: This document provides an Overview of NSPIRE. For more detailed information see the following documents:

- 24 CFR §982.401, Housing Quality Standards (HQS)
- NSPIRE Protocol - Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (7/19) and Inspection Checklist, form HUD-52580-A (7/19)

### **Sanitary Facilities**

The dwelling unit must include sanitary facilities within the unit. The sanitary facilities must be usable in privacy and must be in proper operating condition and adequate for personal cleanliness and disposal of human waste.

### **Food Preparation and Refuse Disposal**

The dwelling unit must have space and equipment suitable for the family to store, prepare, and serve food in a sanitary manner.

### **Space and Security**

The dwelling unit must provide adequate space and security for the family. This includes having at least one bedroom or living/sleeping room for each two persons.

#### PHA Policy

- Rooms used as a sleeping area (den, living room, family room, dining room, etc.) will not be counted as a bedroom for purposes of higher contract rent.
- A room must be classified as a bedroom if that is the purpose for which it was designed and if it meets the NSPIRE criteria for a living/sleeping room (i.e., at least one window and must be operable; smoke detector, two working outlets and one permanently installed light fixture.)
- A room will not be classified as a bedroom if it was not designed for that purpose.
- Bedrooms generally have closets and offer permanent privacy or semi-privacy in the form of surrounding walls and a door.

### **Thermal Environment**

The unit must have a safe system for heating the dwelling unit. Air conditioning is not required but if provided must be in proper operating condition. The dwelling unit must not contain unvented room heaters that burn gas, oil, or kerosene. Portable electric room heaters or kitchen stoves with built-in heating units are not acceptable as a primary source of heat for units located in climatic areas where permanent heat systems are required.

### **Illumination and Electricity**

Each room must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants. The dwelling unit must have sufficient electrical sources so occupants can use essential electrical appliances. Minimum standards are set for different types of rooms. Once the minimum standards are met, the number, type, and location of electrical sources are a matter of tenant preference.

### **Structure and Materials**

The dwelling unit must be structurally sound. Handrails are required when four or more steps (risers) are present, and protective railings are required when porches, balconies, and stoops are thirty inches or more off the ground. The elevator servicing the unit must be working [if there is one]. Manufactured homes must have proper tie-down devices capable of surviving wind loads common to the area.

### **Interior Air Quality**

The dwelling unit must be free of air pollutant levels that threaten the occupants' health. There must be adequate air circulation in the dwelling unit. Bathroom areas must have one openable window or other adequate ventilation. Any sleeping room must have at least one window. If a window was designed to be opened, it must be in proper working order.

### **Water Supply**

The dwelling unit must be served by an approved public or private water supply that is sanitary and free from contamination. Plumbing fixtures and pipes must be free of leaks and threats to health and safety.

### **Lead-Based Paint**

Lead-based paint requirements apply to dwelling units built prior to 1978 that are occupied or can be occupied by families with children under six years of age, excluding zero bedroom dwellings. Owners must:

- Disclose known lead-based paint hazards to prospective tenants before the lease is signed
- Provide all prospective families with "Protect Your Family from Lead in Your Home"
- Stabilize deteriorated painted surfaces and conduct hazard reduction activities when identified by the PHA
- Notify tenants each time such an activity is performed
- Conduct all work in accordance with HUD safe practices
- As part of ongoing maintenance ask each family to report deteriorated paint
- Maintain covered housing without deteriorated paint if there is child under six (6) in the family

For units occupied by elevated blood lead level (lead poisoned) children under six years of age, an environmental investigation must be conducted (paid for by the PHA). If lead hazards are identified during the environmental investigation, the owner must complete hazard reduction activities.

See HCV GB p. 10-15 for a detailed description of these requirements. For additional information on lead-based paint requirements see 24 CFR 35, Subparts A, B, M, and R.

#### **Access**

Use and maintenance of the unit must be possible without unauthorized use of other private properties. The building must provide an alternate means of exit in case of fire.

#### **Site and Neighborhood [City of Chandler AZ, City Code, Chp 30.18 .G; 30.18.J.]**

The site and neighborhood must be reasonably free from disturbing noises and reverberations, excessive trash or vermin, or other dangers to the health, safety, and general welfare of the occupants.

#### PHA Policy

##### **Yard Maintenance:**

- Front, side, or backyards shall not be allowed to become dry and overgrown. No dry weeds, grass, trees, or bushes that present a hazardous condition. Such conditions will be rated 'FAIL.'
- Overgrown green grass, trees or bushes will be rated as a 'FAIL,' per the City of Chandler City Code, 30.18.G. and J., Ordinance No 4951, "2020 Code Amendments – Property Maintenance Ordinance:
  - 30.18.G. - "No person owning or occupying any property fronting on any street, alleyway or public place in the City, shall allow thereon grass or weeds characterized as uncontrolled, unmaintained or overgrown, including those areas between the property line and the street, when such conditions create a blighted condition or may harbor infestations or are likely to become a hazard to the public health or safety."
  - 30.18.J. - "No person shall allow or permit to remain any exterior property condition that presents a blighted or deteriorated appearance including, but not limited to, yards, ground covers, trees, shrubs or other landscaping vegetation that is substantially dead or damaged, characterized by uncontrolled growth or lack of maintenance, or any other similar conditions."
- The ground shall be free of any hazardous debris. A hazardous condition would endanger the health or safety of the tenant.
- The HA recommends that the owner and the tenant enter into a written agreement regarding yard maintenance and submit a copy to the HA for the tenants file.

**Sanitary Condition**

The dwelling unit and its equipment must be in sanitary condition and free of vermin and rodent infestation. The unit must have adequate barriers to prevent infestation.

**Smoke Detectors**

Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association Standard (NFPA) 74 (or its successor standards). If the dwelling unit is occupied by any person with a hearing impairment, smoke detectors must have an appropriate alarm system as specified in NFPA 74 (or successor standards).

**Hazards and Health/Safety**

The unit, interior and exterior common areas accessible to the family, the site, and the surrounding neighborhood must be free of hazards to the family's health and safety.

## EXHIBIT 8-2: Summary of Tenant Preference Areas Related to Housing Quality

Note: This document provides an Overview of unit and site characteristics and conditions for which the family determines acceptability. For more detailed information see the following documents:

- Housing Choice Voucher Guidebook, Chapter 10
  - HUD Housing Inspection Manual for Section 8 Housing
  - HUD Inspection Form, form HUD-52580 (7/19) and Inspection Checklist, form HUD-52580-A (7/19)
- (1) *Sanitary Facilities.* The family may determine the adequacy of the cosmetic condition and quality of the sanitary facilities, including the size of the lavatory, tub, or shower; the location of the sanitary facilities within the unit; and the adequacy of the water heater.
  - (2) *Food Preparation and Refuse Disposal.* The family selects size and type of equipment it finds acceptable. When the family is responsible for supplying cooking appliances, the family may choose to use a microwave oven in place of a conventional oven, stove, or range. When the owner is responsible for providing cooking appliances, the owner may offer a microwave oven in place of an oven, stove, or range only if other subsidized and unsubsidized units on the premises are furnished with microwave ovens only. The adequacy of the amount and type of storage space, the cosmetic conditions of all equipment, and the size and location of the kitchen are all determined by the family.
  - (3) *Space and Security.* The family may determine the adequacy of room sizes and room locations. The family is also responsible for deciding the acceptability of the type of door and window locks.
  - (4) *Energy conservation items.* The family may determine whether the amount of insulation, presence of absence of storm doors and windows and other energy conservation items are acceptable.
  - (5) *Illumination and Electricity.* The family may determine whether the location and the number of outlets and fixtures (over and above those required to meet NSPIRE standards) are acceptable or if the amount of electrical service is adequate for the use of appliances, computers, or stereo equipment.
  - (6) *Structure and Materials.* Families may determine whether minor defects, such as lack of paint, or worn flooring or carpeting will affect the livability of the unit.
  - (7) *Indoor Air.* Families may determine whether window and door screens, filters, fans, or other devices for proper ventilation are adequate to meet the family's needs. However, if screens are present they must be in good condition.
  - (8) *Sanitary Conditions.* The family determines whether the sanitary conditions in the unit, including minor infestations, are acceptable.

(9) *Neighborhood conditions.* Families may determine whether neighborhood conditions such as the presence of drug activity, commercial enterprises, and convenience to shopping will affect the livability of the unit.

\*\*\* Families have no discretion with respect to lead-based paint standards and smoke detectors.



## General Leasing Policies

### Introduction

Chapter 9 covers the lease-up process from the family's submission of a Request for Tenancy Approval to execution of the HAP contract.

~~**Part I. General Leasing Policies.** Chapter 9 covers the lease-up process from the family's submission of a Request for Tenancy Approval to execution of the HAP contract.~~

In order for the PHA to assist a family in a particular dwelling unit, or execute a Housing Assistance Payments (HAP) contract with the owner of a dwelling unit, the PHA must determine that all the following program requirements are met:

- The unit itself must qualify as an eligible unit [24 CFR §982.305(a)]
- The unit must be inspected by the PHA and meet inspection standards (NSPIRE) [24 CFR §982.305(a)]
- The lease offered by the owner must be approvable and must include the required Tenancy Addendum [24 CFR §982.305(a)]
- The rent to be charged by the owner for the unit must be reasonable [24 CFR §982.305(a)]
- The owner must be an eligible owner, approvable by the PHA, with no conflicts of interest [24 CFR §982.306]
- ***For families initially leasing a unit only*** - Where the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family cannot exceed 40 percent of the family's monthly adjusted income [24 CFR §982.305(a)]

### **9-I.A. TENANT SCREENING**

The PHA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy [24 CFR §982.307(a)(1)].

The PHA may elect to screen applicants for family behavior or suitability for tenancy. See Chapter 3 for a discussion of the PHA's policies with regard to screening applicant families for program eligibility [24 CFR §982.307(a)(1)].

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before PHA approval of the tenancy, the PHA must inform the owner that screening and selection for tenancy is the responsibility of the owner [24 CFR §982.307(a)(2)]. The PHA must also inform the owner or manager of their rights and obligations under the Violence against Women Act ~~of 2013~~ (VAWA) [24 CFR §5.2005(a)(2)].

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The PHA must provide the owner with the family's current and prior address (as shown in the PHA records); and the name and address (if known to the PHA) of the landlord at the family's current and prior address. [24 CFR §982.307 (b)(1)].

The PHA is permitted, but not required, to offer the owner other information in the PHA's possession about the tenancy history or drug trafficking of family members [24 CFR §982.307(b)(2)].

The PHA's policy on providing information to the owner must be included in the family's briefing packet [24 CFR §982.307(b)(3)].

The PHA may not disclose to the owner any confidential information provided by the family in response to a PHA request for documentation of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking, except at the written request or with the written consent of the individual providing the documentation [see 24 CFR §5.2007(b)(4)].

#### PHA Policy

The PHA will not screen applicants for family behavior or suitability for tenancy.

The PHA will not provide additional screening information to the owner.

### **9-I.B. REQUESTING TENANCY APPROVAL [FORM HUD-52517]**

After the family is issued a voucher, the family must locate an eligible unit, with an owner or landlord willing to participate in the voucher program. Once a family finds a suitable unit and the owner is willing to lease the unit under the program, the owner and the family must request the PHA to approve the assisted tenancy in the selected unit.

The owner and the family must submit two documents to the PHA:

- Completed Request for Tenancy Approval (RFTA) – Form HUD-52517
- Copy of the proposed lease, including the HUD-prescribed Tenancy Addendum – form HUD-52641-A

The RFTA contains important information about the rental unit selected by the family, including the unit address, number of bedrooms, structure type, year constructed, utilities included in the rent, and the requested beginning date of the lease, necessary for the PHA to determine whether to approve the assisted tenancy in this unit.

Owners must certify to the most recent amount of rent charged for the unit and provide an explanation for any difference between the prior rent and the proposed rent.

Owners must certify that they are not the parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA has granted a request for reasonable accommodation for a person with disabilities who is a member of the tenant household.

For units constructed prior to 1978, owners must either 1) certify that the unit, common areas, and exterior have been found to be free of lead-based paint by a certified inspector; or 2) attach a lead-based paint disclosure statement.

Both the RFTA and the proposed lease must be submitted no later than the expiration date stated on the voucher. [HCV GB p.8-15].

#### PHA Policy

The RFTA must be signed by both the family and the owner.

The owner may submit the RFTA on behalf of the family.

Completed RFTA (including the proposed dwelling lease) must be submitted as hard copies, in-person, by mail, by email, or by fax.

The family may not submit, and the PHA will not process, more than one (1) RFTA at a time.

When the family submits the RFTA the PHA will review the RFTA for completeness:

- If the RFTA is incomplete (including lack of signature by family, owner, or both), or if the dwelling lease is not submitted with the RFTA, the PHA will notify the family and the owner of the deficiencies.
- Missing information and/or missing documents will only be accepted as hard copies, in-person, by mail, by email, or by fax. The PHA will not accept missing information over the phone.

When the family submits the RFTA and proposed lease, the PHA will also review the terms of the RFTA for consistency with the terms of the proposed lease.

- If the terms of the RFTA are not consistent with the terms of the proposed lease, the PHA will notify the family and the owner of the discrepancies.
- Corrections to the terms of the RFTA and/or the proposed lease will only be accepted as hard copies, in-person, by mail, by email, or by fax. The PHA will not accept corrections by phone.

Because of the time sensitive nature of the tenancy approval process, the PHA will attempt to communicate with the owner and family by phone, fax, or email. The PHA will use mail when the parties cannot be reached by phone, fax, or email.

#### **9-I.C. OWNER PARTICIPATION**

The PHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the PHA may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. There are also criteria for which the PHA must disapprove an owner. No owner has a right to participate in the HCV program [24 CFR §982.306(e)]

See Chapter 13 for a full discussion of owner qualification to participate in the HCV program.

### **9-I.D. ELIGIBLE UNITS**

There are a number of criteria that a dwelling unit must meet in order to be eligible for assistance under the voucher program. Generally, a voucher-holder family may choose any available rental dwelling unit on the market in the PHA's jurisdiction. This includes the dwelling unit they are currently occupying.

#### **Ineligible Units [24 CFR §982.352(a)]**

The PHA may not assist a unit under the voucher program if the unit is a public housing or Indian housing unit; a unit receiving project-based assistance under Section 8 of the 1937 Act (42 U.S.C. 1437f); nursing homes, board and care homes, or facilities providing continual psychiatric, medical, or nursing services; college or other school dormitories; units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions; ~~or~~ a unit occupied by its owner or by a person with any interest in the unit.

#### **PHA Policy**

The PHA does not permit the rental of any single family detached residences with swimming pools, hot tubs, spas or a Jacuzzi, for leasing under the voucher program.

#### **PHA-Owned Units [24 CFR §982.352(b)]**

Otherwise eligible units that are owned or substantially controlled by the PHA issuing the voucher may also be leased in the voucher program. In order for a PHA-owned unit to be leased under the voucher program, the unit must not be ineligible housing and the PHA must inform the family, both orally and in writing, that the family has the right to select any eligible unit available for lease and that the family is free to select a PHA-owned unit without any pressure or steering by the PHA.

#### **PHA Policy**

The PHA does not have any eligible PHA-owned units available for leasing under the voucher program.

#### **Special Housing Types [24 CFR §982 Subpart M]**

HUD regulations permit, but do not generally require, the PHA to permit families to use voucher assistance in a number of special housing types in accordance with the specific requirements applicable to those programs. These special housing types include single room occupancy (SRO) housing, congregate housing, group home, shared housing, manufactured home space (where the family owns the manufactured home and leases only the space), cooperative housing and homeownership option. See Chapter 15 for specific information and policies on any of these housing types that the PHA has chosen to allow.

The regulations do require the PHA to permit use of any special housing type if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

### **Duplicative Assistance [24 CFR 982.352(c)]**

A family may not receive the benefit of HCV 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:

- Public or Indian housing assistance;
- Other Section 8 assistance (including other tenant-based assistance);
- Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974);
- Section 101 rent supplements;
- Section 236 rental assistance payments;
- Tenant-based assistance under the HOME Program;
- Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration);
- Any local or State rent subsidy;
- Section 202 supportive housing for the elderly;
- Section 811 supportive housing for persons with disabilities; (11) Section 202 projects for non-elderly persons with disabilities (Section 162 assistance); or
- 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.

### **Housing Quality Standards (HQS) [24 CFR §982.305; 24 CFR §982.401]**

**\*\*\* Due to the NSPIRE demonstration, the NSPIRE Protocol is being used in lieu of the Housing Quality Standards (HQS) requirement**

In order to be eligible, the dwelling unit must be in decent, safe and sanitary condition. This determination is made using HUD's NSPIRE Protocol and/or equivalent state or local standards approved by HUD. See Chapter 8 for a full discussion of the NSPIRE Protocol standards, as well as the process for NSPIRE inspection at initial lease-up.

### **Unit Size**

In order to be eligible, the dwelling unit must be appropriate for the number of persons in the household. A family must be allowed to lease an otherwise acceptable dwelling unit with fewer bedrooms than the number of bedrooms stated on the voucher issued to the family, provided the unit meets the applicable NSPIRE space requirements [24 CFR §982.402(d)]. The family must be allowed to lease an otherwise acceptable dwelling unit with more bedrooms than the number of bedrooms stated on the voucher issued to the family. See Chapter 5 for a full discussion of subsidy standards.

**Rent Reasonableness [24 CFR §982.305; 24 CFR §982.507]**

In order to be eligible, the dwelling unit must have a reasonable rent. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See Chapter 8 for a full discussion of rent reasonableness and the rent reasonableness determination process.

**Rent Burden [24 CFR §982.508]**

Where a family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the family share cannot exceed 40 percent of the family's adjusted monthly income. The term "family share" refers to the amount the family pays toward rent and utilities. The gross rent for the unit minus the total housing assistance payment (HAP) for the unit equals the family share. See Chapter 6 for a discussion of calculation of gross rent, the use of payment standards, and calculation of family income, family share of rent and HAP.

**9-I.E. LEASE AND TENANCY ADDENDUM**

The family and the owner must execute a written dwelling lease agreement for the assisted unit. This written lease is a contract between the tenant family and the owner; the PHA is not a party to this contract.

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. [24 CFR §982.308(a)]

**Lease Form and Tenancy Addendum [24 CFR §982.308]**

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. If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease. The HAP contract prescribed by HUD contains the owner's certification that if the owner uses a standard lease form for rental to unassisted tenants, the lease for the assisted tenant is in such standard form.

All provisions in the HUD-required Tenancy Addendum must be added word-for-word to the owner's standard lease form. The Tenancy Addendum includes the HUD requirements for the tenancy. Because it is a part of the lease, the tenant shall have the right to enforce the Tenancy Addendum against the owner. If there is a conflict between the owner's lease and the Tenancy Addendum, the terms of the Tenancy Addendum shall prevail over any other provisions of the lease.

**PHA Policy**

The PHA does not provide a model or standard dwelling lease for owners to use in the HCV program.

**Lease Information [24 CFR §982.308(d)]**

The assisted dwelling lease must contain all of the required information as listed below:

- The names of the owner and the tenant:
- The unit rented (address, apartment number, and any other information needed to identify the contract unit)
- The term of the lease (initial term and any provisions for renewal)
- The amount of the monthly rent to owner
- 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

#### **Term of Assisted Tenancy**

The initial term of the assisted dwelling lease must be for at least one year [24 CFR §982.309]. The initial lease term is also stated in the HAP contract.

The HUD program regulations permit the PHA to approve a shorter initial lease term if certain conditions are met.

##### PHA Policy

The PHA will not approve an initial lease term of less than one (1) year.

During the initial term of the lease, the owner may not raise the rent to owner [24 CFR §982.309].

Any provisions for renewal of the dwelling lease will be stated in the dwelling lease [HCV Guidebook, pg. 8-22]. There are no HUD requirements regarding any renewal extension terms, except that they must be in the dwelling lease if they exist.

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. [24 CFR §982.309(b)]

#### **Security Deposit [24 CFR §982.313 (a) and (b)]**

The owner may collect a security deposit from the tenant. The PHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants. However, if the PHA chooses to do so, language to this effect must be added to Part A of the HAP contract [Form HUD-52641].

##### PHA Policy

In accordance with the Arizona Residential Landlord and Tenant Act, Article 2, §33-1321. Security deposits, "A landlord shall not demand or receive security, however denominated, including prepaid rent in an amount or value of MORE THAN one and one-half month's rent."

### **Separate Non-Lease Agreements between Owner and Tenant**

Owners may not demand or accept any rent payment from the family in excess of the rent to the owner as approved by the PHA minus the PHA's housing assistance payments to the owner. [24 CFR §982.451(b)(4)]

The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises. [24 CFR §982.510(c)]

#### **PHA Policy**

The PHA permits owners and families to execute separate, non-lease agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease.

Any items, appliances, or other services that are customarily provided to unassisted families as part of the dwelling lease with those families, or are permanently installed in the dwelling unit must be included in the dwelling lease for the assisted family. These items, appliances, or services cannot be placed under a separate non-lease agreement between the owner and family.

Side payments for additional rent, or for items, appliances or services customarily provided to unassisted families as part of the dwelling lease for those families, are strictly prohibited.

Any items, appliances, or other services that are not customarily provided to unassisted families as part of the dwelling lease with those families, are not permanently installed in the dwelling unit, and where the family has the sole option of not utilizing the item, appliance or service, may be included in a separate non-lease agreement between the owner and the family.

The family is not liable and cannot be held responsible under the terms of the assisted dwelling lease for any charges pursuant to a separate non-lease agreement between the owner and the family. Non-payment of any charges pursuant to a separate non-lease agreement between the owner and the family cannot be a cause for eviction or termination of tenancy under the terms of the assisted dwelling lease.

Separate non-lease agreements that involve additional items, appliances or other services may be considered amenities offered by the owner and may be taken into consideration when determining the reasonableness of the rent for the property.

### **PHA Review of Lease**

The PHA will review the dwelling lease for compliance with all applicable requirements.

#### **PHA Policy**

If the dwelling lease is incomplete or incorrect, the PHA will notify the family and the owner of the deficiencies. Missing and corrected lease information will only be accepted



as hard copies, in-person, by mail, by email, or by fax. The PHA will not accept missing and corrected information over the phone.

Because the initial leasing process is time-sensitive, the PHA will attempt to communicate with the owner and family by phone, fax, or email. The PHA will use mail when the parties cannot be reached by phone, fax, or email.

The PHA is permitted, but is not required, to review the lease to determine if the lease complies with State and local law and is permitted to decline to approve the tenancy if the PHA determines that the lease does not comply with State or local law. [24 CFR §982.308(c)]

PHA Policy

The PHA will not review the owner's lease for compliance with state/local law.

**9-1.F. TENANCY APPROVAL [24 CFR §982.305]**

After receiving the family's Request for Tenancy Approval, with proposed dwelling lease, the PHA must promptly notify the family and owner whether the assisted tenancy is approved.

Prior to approving the assisted tenancy and execution of a HAP contract, the PHA must ensure that all required actions and determinations, discussed in Part I of this chapter have been completed.

These actions include:

- Ensuring that the unit is eligible;
- The unit has been inspected by the PHA and meets the inspection standards (NSPIRE);
- The lease offered by the owner is approvable and includes the required Tenancy Addendum;
- The rent to be charged by the owner for the unit must be reasonable;
- Where the family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family does not exceed 40 percent of the family's monthly adjusted income [24 CFR §982.305(a)];
- The owner is an eligible owner, not disapproved by the PHA, with no conflicts of interest [24 CFR §982.306];
- The family and the owner have executed the lease, including the Tenancy Addendum, and the lead- based paint disclosure information.[24 CFR §982.305(b)]

PHA Policy

The PHA will complete its determination within 10 business days of receiving all required information.

If the terms of the RFTA/proposed lease are changed for any reason, including but not limited to negotiation with the PHA, the PHA will obtain corrected copies of the RFTA and proposed lease, signed by the family and the owner.

- Corrections to the RFTA/proposed lease will only be accepted as hard copies, in-person, by mail, by email, or by fax. The PHA will not accept corrections over the phone.

If the PHA determines that the tenancy cannot be approved for any reason, the owner and the family will be notified in writing and given the opportunity to address any reasons for disapproval. The PHA will instruct the owner and family of the steps that are necessary to obtain approval of the tenancy.

- Where the tenancy is not approvable because the unit is not approvable, the family must continue to search for eligible housing within the timeframe of the issued voucher.
- If the tenancy is not approvable due to rent affordability or rent reasonableness, the PHA will attempt to negotiate the rent with the owner. If a new, approvable rent is negotiated, the tenancy will be approved. If the owner is not willing to negotiate an approvable rent, the family must continue to search for eligible housing within the timeframe of the issued voucher.

#### **9-I.G. HAP CONTRACT EXECUTION [24 CFR §982.305]**

The HAP contract is a written agreement between the PHA and the owner of the dwelling unit. Under the HAP contract, the PHA agrees to make housing assistance payments to the owner on behalf of the family, and the owner agrees to comply with all program requirements as stated in the HAP contract.

The HAP contract form is prescribed by HUD.

If the PHA has given approval for the family of the assisted tenancy, the owner and the PHA must execute the HAP contract.

The term of the HAP contract must be the same as the term of the lease [24 CFR §982.451(a)(2)]. The PHA is permitted to execute a HAP contract even if the funding currently available does not extend for the full term of the HAP contract.

The PHA must make a best effort to ensure that the HAP contract is executed before the beginning of the lease term. Regardless, the HAP contract must be executed no later than 60 calendar days from the beginning of the lease term.

The PHA may not pay any housing assistance payment to the owner until the HAP contract has been executed. 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).

Any HAP contract executed after the 60-day period is void, and the PHA may not pay any housing assistance payment to the owner.

#### PHA Policy

Owners who have not previously participated in the HCV program are strongly encouraged to attend a meeting with the PHA in which the terms of the Tenancy Addendum and the HAP contract will be explained. The PHA may waive this requirement on a case-by-case basis, if it determines that the owner is sufficiently familiar with the requirements and responsibilities under the HCV program.

The owner and the assisted family will execute the dwelling lease and the owner must provide a copy to the PHA. The PHA will ensure that both the owner and the assisted family receive copies of the dwelling lease.

The owner and the PHA will execute the HAP contract. The PHA will not execute the HAP contract until the owner has submitted IRS form W-9. The PHA will ensure that the owner receives a copy of the executed HAP contract.

As required under VAWA 2013, once the HAP contract and lease have been executed and the family has been admitted to the program, the PHA will notify families of their rights under VAWA by providing all families with a copy of the domestic violence certification form (HUD-5382) as well as the VAWA notice of occupancy rights (form HUD-5380).

See Chapter 13 for a discussion of the HAP contract and contract provisions.

#### **9-I.H. CHANGES IN LEASE OR RENT [24 CFR §982.308]**

If the tenant and the owner agree to any changes in the lease, such changes must be in writing, and the owner must immediately give the PHA a copy of such changes. The lease, including any changes, must remain in accordance with the requirements of this chapter.

Generally, PHA approval of tenancy and execution of a new HAP contract are not required for changes in the lease. However, under certain circumstances, the execution of a new lease and HAP contract are required. These circumstances include:

- Changes in lease requirements governing tenant or owner responsibilities for utilities or appliances
- Changes in lease provisions governing the term of the lease
- The family moves to a new unit, even if the unit is in the same building or complex

In these cases, if the HCV assistance is to continue, the family must submit a new Request for Tenancy Approval (RFTA) along with a new dwelling lease containing the proposed changes. A new tenancy must then be approved in accordance with this chapter.

Where the owner is changing the amount of the rent to owner, the owner must notify the PHA at least 60 days before any such changes go into effect [24 CFR §982.308(g)(4)]. The PHA will

agree to such an increase only if the amount of the rent to owner is considered reasonable according to the rent reasonableness standards discussed in Chapter 8. If the requested rent is not found to be reasonable, the owner must either reduce the requested rent increase, or terminate the tenancy in accordance with the terms of the lease.

No rent increase is permitted during the initial term of the lease [24 CFR §982.309(a)(3)].

PHA Policy

Where the owner is requesting a rent increase, the PHA will determine whether the requested increase is reasonable within 10 business days of receiving the request from the owner. The owner will be notified of the determination in writing.

Rent increases will go into effect on the first of the month following the 60-day period after the owner notifies the PHA of the rent change, or on the date specified by the owner, whichever is later.

## Moving with Continued Assistance and Portability

### Introduction

Freedom of housing choice is a hallmark of the housing choice voucher (HCV) program. In general, HUD regulations impose few restrictions on where families may live or move with HCV assistance. This chapter sets forth HUD regulations and PHA policies governing moves within or outside the PHA's jurisdiction in two parts:

**Part I: Moving with Continued Assistance.** This part covers the general rules that apply to all moves by a family assisted under the PHA's HCV program, whether the family moves to another unit within the PHA's jurisdiction or to a unit outside the PHA's jurisdiction under portability.

**Part II: Portability.** This part covers the special rules that apply to moves by a family under portability, whether the family moves out of or into the PHA's jurisdiction. This part also covers the special responsibilities that the PHA has under portability regulations and procedures.

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## PART I: MOVING WITH CONTINUED ASSISTANCE

### 10-I.A. ALLOWABLE MOVES

HUD lists ~~six~~five regulatory conditions ~~under which and the statutory condition under VAWA in which an assisted family is allowed to move to a new unit with continued assistance.~~ Permission to move is subject to the restrictions set forth in Section 10-I.B.

- The family has a right to terminate the lease on notice to the owner (for the owner's breach or otherwise) and has given a notice of termination to the owner in accordance with the lease [24 CFR §982.354(b)(3)]. If the family terminates the lease on notice to the owner, the family must give the PHA a copy of the notice at the same time [24 CFR §982.354(d)(1)].
- The lease for the family's unit has been terminated by mutual agreement of the owner and the family [24 CFR §982.354(b)(1)(ii)].

#### PHA Policy

If the family and the owner mutually agree to terminate the lease for the family's unit, the family must give the PHA a copy of the termination agreement.

- The owner has given the family a notice to vacate, has commenced an action to evict the family, or has obtained a court judgment or other process allowing the owner to evict the family [24 CFR §982.354(b)(2)]. The family must give the PHA a copy of any owner eviction notice [24 CFR §982.551(g)].
- The family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, ~~or~~stalking, ~~or human trafficking,~~ and the move is needed to protect the health or safety of the family or family member [see 24 CFR §982.354(b)(4)].
  - This condition applies even when the family has moved out of its unit in violation of the lease, with or without prior notification to the PHA, if the family or family member who is the victim reasonably believed that they were imminently threatened by harm from further violence if they remained in the unit [24 CFR §982.354(b)(4), 24 CFR §982.353(b)].
  - The PHA must adopt an emergency transfer plan as required by regulations at 24 CFR §5.2007(e).

#### PHA Policy

If a family requests permission to move with continued assistance or for an external transfer to another covered housing program operated by the PHA based on a claim that the move is necessary to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault, ~~or~~stalking, ~~or human trafficking~~ the PHA will request that the resident request the emergency transfer using form HUD-5383, and the PHA will request documentation in accordance with section 16-IX.D of this plan.

The PHA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the family or family member will suffice. In such cases the PHA will document the waiver in the family's file.

The PHA may choose to provide a voucher to facilitate an emergency transfer of the victim without first terminating the assistance of the perpetrator.

Before granting an emergency transfer, the PHA will ensure the victim is eligible to receive continued assistance based on the citizenship or immigration status of the victim.

The PHA has adopted an emergency transfer plan, which is included as Exhibit 16-3 to this plan and discusses external transfers to other covered housing programs.

- The PHA has terminated the HAP contract for the family's unit for the owner's breach [24 CFR §982.354(b)(1)(i)].
- The PHA determines that the family's current unit does not meet the NSPIRE space standards because of an increase in family size or a change in family composition. In such cases, the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, the PHA must terminate the HAP contract for the family's old unit in accordance with the HAP contract terms and must notify both the family and the owner of the termination. The HAP contract terminates at the end of the calendar month that follows the calendar month in which the PHA gives notice to the owner. [24 CFR §982.403(a) and (c)]

#### **10-I.B. RESTRICTIONS ON MOVES**

A family's right to move is generally contingent upon the family's compliance with program requirements [24 CFR §982.1(b)(2)]. HUD specifies two conditions under which a PHA may deny a family permission to move and two ways in which a PHA may restrict moves by a family.

##### **Denial of Moves**

HUD regulations permit the PHA to deny a family permission to move under the following conditions:

##### **Insufficient Funding**

The PHA may deny a family permission to move either within or outside the PHA's jurisdiction if the PHA does not have sufficient funding for continued assistance [24 CFR §982.314(e)(1)].

However, PIH Notice 2016-09 significantly restricts the ability of PHAs to deny permission to move due to insufficient funding and places further requirements on PHAs regarding moves denied due to lack of funding. The requirements found in this notice are mandatory.

##### **PHA Policy**

The PHA will deny a family permission to move on grounds that the PHA does not have sufficient funding for continued assistance if (a) the move is initiated by the family, not the owner or the PHA; (b) the PHA can demonstrate that the move will, in fact, result in higher subsidy costs; (c) the PHA can demonstrate, in accordance with the policies in Part VIII of Chapter 16, that it does not have sufficient funding in its annual budget to accommodate the higher subsidy costs; and (d) for portability moves, the receiving PHA is not absorbing the voucher.

If the PHA does not have sufficient funding for continued assistance, but the family must move from their unit (e.g., the unit failed NSPIRE), the family may move to a higher cost unit if the move is within the PHA's jurisdiction. The PHA, however, will not allow the family to move under portability in this situation if the family wishes to move to a higher cost area.

For both moves within the PHA's jurisdiction and outside under portability, the PHA will not deny a move due to insufficient funding if the PHA previously approved the move and subsequently experienced a funding shortfall if the family cannot remain in their current unit. The PHA will rescind the voucher in this situation if the family will be allowed to remain in their current unit.

The PHA will create a list of families whose moves have been denied due to insufficient funding. The PHA will keep the family's request open indefinitely, and when funds become available, the families on this list will take precedence over families on the waiting list. The PHA will use the same procedures for notifying families with open requests to move when funds become available as it uses for notifying families on the waiting list (see Section 4-III.D).

The PHA will inform the family of its policy regarding moves denied due to insufficient funding in a letter to the family at the time the move is denied.

#### **Grounds for Denial or Termination of Assistance**

The PHA may deny a family permission to move if it has grounds for denying or terminating the family's assistance [24 CFR §982.354(e)(2)].

##### PHA Policy

If the PHA has grounds for denying or terminating a family's assistance, the PHA will act on those grounds in accordance with the regulations and policies set forth in Chapters 3 and 12, respectively. In general, it will not deny a family permission to move for this reason; however, it retains the discretion to do so under special circumstances.

#### **Restrictions on Elective Moves [24 CFR §982.354(c)]**

HUD regulations permit the PHA to prohibit any elective move by a participant family during the family's initial lease term. They also permit the PHA to prohibit more than one elective move by a participant family during any 12-month period. However, such prohibitions, if adopted, do not apply when the family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking, and the move is



needed to protect the health or safety of the family or family member. (For the policy on documentation of abuse, see section 10-I.A) In addition, the PHA may not establish a policy permitting moves only at reexamination [PIH Notice 2016-09].

**PHA Policy**

The PHA will deny a family permission to make an elective move during the family's initial lease term. This policy applies to moves within the PHA's jurisdiction or outside it under portability.

The PHA will also deny a family permission to make more than one elective move during any 12-month period. This policy applies to all assisted families residing in the PHA's jurisdiction.

The PHA will consider exceptions to these policies for the following reasons: to protect the health or safety of a family member (e.g., lead-based paint hazards, domestic violence, or witness protection programs), to accommodate a change in family circumstances (e.g., new employment, school attendance in a distant area), or to address an emergency situation over which a family has no control.

In addition, the PHA will allow exceptions to these policies for purposes of reasonable accommodation of a family member who is a person with disabilities (see Chapter 2).

**10-I.C. MOVING PROCESS**

**Notification**

If a family wishes to move to a new unit, the family must notify the PHA and the owner before moving out of the old unit or terminating the lease on notice to the owner [24 CFR §982.354(d)(2)]. If the family wishes to move to a unit outside the PHA's jurisdiction under portability, the notice to the PHA must specify the area where the family wishes to move [24 CFR §982.354(d)(2), PIH Notice 2012-42]. The notices must be in writing [24 CFR §982.5].

**Approval**

**PHA Policy**

Upon receipt of a family's notification that it wishes to move, the PHA will determine whether the move is approvable in accordance with the regulations and policies set forth in Sections 10-I.A and 10-I.B. The PHA will notify the family in writing of its determination within 10 business days following receipt of the family's notification.

**Reexamination of Family Income and Composition**

**PHA Policy**

For families approved to move to a new unit within the PHA's jurisdiction, the PHA will perform a new annual reexamination in accordance with the policies set forth in Chapter 11 of this plan.

For families moving into or families approved to move out of the PHA's jurisdiction under portability, the PHA will follow the policies set forth in Part II of this chapter.

### **Voucher Issuance and Briefing**

#### PHA Policy

For families approved to move to a new unit within the PHA's jurisdiction, the PHA will issue a new voucher within 10 business days of the PHA's written approval to move. No briefing is required for these families. The PHA will follow the policies set forth in Chapter 5 on voucher term, extension, and expiration. If a family does not locate a new unit within the term of the voucher and any extensions, the family may remain in its current unit with continued voucher assistance if the owner agrees and the PHA approves. Otherwise, the family will lose its assistance.

For families moving into or families approved to move out of the PHA's jurisdiction under portability, the PHA will follow the policies set forth in Part II of this chapter.

### **Housing Assistance Payments [24 CFR §982.311(d)]**

When a family moves out of an assisted unit, the PHA may not make any housing assistance payment to the owner for any month **after** the month the family moves out. The owner may keep the housing assistance payment for the month when the family moves out of the unit.

If a participant family moves from an assisted unit with continued tenant-based assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit. Overlap of the last housing assistance payment (for the month when the family moves out of the old unit) and the first assistance payment for the new unit is not considered to constitute a duplicative housing subsidy.

### **Zero HAP Families Who Wish to Move [24 CFR §982.455]**

A participant who is not receiving any subsidy, but whose HAP contract is still in force, may request a voucher to move to a different unit. The PHA must issue a voucher to move unless it has grounds to deny assistance under the program regulations. However, if the PHA determines no subsidy would be paid at the new unit, the PHA may refuse to enter into a HAP contract on behalf of the family.

#### PHA Policy

If a zero HAP family requests to move to a new unit, the family may request a voucher to move. However, if no subsidy will be paid at the unit to which the family requests to move, the PHA will not enter into a HAP contract on behalf of the family for the new unit.

The PHA must remind the family of 24 CFR §982.455, **Automatic termination of HAP contract**, which states, *"The HAP contract terminates automatically 180 calendar days after the last housing assistance payment to the owner."*

## **PART II: PORTABILITY**

### **10-II.A. OVERVIEW**

Within the limitations of the regulations and this plan, a participant family or an applicant family that has been issued a voucher has the right to use tenant-based voucher assistance to lease a unit anywhere in the United States providing that the unit is located within the jurisdiction of a PHA administering a tenant-based voucher program [24 CFR §982.353(b)]. The process by which a family obtains a voucher from one PHA and uses it to lease a unit in the jurisdiction of another PHA is known as portability. The PHA that issues the voucher is called the **initial PHA**. The PHA that has jurisdiction in the area to which the family wants to move is called the **receiving PHA**.

The receiving PHA has the option of administering the family's voucher for the initial PHA or absorbing the family into its own program. Under the first option, the receiving PHA provides all housing services for the family and bills the initial PHA for the family's housing assistance payments and the fees for administering the family's voucher. Under the second option, the receiving PHA pays for the family's assistance with its own program funds, and the initial PHA has no further relationship with the family. The initial PHA must contact the receiving PHA via email or other confirmed delivery method to determine whether the receiving PHA will administer or absorb the initial PHA's voucher. Based on the receiving PHA's response, the initial PHA must determine whether they will approved or deny the portability request [PIH Notice 2016-0942].

PHAs commonly act as both the initial and receiving PHA because families may move into or out of their jurisdiction under portability. Each role involves different responsibilities. The PHA will follow the rules and policies in Section 10-II.B when it is acting as the initial PHA for a family. It will follow the rules and policies in Section 10-II.C when it is acting as the receiving PHA for a family.

In administering portability, the initial PHA and the receiving PHA must comply with financial procedures required by HUD, including the use of HUD-required forms [24 CFR §982.355.(e)(5)].

PHAs must also comply with billing and payment deadlines. HUD may reduce an administrative fee to an initial or receiving PHA if the PHA does not comply with HUD portability requirements [24 CFR §982.355.(e)(7)].

### **10-II.B. INITIAL PHA ROLE**

#### **Allowable Moves under Portability**

A family may move with voucher assistance only to an area where there is at least one PHA administering a voucher program [24 CFR §982.353(b)]. If there is more than one PHA in the area, the initial PHA provides the family with the contact information for the receiving PHAs that serve the area, and the family selects the receiving PHA. The family must inform the initial PHA which receiving PHA it has selected. If the family prefers not to select the receiving PHA, the initial PHA will select the receiving PHA on behalf of the family (24 CFR §982.255(b)).

Applicant families that have been issued vouchers as well as participant families may qualify to lease a unit outside the PHA's jurisdiction under portability. HUD regulations and PHA policy, determines whether a family qualifies.

### **Applicant Families**

Under HUD regulations, most applicant families qualify to lease a unit outside the PHA's jurisdiction under portability. However, HUD gives the PHA discretion to deny a portability move by an applicant family for the same two reasons that it may deny any move by a participant family: insufficient funding and grounds for denial or termination of assistance. If a PHA intends to deny a family permission to move under portability due to insufficient funding, the PHA must notify HUD within 10 business days of the determination to deny the move [24 CFR §982.355(e)].

#### PHA Policy

In determining whether or not to deny an applicant family permission to move under portability because the PHA lacks sufficient funding or has grounds for denying assistance to the family, the initial PHA will follow the policies established in section 10-I.B of this chapter. If the PHA does deny the move due to insufficient funding, the PHA will notify HUD in writing within 10 business days of the PHA's determination to deny the move.

In addition, the initial PHA may establish a policy denying the right to portability to nonresident applicants during the first 12 months after they are admitted to the program [24 CFR §982.353(c)].

#### PHA Policy

If neither the head of household nor the spouse/cohead of an applicant family had a domicile (legal residence) in the initial PHA's jurisdiction at the time that the family's initial application for assistance was submitted, the family must lease a unit within the initial PHA's jurisdiction for at least 12 months before requesting portability.

The PHA will consider exceptions to this policy for purposes of reasonable accommodation (see Chapter 2) or reasons related to domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking.

### **Participant Families**

The Initial PHA must not provide portable assistance for a participant if a family has moved out of its assisted unit in violation of the lease [24 CFR §982.353(b)]. The Violence against Women Act ~~of 2013~~ (VAWA) creates an exception to this prohibition for families who are otherwise in compliance with program obligations but have moved to protect the health or safety of a family member who is or has been a victim of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking, and who reasonably believed they were imminently threatened by harm from further violence if they remained in the unit [see 24 CFR §982.353(b)].

#### PHA Policy

The PHA will determine whether a participant family may move out of the PHA's jurisdiction with continued assistance in accordance with the regulations and policies set

forth here and in sections 10-I.A and 10-I.B of this chapter. The PHA will notify the family of its determination in accordance with the approval policy set forth in Section 10-I.C of this chapter.

### **Determining Income Eligibility**

#### **Applicant Families**

An applicant family may lease a unit in a particular area under portability only if the family is income eligible for admission to the voucher program in that area [24 CFR §982.353(d)(1)]. The family must specify the area to which the family wishes to move [24 CFR §982.355(c)(1)].

The initial PHA is responsible for determining whether the family is income eligible in the area to which the family wishes to move [24 CFR §982.353(d)(1), 24 CFR §982.355(9)]. If the applicant family is not income eligible in that area, the PHA must inform the family that it may not move there and receive voucher assistance [PIH Notice 2016-09].

#### **Participant Families**

The income eligibility of a participant family is not re-determined if the family moves to a new jurisdiction under portability [24 CFR §982.353(d)(2)].

### **Reexamination of Family Income and Composition**

No new reexamination of family income and composition is required for an applicant family.

#### PHA Policy

For a participant family approved to move out of a jurisdiction under portability, the PHA generally will conduct a reexamination of family income and composition only if the family's annual reexamination must be completed on or before the initial billing deadline specified on form HUD-52665, Family Portability Information.

The PHA will make any exceptions to this policy necessary to remain in compliance with HUD regulations.

### **Briefing**

The regulations and policies on briefings set forth in Chapter 5 of this plan require the PHA to provide information on portability to all applicant families that qualify to lease a unit outside the PHA's jurisdiction under the portability procedures. Therefore, no special briefing is required for these families.

#### PHA Policy

No formal briefing will be required for a participant family wishing to move outside the PHA's jurisdiction under portability. However, the PHA will provide the family with the same oral and written explanation of portability that it provides to applicant families selected for admission to the program (see Chapter 5).

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The PHA will provide the name, address, and phone of the contact for the PHAs in the jurisdiction to which they wish to move. If there is more than one PHA with jurisdiction over the area to which the family wishes to move, the PHA will advise the family that the family selects the receiving PHA, and notify the initial PHA of which receiving PHA was selected. The PHA will provide the family with contact information for all of the receiving PHAs that serve the area.

The PHA will not provide any additional information about receiving PHAs in the area.

The PHA will further inform the family that if the family prefers not to select the receiving PHA, the initial PHA will select the receiving PHA on behalf of the family. In this case, the PHA will not provide the family with information for all receiving PHAs in the area.

The PHA will advise the family that they will be under the receiving PHA's policies and procedures, including screening, subsidy standards voucher extension policies, and payment standards.

#### **Voucher Issuance and Term**

An applicant family has no right to portability until after the family has been issued a voucher [24 CFR §982.353(b)]. In issuing vouchers to applicant families, the PHA will follow the regulations and procedures set forth in Chapter 5.

##### PHA Policy

For participating families approved to move under portability, the PHA will issue a new voucher within 10 business days of the PHA's written approval to move.

The initial term of the voucher will be 60 days, ~~for in-state PHAs and 120 days for out-of-state PHAs.~~

Voucher Extensions and Expiration

##### PHA Policy

The initial PHA will approve **no** extensions to a voucher issued to an applicant or participant family porting out of the PHA's jurisdiction except under the following circumstances:

- (a) the initial term of the voucher will expire before the portable family will be issued a voucher by the receiving PHA,
- (b) the family decides to return to the initial PHA's jurisdiction and search for a unit there, or
- (c) the family decides to search for a unit in a third PHA's jurisdiction. In such cases, the policies on voucher extensions set forth in Chapter 5, Section 5-II.E, of this plan will apply, including the requirement that the family apply for an extension in writing prior to the expiration of the initial voucher term.

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To receive or continue receiving assistance under the initial PHA's voucher program, a family that moves to another PHA's jurisdiction under portability must be under HAP contract in the receiving PHA's jurisdiction within 60 days following the expiration date of the initial PHA's voucher term (including any extensions). (See below under "Initial Billing Deadline" for one exception to this policy.)

### **Preapproval Contact with the Receiving PHA**

Prior to approving a family's request to move under portability, the initial PHA must contact the receiving PHA via e-mail or other confirmed delivery method to determine whether the receiving PHA will administer or absorb the family's voucher. Based on the receiving PHA's response, the initial PHA must determine whether it will approve or deny the move [24 CFR §982.355(c)(3)].

#### PHA Policy

The PHA will use e-mail, when possible, to contact the receiving PHA regarding whether the receiving PHA will administer or absorb the family's voucher.

### **Initial Notification to the Receiving PHA**

After approving a family's request to move under portability, the initial PHA must promptly notify the receiving PHA via email or other confirmed delivery method to expect the family [24 CFR §982.355(c)(3); 24 CFR §982.355(c) (7)]. The initial PHA must also advise the family how to contact and request assistance from the receiving PHA [24 CFR §982.355(c)(6)].

#### PHA Policy

Because the portability process is time-sensitive, the PHA will notify the receiving PHA by phone, fax, or e-mail to expect the family. The initial PHA will also ask the receiving PHA to provide any information the family may need upon arrival, including the name, fax, email address, and telephone number of the staff person responsible for business with incoming portable families and procedures related to appointments for voucher issuance.

The PHA will pass this information along to the family. The PHA will also ask for the name, address, telephone number, fax and email of the person responsible for processing the billing information.

### **Sending Documentation to the Receiving PHA**

The initial PHA is required to send the receiving PHA the following documents:

- Form HUD-52665, Family Portability Information, with Part I filled out [PIH Notice 2016- 09]
- A copy of the family's voucher [PIH Notice 2016-09]
- A copy of the family's most recent HUD Form 50058 (Family Report) or, if necessary in the case of an applicant family, family and income information in a format similar to that of form HUD-50058 [24 CFR §982.355(c)(7), PIH Notice 2016-09]
- Copies of the income verifications backing up the form HUD-50058, including a copy of the family's current EIV data -[24 CFR §982.355(c)(7), PIH Notice 2016-09]

#### PHA Policy

In addition to these documents, the PHA will provide the following information, if available, to the receiving PHA:

- Social security numbers (SSNs)
- Documentation of SSNs for all nonexempt household members whose SSNs have not been verified through the EIV system
- Documentation of legal identity
- Documentation of citizenship or eligible immigration status
- Documentation of participation in the earned income disallowance (EID) benefit
- Documentation of participation in a family self-sufficiency (FSS) program

The PHA will notify the family in writing regarding any information provided to the receiving PHA [HCV GB, p. 13-3].

#### **Initial Billing Deadline [PIH Notice 2016-09]**

The deadline for submission of initial billing is 90 days following the expiration date of the voucher issued to the family by the initial PHA. In cases where suspension of the voucher delays the initial billing submission, the receiving PHA must notify the initial PHA of delayed billing before the billing deadline and document the delay is due to the suspension. In this case, the initial PHA must extend the billing deadline by 30 days.

If the initial PHA does not receive a billing notice by the deadline and does not intend to honor a late billing submission, it must notify the receiving PHA in writing. The initial PHA may report to HUD the receiving PHA's failure to comply with the deadline.

If the initial PHA will honor the late billing, no action is required.

#### PHA Policy

The initial PHA's decision as to whether to accept late billing will be based on internal PHA factors, including the initial PHA's leasing or funding status. If the PHA has not received an initial billing notice from the receiving PHA within the billing deadline **and does not intend to honor the late billing**, it will contact the receiving PHA to inform them that it will not honor a late billing submission and will return any subsequent billings that it receives on behalf of the family. In this case, the PHA will send the receiving PHA a written confirmation of its decision by mail.

Among other considerations as to whether to accept late billing will be if the family includes a person with disabilities and the late billing is a result of a reasonable accommodation granted to the family by the receiving PHA.

#### **Monthly Billing Payments [24 CFR §982.355(e), PIH Notice 2016-0942]**

If the receiving PHA is administering the family's voucher, the receiving PHA bills the initial PHA for housing assistance payments and administrative fees.



When reimbursing for administrative fees, the initial PHA must promptly reimburse the receiving PHA for the lesser of 80 percent of the initial PHA ongoing administrative fee, or 100 percent of the receiving PHA's ongoing administrative fee for each program unit under contract on the first day of the month for which the receiving PHA is billing the initial PHA under portability. If the administrative fees are prorated for the HCV program, the proration will apply to the amount of the administrative fee for which the receiving PHA may bill [24 CFR §982.355(e)(2)].

The initial PHA is responsible for making billing payments in a timely manner. The first billing amount is due within 30 calendar days after the initial PHA receives Part II of form HUD-52665 from the receiving PHA. Subsequent payments must be **received** by the receiving PHA no later than the fifth business day of each month. The payments must be provided in a form and manner that the receiving PHA is able and willing to accept.

The initial PHA may not terminate or delay making payments under existing portability billing arrangements as a result of over leasing or funding shortfalls. The PHA must manage its tenant-based program in a manner that ensures that it has the financial ability to provide assistance for families that move out of its jurisdiction under portability and are not absorbed by receiving PHAs as well as for families that remain within its jurisdiction.

#### PHA Policy

The initial PHA will utilize direct deposit to ensure that the payment is received by the deadline unless the receiving PHA notifies the initial PHA that direct deposit is not acceptable to them. If the initial PHA extends the term of the voucher, the receiving PHA's voucher will expire 30 calendar days from the new expiration date of the initial PHA's voucher.

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#### **Annual Updates of Form HUD-50058**

If the initial PHA is being billed on behalf of a portable family, it should receive an updated form HUD-50058 each year from the receiving PHA. If the initial PHA fails to receive an updated 50058 by the family's annual reexamination date, the initial PHA should contact the receiving PHA to verify the status of the family. The initial PHA must continue paying the receiving PHA based on the last form HUD-50058 received, unless instructed otherwise by HUD. The initial PHA may seek absorption of the vouchers by following steps outlined in PIH Notice 2016-09.

#### **Denial or Termination of Assistance [24 CFR §982.355(c)(17)]**

At any time, either the initial PHA or the receiving PHA may make a determination to deny or terminate assistance with the family in accordance with 24 CFR §982.552 and 24 CFR §982.553. (For PHA policies on denial and termination, see Chapters 3 and 12, respectively.)

#### **Portability of Family Self-Sufficiency**

The relocating family may participate in the receiving PHA's Family Self-Sufficiency (FSS) program if it is admitted to the program by the receiving PHA.

#### **10-ILC. RECEIVING PHA ROLE**

If a family has a right to lease a unit in the receiving PHA's jurisdiction under portability, the receiving PHA must provide assistance for the family [24 CFR §982.355(10)].

The receiving PHA's procedures and preferences for selection among eligible applicants do not apply, and the receiving PHA's waiting list is not used [24 CFR §982.355(10)]. HUD may determine in certain instances that a PHA is not required to accept incoming portable families, such as a PHA in a declared disaster area. However, the PHA must have approval in writing from HUD before refusing any incoming portable families [24 CFR §982.355(b)].

Administration of the voucher must be in accordance with the receiving PHA's policies; this requirement also applies to policies of Moving to Work agencies. The receiving PHA procedures and preferences for selection among eligible applicants do not apply to the family, and the receiving PHA waiting list is not used [24 CFR §982.355 (c)(10)]. The family's unit, or voucher, size is determined in accordance with the subsidy standards of the receiving PHA [24 CFR §982.355(c)(12)], and the receiving PHA's policies on extensions of the voucher term apply [24 CFR §982.355(c)(14)].

#### **Responding to Initial PHA's Request [24 CFR §982.355(c)]**

The receiving PHA must respond via e-mail or other confirmed delivery method to the initial PHA's inquiry to determine whether the family's voucher will be billed or absorbed [24 CFR §982.355(c)(3)]. If the receiving PHA informs the initial PHA that it will be absorbing the voucher, the receiving PHA cannot reverse its decision at a later date without consent of the initial PHA [24 CFR §982.355(c)(4)].

##### PHA Policy

The PHA will use e-mail, when possible, to notify the initial PHA whether it will administer or absorb the family's voucher.

#### **Initial Contact with Family**

When a family moves into the PHA's jurisdiction under portability, the family is responsible for promptly contacting the PHA and complying with the PHA's procedures for incoming portable families. The family's failure to comply may result in denial or termination of the receiving PHA's voucher [24 CFR §982.355 (c)(8)].

If the voucher issued to the family by the initial PHA has expired, the receiving PHA Must contact the initial PHA to determine if it will extend the voucher [24 CFR §982.355(c)(13)]. An informal hearing is not required when a voucher has expired without the family leasing a unit.

If for any reason the receiving PHA refuses to process or provide assistance to a family under the portability procedures, the family must be given the opportunity for an informal review or hearing [PIH Notice 2016-09]. (For more on this topic, see later under "Denial or Termination of Assistance.")

#### **Briefing**

HUD allows the receiving PHA to require a briefing for an incoming portable family as long as the requirement does not unduly delay the family's search [PIH Notice 2016-09].

#### PHA Policy

The PHA will require the family to attend a briefing. The PHA will provide the family with a briefing packet (as described in Chapter 5) and, in an individual briefing, will orally inform the family about the PHA's payment and subsidy standards, procedures for requesting approval of a unit, the unit inspection process, and the leasing process.

#### **Income Eligibility and Reexamination**

The receiving PHA does not re-determine eligibility for a portable family that was already receiving assistance in the initial PHA's voucher program [24 CFR §982.355(c)(9)]. If the receiving PHA opts to conduct a new reexamination for a current participant family, the receiving PHA may not delay issuing the family a voucher or otherwise delay approval of a unit [24 CFR §982.355(c) (11)].

#### PHA Policy

For any family moving into its jurisdiction under portability, the PHA will conduct a new reexamination of family income and composition. However, the PHA will not delay issuing the family a voucher for this reason. Nor will the PHA delay approving a unit for the family until the reexamination process is complete unless the family is an applicant and the PHA cannot otherwise confirm that the family is income eligible for admission to the program in the area where the unit is located.

In conducting its own reexamination, the PHA will rely upon any verifications provided by the initial PHA to the extent that they (a) accurately reflect the family's current circumstances and (b) were obtained within the last 120 days. Any new information may be verified by documents provided by the family and adjusted, if necessary, when third party verification is received.

#### **Voucher Issuance**

When a family moves into its jurisdiction under portability, the receiving PHA is required to issue the family a voucher [24 CFR §982.355(c)(13)]. The family must submit a request for tenancy approval to the receiving PHA during the term of the receiving PHA's voucher [24 CFR §982.355(c)(15)].

#### **Timing of Voucher Issuance**

HUD expects the receiving PHA to issue the voucher within two weeks after receiving the family's paperwork from the initial PHA if the information is in order, the family has contacted the receiving PHA, and the family complies with the receiving PHA's procedures [PIH Notice 2016-0942].

#### PHA Policy

When a family ports into its jurisdiction, the PHA will issue the family a voucher based on the paperwork provided by the family unless the family's paperwork from the initial PHA is incomplete, the family's voucher from the initial PHA has expired or the family does not comply with the PHA's procedures. The PHA will update the family's information when verification has been completed.

## **Voucher Term**

The term of the receiving PHA's voucher may not expire before 30 calendar days from the expiration of the initial PHA's voucher [24 CFR §982.355(c)(13)]. If the initial PHA extends the term of the voucher, the receiving PHA's voucher may not expire before 30 days from the new expiration date of the initial PHA's voucher [PIH Notice 2016-09].

### PHA Policy

The receiving PHA's voucher will expire 30 calendar days from the expiration date of the initial PHA's voucher. If the initial PHA extends the term of the voucher, the receiving PHA's voucher will expire 30 calendar days from the new expiration date of the initial PHA's voucher.

## **Voucher Extensions [24 CFR §982.355(c)(14), PIH Notice 2016-09]**

Once the receiving PHA issues the portable family a voucher, the receiving PHA's policies on extensions of the voucher term apply. The receiving PHA must inform the initial PHA of any extension granted to the term of the voucher. It must also bear in mind the billing deadline provided by the initial PHA. Unless willing and able to absorb the family, the receiving PHA should ensure that any voucher expiration date would leave sufficient time to process a request for tenancy approval, execute a HAP contract, and deliver the initial billing to the initial PHA.

### PHA Policy

The PHA generally will not extend the term of the voucher that it issues to an incoming portable family unless the PHA plans to absorb the family into its own program, in which case it will follow the policies on voucher extension set forth in Section 5-II.E.

The PHA will consider an exception to this policy as a reasonable accommodation to a person with disabilities (see Chapter 2).

## **Voucher Suspensions [24 CFR §982.303, 24 CFR §982.355(c)(15)]**

If the family submits a request for tenancy approval during the term of the receiving PHA's voucher, the PHA must suspend the term of that voucher. The term of the 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 [24 CFR §982.4(b)] (see Section 5-II.E).

## **Notifying the Initial PHA**

The receiving PHA must promptly notify the initial PHA if the family has leased an eligible unit under the program or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the receiving PHA's voucher [24 CFR §982.355(c)(16)]. The receiving PHA is required to use Part II of form HUD-52665, Family Portability Information, for this purpose [PIH Notice 2016-09]. (For more on this topic and the deadline for notification, see below under "Administering a Portable Family's Voucher.")

If an incoming portable family ultimately decides not to lease in the jurisdiction of the receiving PHA but instead wishes to return to the initial PHA's jurisdiction or to search in another

jurisdiction, the receiving PHA must refer the family back to the initial PHA. In such a case, the voucher of record for the family is once again the voucher originally issued by the initial PHA. Any extension of search time provided by the receiving PHA's voucher is only valid for the family's search in the receiving PHA's jurisdiction. [PIH Notice 2016-09]

### **Administering a Portable Family's Voucher**

#### **Portability Billing [24 CFR §982.355(e)]**

To cover assistance for a portable family that was not absorbed, the receiving PHA bills the initial PHA for housing assistance payments and administrative fees. The amount of the housing assistance payment for a portable family in the receiving PHA's program is determined in the same manner as for other families in the receiving PHA's program.

The receiving PHA may bill the initial PHA for the lesser of 80 percent of the initial PHA's ongoing administrative fee, or 100 percent of the receiving PHA's ongoing administrative fee for each program unit under contract on the first day of the month for which the receiving PHA is billing the initial PHA under portability. If the administrative fees are prorated for the HCV program, the proration will apply to the amount of the administrative fee for which the receiving PHA may bill (i.e., the receiving PHA may bill for the lesser of 80 percent of the initial PHA's prorated ongoing administrative fee or 100 percent of the receiving PHA's ongoing administrative fee).

If both PHAs agree, the PHAs may negotiate a different amount of reimbursement.

#### PHA Policy

Unless the PHA negotiates a different amount of reimbursement with the initial PHA, the PHA will bill the initial PHA the maximum amount of administrative fees allowed, ensuring any administrative fee proration has been properly applied.

#### **Initial Billing Deadline**

If a portable family's search for a unit is successful and the receiving PHA intends to administer the family's voucher, the receiving PHA must submit its initial billing notice (Part II of form HUD-52665) in time, so that the notice will be **received** no later than 90 days following the expiration date of the family's voucher issued by the initial PHA [PIH Notice 2016-09]. This deadline may be extended for 30 additional days if the delay is due to suspension of the voucher's term (see Initial Billing Section). A copy of the family's form HUD-50058, Family Report, completed by the receiving PHA must be attached to the initial billing notice. The receiving PHA may send these documents by mail, fax, or e-mail.

#### PHA Policy

The PHA will send its initial billing notice by fax or e-mail, if necessary, to meet the billing deadline but will also send the notice by regular mail.

If the receiving PHA fails to send the initial billing by the deadline, it is required to absorb the family into its own program unless (a) the initial PHA is willing to accept the late submission or HUD requires the initial PHA to honor the late submission (e.g., because the receiving PHA is over-leased) [PIH Notice 2016-09].

### **Ongoing Notification Responsibilities [PIH Notice 2016-09, Form HUD-52665]**

**Annual Reexamination.** The receiving PHA must send the initial PHA a copy of a portable family's updated form HUD-50058 after each annual reexamination for the duration of time the receiving PHA is billing the initial PHA on behalf of the family, regardless of whether there is a change in the billing amount.

#### PHA Policy

The PHA will send a copy of the updated form HUD-50058 by regular mail no later than 10 business days after the effective date of the reexamination.

### **Change in Billing Amount**

The receiving PHA is required to notify the initial PHA, using form HUD-52665, of any change in the billing amount for the family as a result of:

- A change in the HAP amount (because of a reexamination, a change in the applicable payment standard, a move to another unit, etc.)
- An abatement or subsequent resumption of the HAP payments
- Termination of the HAP contract
- Payment of a damage/vacancy loss claim for the family
- Termination of the family from the program

The timing of the notice of the change in the billing amount should correspond with the notification to the owner and the family, in order to provide the initial PHA with advance notice of the change. Under no circumstances should the notification be later than 10 business days following the effective date of the change in the billing amount. If the receiving PHA fails to send Form HUD-52665 within 10 days of effective date of billing changes, the initial PHA is not responsible for any increase prior to notification. If the change resulted in a decrease in the monthly billing amount, the initial PHA will offset future monthly payments until the difference is reconciled.

### **Late Payments [PIH Notice 2016-09]**

If the initial PHA fails to make a monthly payment for a portable family by the fifth business day of the month, the receiving PHA must promptly notify the initial PHA in writing of the deficiency. The notice must identify the family, the amount of the billing payment, the date the billing payment was due, and the date the billing payment was received (if it arrived late). The receiving PHA must send a copy of the notification to the Office of Public Housing (OPH) in the HUD area office with jurisdiction over the receiving PHA. If the initial PHA fails to correct the problem by the second month following the notification, the receiving PHA may request by memorandum to the director of the OPH with jurisdiction over the receiving PHA that HUD transfer the unit in question. A copy of the initial notification and any subsequent correspondence between the PHAs on the matter must be attached. The receiving PHA must send a copy of the memorandum to the initial PHA.

If the OPH decides to grant the transfer, the billing arrangement on behalf of the family ceases with the transfer, but the initial PHA is still responsible for any outstanding payments due to the receiving PHA.

#### **Overpayments [PIH Notice 2016-09]**

In all cases where the receiving PHA has received billing payments for billing arrangements no longer in effect, the receiving PHA is responsible for returning the full amount of the overpayment (including the portion provided for administrative fees) to the initial PHA.

In the event that HUD determines billing payments have continued for at least three months because the receiving PHA failed to notify the initial PHA that the billing arrangement was terminated, the receiving PHA must take the following steps:

- Return the full amount of the overpayment, including the portion provided for administrative fees, to the initial PHA.
- Once full payment has been returned, notify the Office of Public Housing in the HUD area office with jurisdiction over the receiving PHA of the date and the amount of reimbursement to the initial PHA.

At HUD's discretion, the receiving PHA will be subject to the sanctions spelled out in PIH Notice 2016-09.

#### **Denial or Termination of Assistance**

At any time, the receiving PHA may make a determination to deny or terminate assistance to a portable family for family action or inaction [24 CFR §982.355(c)(17)].

In the case of a termination, the PHA should provide adequate notice of the effective date to the initial PHA to avoid having to return a payment. In no event should the receiving PHA fail to notify the initial PHA later than 10 business days following the effective date of the termination of the billing arrangement. [form HUD-52665; PIH Notice 2016-09]

##### PHA Policy

If the PHA elects to deny or terminate assistance for a portable family, the PHA will notify the initial PHA within 10 business days after the informal review or hearing if the denial or termination is upheld. The PHA will base its denial or termination decision on the policies set forth in Chapter 3 or Chapter 12, respectively. The informal review or hearing will be held in accordance with the policies in Chapter 16. The receiving PHA will furnish the initial PHA with a copy of the review or hearing decision.

#### **Absorbing a Portable Family**

The receiving PHA may absorb an incoming portable family into its own program when the PHA executes a HAP contract on behalf of the family or at any time thereafter providing that the PHA has funding available under its annual contributions contract (ACC) [24 CFR §982.355(d)(1), PIH Notice 2016-09].

If the receiving PHA absorbs a family from the point of admission, the admission will be counted against the income targeting obligation of the receiving PHA [24 CFR §982.201(b)(2)(vii)].

If the receiving PHA absorbs a family after providing assistance under a billing arrangement with the initial PHA the receiving PHA must send an updated form HUD-52665 to the initial PHA no later than 10 business days following the effective date of the termination of the billing arrangement. [PIH Notice 2016-09]

PHA Policy

If the PHA decides to absorb a portable family upon the execution of a HAP contract on behalf of the family, the PHA will notify the initial PHA by the initial billing deadline specified on form HUD-52665. The effective date of the HAP contract will be the effective date of the absorption.

If the PHA decides to absorb a family after that, it will provide the initial PHA with 30 days' advance notice, but no later than 10 business days following the effective date of the termination of the billing arrangement.

Following the absorption of an incoming portable family, the family is assisted with funds available under the consolidated ACC for the receiving PHA's voucher program [24 CFR §982.355(d)], and the receiving PHA becomes the initial PHA in any subsequent moves by the family under portability [24 CFR §982.355(e)(4)].



## Reexaminations

### Introduction

The PHA is required to reexamine each family's income and composition at least annually, and to adjust the family's level of assistance accordingly. Interim reexaminations are also needed in certain situations. This chapter discusses both annual and interim reexaminations, and the recalculation of family share and subsidy that occurs as a result. HUD regulations and PHA policies concerning reexaminations are presented in three parts:

**Part I: Annual Reexaminations.** This part discusses the process for conducting annual reexaminations.

**Part II: Interim Reexaminations.** This part details the requirements for families to report changes in family income and composition between annual reexaminations.

**Part III: Recalculating Family Share and Subsidy Amount.** This part discusses the recalculation of family share and subsidy amounts based on the results of annual and interim reexaminations.

**Part IV: Non-Interim Reexamination Transaction. This part describes transactions that do not entail changes to the family's adjusted income.**

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this plan, apply to both annual and interim reexaminations.

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## PART I: ANNUAL REEXAMINATIONS [24 CFR §982.516]

### **11-I.A. OVERVIEW**

The PHA must conduct a reexamination of family income and composition at least annually. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family's income and rent must be recalculated. This part discusses the schedule for annual reexaminations, the information to be collected and verified, and annual reexamination effective dates.

Unlike when performing an interim reexamination or at intake, at annual reexamination, the PHA must determine the income of the family for the previous 12-month period, except where the PHA uses a streamlined income determination. Income from assets, however, is always anticipated, irrespective of the income examination type [Notice PIH 2023-27]. PHAs also have the option of using a "safe harbor" income verification from another federal means-tested program to verify gross annual income. Chapter 7 contains the PHA's policies related to streamlined income determinations and the use of safe harbor income verifications.

**11-I.B STREAMLINED ANNUAL REEXAMINATIONS (FIXED INCOME) [24 CFR §982.516(B); NEW HCV GB, REEXAMINATIONS, CHP 2.1, ANNUAL REEXAMINATIONS]**

HUD permits PHAs to streamline the income determination process for family members with fixed sources of income. While third party verification of all income sources must be obtained during the intake process and every three years thereafter, in the intervening years the PHA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or rate of interest. The PHA may however, obtain third party verification of all income, regardless of the source. Further, upon request of the family, the PHA must perform third party verification of all income sources.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

Two streamlining options are available, depending upon the percentage of the family's income that is received from fixed sources. If at least 90 percent of the family's income is from fixed sources, the PHA may streamline the verification of fixed income, but is not required to verify non-fixed income amounts. If the family receives less than 90 percent of its income from fixed sources, the PHA may streamline the verification of fixed income and must verify non-fixed income annually.

**PHA Policy**

The PHA will streamline the annual reexamination process by applying the verified COLA or interest rate to fixed income sources. The PHA will document in the file how the determination that a source of income was fixed was made.

If a family member with a fixed source of income is added, the PHA will use third party verification of all income amounts for that family member.

If verification of the COLA or rate of interest is not available, the PHA will obtain third party verification of income amounts.

Third party verification of fixed sources of income will be obtained during the intake process and at least once every three years thereafter.

Third party verification of non-fixed income will be obtained annually regardless of the percentage of family income received from fixed sources.

**11-I.BC. SCHEDULING ANNUAL REEXAMINATIONS [PIH NOTICE 2020-32]**

The PHA must establish a policy to ensure that the annual reexamination for each family is completed *within* a 12-month period, and may require reexaminations more frequently [NEW HCV GB, p. 12-1, Reexaminations, Chps 1, Overview, 5.1, Effective Date of Annual Reexamination].

#### PHA Policy

The PHA will begin the annual reexamination process ~~90~~ 120 days in advance of its scheduled effective date. Generally, the PHA will schedule annual reexamination effective dates to coincide with the family's anniversary date.

*Anniversary date* is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

If the family moves to a new unit, the PHA will perform a new annual reexamination.

The PHA also may schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

#### **Notification of and Participation in the Annual Reexamination Process**

The PHA is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the PHA. However, PHAs should give tenants who were not provided the opportunity the option to complete Form HUD-92006 at this time [PIH Notice 2009-36].

#### PHA Policy

Families generally are required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, or cohead. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact the PHA to request a reasonable accommodation (see Chapter 2).

The PHA has the sole discretion to hold the annual reexamination via an online process, or an in-person interview.

Notification of annual reexamination interviews will be sent by first-class mail and will contain the method (on-line or in person) along with the date, time and location of the reexamination. If in-person, the notice will include the date and time of the interview. In addition, it will inform the family of the information and documentation that must be provided either in-person, via Drop Box, or online, in order to complete the annual reexamination process.

~~Notification of annual reexamination interviews will be sent by first class mail and will contain the date, time, and location of the interview. In addition, it will inform the family of the information and documentation that must be brought to the interview.~~

If the family is unable to attend a scheduled interview, the family should contact the PHA in advance of the interview to schedule a new appointment. If a family does not attend the scheduled interview, the PHA will send a second notification with a new interview date and appointment time.

If a family fails to attend two scheduled interviews without PHA approval, or if the notice is returned by the post office with no forwarding address, a notice of termination (see

Chapter 12) will be sent to the family's address of record, and to any alternate address provided in the family's file.

An advocate, interpreter, or other assistant may assist the family in the interview process. The family and the PHA must execute a certification attesting to the role and assistance provided by any such third party.

#### **11-I.CD. CONDUCTING ANNUAL REEXAMINATIONS [PIH NOTICE 2020-32]**

**AS PART OF THE ANNUAL REEXAMINATION PROCESS, FAMILIES ARE REQUIRED TO PROVIDE UPDATED INFORMATION TO THE PHA REGARDING THE FAMILY'S INCOME, EXPENSES, AND COMPOSITION [24 CFR §982.551(B)].**

As part of the annual reexamination process, families are required to provide updated information to the PHA regarding the family's income, expenses, and composition [24 CFR 982.551(b)].

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##### **PHA Policy**

The PHA has the sole discretion to require that documentation for annual reexaminations are sent to the PHA via the housing authorities online process.

Families will be asked to provide all required information (as described in the reexamination notice) through the tenant's online account or Drop Box.

The PHA may also opt to complete the reexamination appointment in person.

The required information will include a PHA- designated reexamination form, ~~an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documents or forms related to the family's income, expenses, and family composition; as well as supporting documents or forms related to the family's income, expenses, and family composition.~~

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Any required documents or information that the family is unable to provide for the annual reexamination process must be provided within 10 business days of the request. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time period (plus any extensions), the family will be sent a notice of termination (See Chapter 12).

Families who have extenuating circumstances or are elderly will be permitted to complete their reexamination by mail or by using their online account process. A request for an exception must be submitted in writing and will be reviewed and approved by management on a case-by-case basis.

Additionally, HUD recommends that at annual reexaminations PHAs ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state [PIH Notice 2012-28].

#### PHA Policy

At the annual reexamination, the PHA will ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state. The PHA will use the Dru Sjodin National Sex Offender database to verify the information provided by the tenant.

If the PHA proposes to terminate assistance based on lifetime sex offender registration information, the PHA must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination. [24 CFR §5.903(f) and §5.905(d)]. (See Chapter 12.)

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the PHA has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social Security numbers
- A person's disability status
- Citizenship or immigration status

If adding a new family member to the unit causes overcrowding according to the Housing Quality Standards (NSPIRE) (see Chapter 8), the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms [24 CFR §982.403].

#### **11-I.DE. DETERMINING ONGOING ELIGIBILITY OF CERTAIN STUDENTS [24 CFR §982.552(B)(5)]**

Section 327 of Public Law 109-115 established ~~new~~ restrictions on the ongoing eligibility of certain students (both part- and full-time) who are enrolled in institutions of higher education.

If a student enrolled in an institution of higher education is under the age of 24, is not a veteran, is not married, and does not have a dependent child, ~~and is not a person with disabilities receiving HCV assistance as of November 30, 2005,~~ the student's eligibility must be reexamined along with the income eligibility of the student's parents on an annual basis. In these cases, both the student and the student's parents must be income eligible for the student to continue to receive HCV assistance. If, however, a student in these circumstances is determined independent

from their parents or is considered a *vulnerable youth* in accordance with PHA policy, the income of the student's parents will not be considered in determining the student's ongoing eligibility.

Students who reside with parents in an HCV assisted unit are not subject to this provision. It is limited to students who are receiving assistance on their own, separately from their parents.

#### PHA Policy

During the annual reexamination process, the PHA will determine the ongoing eligibility of each student who is subject to the eligibility restrictions in 24 CFR 5.612 by reviewing the student's individual income as well as the income of the student's parents. If the student has been determined "independent" from their parents or is considered a *vulnerable youth* based on the policies in Sections 3-II.E and 7-II.E, the parents' income will not be reviewed.

If the student is no longer income eligible based on their own income or the income of their parents, the student's assistance will be terminated in accordance with the policies in Section 12-I.D.

If the student continues to be income eligible based on their own income and the income of their parents (if applicable), the PHA will process a reexamination in accordance with the policies in this chapter.

#### 11-I.E. CALCULATING ANNUAL INCOME AT ANNUAL REEXAMINATION [24 CFR 5.609(c)(2) and Notice PIH 2023-27]

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 determination as indicated in Chapter 7 of this policy. The PHA may also use Safe harbor income determinations dated within the last 12 months from a means-tested federal public assistance program at annual reexamination as outlined in Chapter 7 of this policy.

Except when using streamlined or Safe Harbor income determinations, in determining the income of the family for the previous 12-month period, any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination in accordance with PHA policies and 24 CFR 5.657(c) or 960.257(b) must be considered.

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

A change in income may be a loss of income or the addition of a new source of income. Changing to a different employer in the prior year does not necessarily constitute a change if the income earned from either employer is substantially the same. The PHA should look at the entirety of the family's unearned income and earned income from the prior year in which earned income may have been one constant job or many different jobs that start and stop.

Cost of Living Adjustments (COLA) to Social Security income and Social Security disability income are always considered changes to income because the COLA is an adjustment that

automatically occurs annually by law. See Chapter 6 for PHA policies on when the COLA is applied and Chapter 7 on streamlined determination of income for inflationary adjustments.

Notice PIH 2023-27 lists the following steps to calculate both earned and unearned income at annual reexamination.

**Step 1:** The PHA determines annual income for the previous 12-month period by reviewing the following information:

- The EIV Income Report pulled within 120 days of the effective date of the annual reexamination;
- The income reported on the most recent HUD-50058; and
- The amount of prior-year income reported by the family on the PHA's annual reexamination paperwork.

**Step 2:** The PHA takes into consideration any interim reexamination of family income completed since the last annual reexamination.

- If there was an interim reexamination performed, the PHA must use the annual income from the interim to determine the family's total annual income, provided there are no additional changes.
- If the PHA did not perform an interim or there have been changes since the last reexamination, the PHA moves to Step 3.

**Step 3:** If there were changes in annual income not processed by the PHA since the last reexamination, the PHA must use current income. The family will be required to report their income for the prior year and whether there have been permanent changes.

If there are no reported changes to an income source, the PHA may use documentation of prior-year income to calculate the annual income. For example, the PHA may use the following documentation:

- EIV + self-certification (wages, Supplemental Security Income (SSI), Social Security, and unemployment)
- Current written third-party verification from the source verifying prior-year income that is dated within 120 days of receipt by the PHA, for example:
  - Year-end statements
  - Paycheck with year-to-date amounts
  - Tax forms (Form 1040, W2, 1099, etc.)

If there are reported changes by the family or the PHA notes discrepancies between EIV and what the family reports, the PHA must follow the verification hierarchy (described in Chapter 7) to document and verify income. Exhibit 11-1 provides detailed examples of how the PHA calculates income from different sources at annual reexamination using the above method.

PHA Policy

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When income is calculated using a streamlined income determination or Safe Harbor determination from a means-tested federal public assistance program in accordance with PHA policies in Chapter 7, the above is not applicable. However, where the family disagrees with the PHA or other agency's determination of income or the PHA has other reason to use third-party verification in these circumstances, then the above will apply.

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#### **11-I.F. CRIMINAL BACKGROUND SCREENING [PIH NOTICE 2012-28]**

HUD authorizes PHAs to perform criminal background checks during the annual recertification/reexamination to determine if a member of a participant's household is subject to a lifetime registration requirement under any State sex offender registration program. Additionally, PHAs must ask whether the tenant, or any member of the tenant's household, is subject to a lifetime registered sex offender registration requirement in any state [PIH Notice 2012-28].

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

##### **PHA Policy**

Each household member age 18 and over will be required to execute a consent form for criminal background check as part of the annual update process

The PHA will perform criminal background checks through local law enforcement or use the Dru Sjodin National Sex Offender database for all adult household members.

If the recertification screening reveals that the tenant has falsified information or otherwise failed to disclose criminal history on his/her full application and/or recertification forms, the PHA will pursue termination of assistance, as described in section 12-I.D. Mandatory Termination of Assistance.

#### **11-I.FG. EFFECTIVE DATES**

The PHA must establish policies concerning the effective date of changes that result from an annual reexamination [24 CFR §982.516].

##### **PHA Policy**

In general, an *increase* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

- If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.
- If a family moves to a new unit, the increase will take effect on the effective date of the new lease and HAP contract, and no 30-day notice is required.
- If the PHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the PHA, but will always allow for the 30-day notice period.
- If the family causes a delay in processing the annual reexamination, *increase* in the family share of the rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

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~~If the PHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the PHA, but will always allow for the 30-day notice period.~~

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~~If the family causes a delay in processing the annual reexamination, *increases* in the family share of the rent will be applied retroactively to the scheduled effective date of the annual reexamination. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.~~

In general, a *decrease* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date.

- If a family moves to a new unit, the decrease will take effect on the effective date of the new lease and HAP contract.
- If the PHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the PHA.
- If the family causes a delay in processing the annual reexamination, *decreases* in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by the PHA by the date specified, and this delay prevents the PHA from completing the reexamination as scheduled.

## PART II: INTERIM REEXAMINATIONS [24 CFR §982.516; Notice PIH 2023-27]

### 11-II.A. OVERVIEW

Family circumstances may change between annual reexaminations. HUD and PHA policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances the PHA must process interim reexaminations to reflect those changes.

~~HUD regulations also permit the PHA to conduct interim reexaminations of income or family composition at any time.~~

~~When an interim reexamination is conducted, only those factors that have changed are verified and adjusted [NEW HCV GB, *Reexaminations*, Chp 2.2, *Interim Reexaminations*].~~

~~A family may request an interim determination of family income or composition because of any changes since the last determination. The PHA must conduct any interim reexamination within a reasonable period of time after the family request or when the PHA becomes aware of a change in the family's adjusted income that must be processed in accordance with HUD regulations. What qualifies as a "reasonable time" may vary based on the amount of time it takes to verify information, but the PHA generally should conduct the interim reexamination not longer than 30 days after the PHA becomes aware of changes in income.~~

~~Notice PIH 2023-27 changes the conditions under which interim reexaminations must be conducted, codifies when interim reexaminations should be processed and made effective, and requires related changes for annual reexaminations and streamlined income determinations. When the PHA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income.~~

~~In addition to specifying what information the family must report, HUD regulations permit the family to request an interim determination if other aspects of the family's income or composition changes. The PHA must complete the interim reexamination within a reasonable time after the family's request.~~

~~This part includes HUD and PHA policies describing what changes families are required to report, what changes families may choose to report, and how the PHA will process both PHA- and family initiated interim reexaminations.~~

~~Effective Jan. 1, 2024: HOTMA Section 102 Income Review Requirement: HOTMA creates a 10 percent increase/decrease threshold for conducting Interim Reexaminations, and in most cases, requires that the increases in earned income not be processed until the next Annual Reexamination, allowing families to keep more of their earnings before receiving a rent increase.~~

#### PHA Policy

~~Effective Jan. 1, 2024, when a change report has been submitted for an income increase or decrease, the PHA will review the income verification to determine if the increase meets the 10 percent threshold. If the increase is at or less than the 10 percent threshold, the increase will be effective at the next annual reexamination. If the increase is more~~

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~~than 10 percent, then an interim reexamination will be conducted providing for a 30-day notification to the participant of a tenant rent increase.~~

~~This policy applies to Family Self-Sufficiency participants~~

## **11-IL.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION**

~~PHAs must require families to report household composition changes; however, PHAs determine the timeframe in which reporting happens [Notice PIH 2023-27]. The family is required to report all changes in family composition. The PHA must adopt policies prescribing when and under what conditions the family must report changes in income and family composition [24 CFR 960.257(b)(5)]. However, due to family obligations under the program, the PHA has limited discretion in this area.~~

### **PHA Policy**

All families must ~~report~~notify all the PHA of any changes in family and household composition that occur between annual reexaminations within 10 business days of ~~the change's occurrence~~ (e.g., If the resident or any member of the family became employed, the start date of employment would start the count of 10 business days). The changes must be submitted in writing by using our 'Change Report Form'. The copy of the form must be time and date stamped by the City of Chandler Housing office to be considered valid. The copy of the form will be provided to the participant.

Upon implementation of the online resident system, the family will be urged to use the PHA website/online process for submitting Change Reports.

The PHA will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

### **New Family Members Not Requiring PHA Approval**

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require PHA approval. However, the family is required to promptly notify the PHA of the addition [24 CFR §982.551(h)(2)].

### **PHA Policy**

~~The family must inform the PHA of the birth, adoption, or court-awarded custody of a child within 10 business days.~~

### **New Family and Household Members Requiring Approval**

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request PHA approval to add a new family member [24 CFR §982.551(h)(2)] or other household member (live-in aide or foster child) [24 CFR §982.551(h)(4)]. ~~The family must still notify the PHA of the change.~~

Although the PHA must verify aspects of program eligibility when any new family member is added, the Streamlining Final Rule removed the requirement that PHAs conduct a reexamination

of income whenever a new family member is added. The PHA may state in policy that an income reexamination will be conducted.

If a change in family size causes a violation of inspection standards (NSPIRE) space standards (see Chapter 8), the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the family's HAP contract in accordance with its terms [24 CFR §982.403].

#### PHA Policy

The PHA will conduct an interim reexamination once when a new member is added, just for income attributable to the new member, unless the addition is less than three (3) months before the annual reexamination.

Families must request PHA approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for ~~more than 30 consecutive days or 90 cumulative days no longer than a total of 14 days~~ within a 12-month period, and therefore no longer qualifies as a "guest" Requests must be made in writing and approved by the PHA prior to the individual moving into the unit. (see Section 3-I.J. for the definition of guests).

~~Requests must be made in writing and approved by the PHA prior to the individual moving into the unit.~~

The PHA will not approve the addition of a new family or household member unless the individual meets the PHA's eligibility criteria (see Chapter 3) and documentation requirements (see Chapter 7, Part II).

The PHA will not approve the addition of a foster child or foster adult if it will cause a violation of NSPIRE space standards.

If the PHA determines an individual meets the PHA's eligibility criteria and documentation requirements, the PHA will provide written approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to NSPIRE standards, the approval letter will explain that the family will be issued a voucher and will be required to move.

If the PHA determines that an individual does not meet the PHA's eligibility criteria or documentation requirements, the PHA will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

The PHA will make its determination within 10 business days of receiving all information required to verify the individual's eligibility.

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The PHA will not approve the addition of a separate family to be added to the household unless the separate family is the live-in aide's family. Only one bedroom will be granted for a live-in aide and their family. All members of the live-in aide's family must meet eligibility requirements. A live-in aide must be requested through the reasonable accommodation process if a disabled household member needs the accommodation due to medical reasons.

The PHA will approve the addition of a biological minor when a current household member has physical custody of the minor, the adoption or court-awarded custody of a minor, or a minor who has been placed temporarily in the household and a current household member has physical custody of the minor.

The PHA will approve the addition of a significant other or spouse as long as the adult meets eligibility requirements.

Other additions to the household will be reviewed on a case-by-case basis, to take into consideration adult relatives returning to the household who need care provided by a household members; relatives who have never lived in the household, but now a household member is responsible for the care of the relative; or in situations where an adult biological or adopted child of a household member needs to live in the household for safety reasons or to attend school. All adult household additions must meet eligibility requirements.

~~The PHA will not approve the addition of a new household member unless the individual meets the PHA's eligibility criteria (see Chapter 3) and documentation requirements (see Chapter 7, Part II).~~

~~The PHA will not approve the addition of a foster child or foster adult if it will cause a violation of NSPIRE space standards.~~

~~If the PHA determines an individual meets the PHA's eligibility criteria and documentation requirements, the PHA will provide written approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to NSPIRE standards, the approval letter will explain that the family will be issued a voucher and will be required to move.~~

~~If the PHA determines that an individual does not meet the PHA's eligibility criteria or documentation requirements, the PHA will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.~~

~~The PHA will make its determination within 10 business days of receiving all information required to verify the individual's eligibility.~~

The family will not receive approval to add a separate family (two or more persons) to the household.

## Departure of a Family or Household Member

Families must promptly notify the PHA if any family household member no longer lives in the unit [24 CFR §982.551(h)(3)].

Because household members are considered when determining the family unit (voucher) size [24 CFR §982.402], the PHA also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit. The PHA must process an interim for all decreases in adjusted income when a family member permanently moves out of the unit.

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### PHA Policy

If a household member ceases to reside in the unit, the family must inform the PHA in writing within 10 business days of its occurrence and provide the new residential address of the family member who is being removed. This requirement also applies to a family member who has been considered temporarily absent at the point that the family concludes the individual is permanently absent.

If a live-in aide, foster child, or foster adult cease to reside in the unit, the family must inform the PHA within 10 business days.

## 11-ILC. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations for changes in income or expenses may ~~can~~ be scheduled either because the PHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. ~~When a family reports a change, the PHA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.~~

The PHA must estimate the income of the family for the upcoming 12-month period to determine family income for an interim reexamination [24 CFR 5.609(c)(1)]. Policies for projecting income are found in Chapter 6.

### Interim Decreases [24 CFR 982.516(c)(2) and Notice PIH 2023-27]

A family may request an interim determination of family income for any change since the last determination. However, the PHA may decline to conduct an interim reexamination if the PHA estimates the family's adjusted income will decrease by an amount that is less than 10 percent of the family's adjusted income. The PHA may set a lower threshold in PHA policy such as performing an interim for any decreases in adjusted income, although HUD prohibits the PHA from setting a dollar-figure threshold.

However, while the PHA has some discretion, HUD requires that the PHA perform an interim reexamination for a decrease in adjusted income of any amount in two circumstances:

- When there is a decrease in family size attributed to the death of a family member; or
- When a family member permanently moves out of the assisted unit during the period since the family's last reexamination.

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In the above circumstances, the PHA must perform an interim reexamination for any decrease in adjusted income.

If the net effect of the changes in adjusted income due to a decrease in family size results in no change or an increase in annual adjusted income, then PHA must process the removal of the household member(s) as a non-interim reexamination transaction without making changes to the family's annual adjusted income.

#### PHA Policy

The PHA will conduct an interim reexamination any time the family's adjusted income has decreased by any amount.

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### Interim Increases [24 CFR 982.516(c)(3) and Notice PIH 2023-27]

#### Increases Less than 10 Percent

PHAs must not process interim reexaminations for income increases that result in less than a 10 percent increase in annual adjusted income.

#### Increases 10 Percent or Greater

PHAs must conduct an interim reexamination of family income when the PHA becomes aware that the family's adjusted income has changed by an amount that the PHA estimates will result in an increase of 10 percent or more in adjusted income, with the following exceptions:

- PHAs may not consider any increases in earned income when estimating or calculating whether the family's adjusted income has increased, unless the family has previously received an interim reduction during the same reexamination cycle; and
- PHAs may choose not to conduct an interim reexamination during the last three months of a certification period if a family reports an increase in income within three months of the next annual reexamination effective date.

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When the family previously received an interim reexamination for a decrease to adjusted income during the same annual reexamination cycle, a PHA has the discretion whether to consider a subsequent increase in earned income.

#### PHA Policy

When a family reports an increase in their earned income between annual reexaminations, the PHA will not conduct an interim reexamination, regardless of the amount of the increase, and regardless of whether there was a previous decrease since the family's last annual reexamination.

The PHA will process an interim reexamination for any increases in unearned income of 10 percent or more in adjusted income.

The PHA will not perform an interim reexamination when a family reports an increase in income (whether earned or unearned income) within three months of their annual reexamination effective date. However, families who delay reporting income increases until the last three months of their certification period may be subject to retroactive rent increases in accordance with the PHA policies in Chapter 14.

#### **Concurrent Increases in Earned and Unearned Income [Notice PIH 2023-27]**

When the family reports an increase in both earned and unearned income at the same time, the PHA must look at the earned and unearned income changes independently of each other to determine if an interim reexamination is performed. The PHA will only conduct an interim reexamination when the increase independently meets the 10 percent threshold and all other requirements for performing interim reexaminations. For example, if a family reported increases in both earned and unearned income that overall resulted in a 12 percent increase in their adjusted income, but the change in earned income represented a 7 percent increase and the change in unearned income represented a 5 percent increase, the PHA may not perform an interim for either change since neither change meets the 10 percent threshold amount independently. If the change in unearned income met the 10 percent threshold in this case, the PHA would be required to perform an interim. If the change in earned income met the 10 percent threshold in this case, the PHA would refer to PHA policy to determine whether an interim was required.

#### **Cumulative Increases [Notice PIH 2023-27]**

A series of smaller reported increases in adjusted income may cumulatively meet or exceed the 10-percent increase threshold, at which point the PHA must conduct an interim reexamination in accordance with PHA policy.

#### **Family Reporting**

The PHA must adopt policies consistent with HUD regulations prescribing when and under what conditions the family must report a change in family income or composition [24 CFR 982.516(d)].

PHA policy may require families to report only changes that the family estimates meet the threshold for an interim reexamination or the PHA may establish policies requiring that families report all changes in income and household composition, and the PHA will subsequently determine if the change requires an interim reexamination [Notice PIH 2023-27].

When the PHA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income. For example, if the family is reporting a decrease in adjusted income that is more than 10 percent, but the family also had a change in assets that would result in a change in income, the change in assets must also be reviewed [Notice PIH 2023-27].

#### **PHA Policy**

The family will be required to report all changes in income regardless of the amount of the change, whether the change is to earned or unearned income, or if the change occurred during the last three months of the certification period. Families must report changes in income within 10 business days of the date the change takes effect. The family may notify the PHA of changes either orally or in writing. If the family provides oral notice, the PHA may also require the family to submit the changes in writing.

Within 10 business days of the family reporting the change, the PHA will determine whether the change will require an interim reexamination.

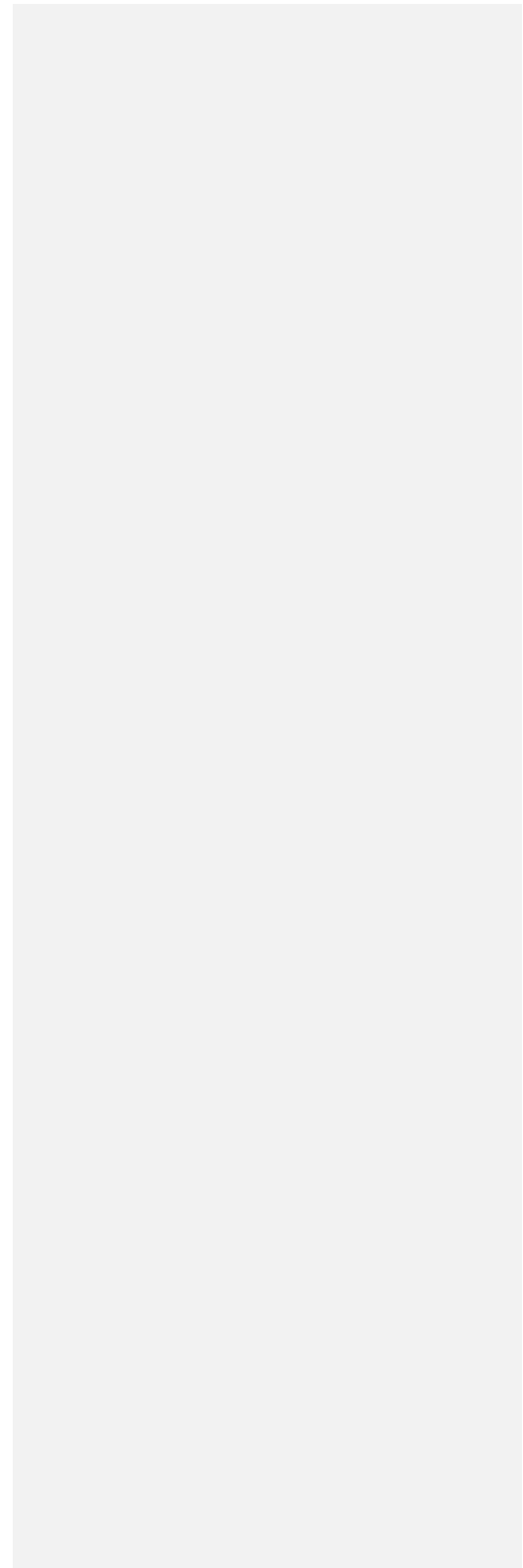
If the change will not result in an interim reexamination, the PHA will note the information in the tenant file but will not conduct an interim reexamination. The PHA will send the family written notification within 10 business days of making this determination informing the family that the PHA will not conduct an interim reexamination.

If the change will result in an interim reexamination, the PHA will determine the documentation the family will be required to submit based on the type of change reported and PHA policies in Chapter 7. The PHA will ask the family to report changes in all aspects of adjusted income at this time. The family must submit any required information or documents within 10 business days of receiving a request from the PHA. This time frame may be extended for good cause with PHA approval. The PHA will accept required documentation by mail, email, fax, or in person. The PHA will conduct the interim within a reasonable time period based on the amount of time it takes to verify the information.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if the PHA determines that an interview is warranted, the family may be required to attend.



I



### **PHA-Initiated Interim Reexaminations**

PHA-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by the PHA. They are not scheduled because of changes reported by the family.

#### PHA Policy

The PHA will conduct interim reexaminations in each of the following instances:

- For families receiving the Earned Income Disallowance (EID), the PHA will conduct an interim reexamination at the start and conclusion of the 24-month eligibility period.
- If the family has reported zero income, the PHA will conduct an interim reexamination every three months (or quarterly beginning January, April, July, and September) as long as the family continues to report that they have no income. The family will provide a notarized affirmation of zero income, complete a zero income budgeting worksheet and questionnaire. A review of the checking and saving bank statements will be conducted to observe the cost expenditures and deposits.
- If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income), the PHA will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.
- If at the time of the annual reexamination, tenant declarations were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, the PHA will conduct an interim reexamination.
- The PHA may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a tenant fraud complaint.

### **Family-Initiated Interim Reexaminations**

The PHA must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR §982.516(c)]. In addition, HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR §982.516(b)(2)].

### **Required Reporting**

HUD regulations give the PHA the freedom to determine the circumstances under which families will be required to report changes affecting income.

#### PHA Policy

Families are required to report all increases in earned and unearned income, including new employment within 10 business days of its occurrence. The changes must be submitted in writing by using our 'Change Report Form'. The copy of the form must be time and date stamped by the City of Chandler Housing office to be considered valid. The copy of the form will be provided to the participant.

~~Upon implementation of the online resident system, the family will be urged to use the PHA website/online process for submitting Change Reports.~~

~~To encourage economic self-sufficiency and independence from federal assistance the following income will be excluded from an interim change and processed only at the annual reexamination:~~

- ~~● Increases in Social Security benefits;~~
- ~~● Temporary Assistance for Needy Families (TANF) families who begin employment;~~
- ~~● Wage increases from the same employer/employment agency (i.e., raises, bonuses, commissions, overtime);~~
- ~~● On the job training pay; and~~
- ~~● All income increases below the threshold amount of \$2,400 (\$50 weekly, \$100 bi-weekly, \$200 monthly, or \$2,400 yearly including same source income) except for zero income families.~~
- ~~● Effective Jan. 1, 2024, all income increases below the threshold of 10 percent increase or decrease of same source income, except for zero income families (HOTMA Section 102 Income Review Requirement).~~
- ~~●~~

~~The interim reexaminations will not be processed for Family Self Sufficiency (FSS) participants who report an increase in earned income in an effort to allow the family to keep more of their earnings before receiving a rent increase (Refer to Family Self Sufficiency Action Plan for more information related to FSS requirements).~~

### **Optional Reporting**

~~The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)]. The PHA must process the request if the family reports a change that will result in a reduced family income [HCV GB, p. 262].~~

~~If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced [24 CFR §5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.~~

## **11-IL.D. PROCESSING THE INTERIM REEXAMINATION**

### **Method of Reporting**

#### PHA Policy

The family must notify the PHA of changes in writing. Generally, the family will not be required to attend an interview for an interim reexamination. However, if the PHA determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, the PHA will determine the documentation the family will be required to submit. The family must submit any required information or documents within 10 business days of receiving a request from the PHA. This time frame may be extended for good cause with PHA approval. Upon implementation of the online resident system, the family will be urged to use the PHA website/online process for submitting Change Reports.

### **Effective Dates**

The PHA must establish the time frames in which any changes that result from an interim reexamination will take effect [24 CFR §982.516(d)]. The changes may be applied either retroactively or prospectively, depending on whether there is to be an increase or a decrease in the family share of the rent, and whether the family reported any required information within the required time frames [HCV GB, p. 12-10].

#### PHA Policy

If the family share of the rent is to *increase*:

- The increase generally will be effective on the first of the month following 30 days' notice to the family.
- If a family fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively to the date it would have been effective had the information been provided on a timely basis.
- The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

If the family share of the rent is to *decrease*:

- The decrease will be effective on the first day of the month following the month in which the change was reported and all required documentation was submitted; however, all required documentation must be received by the 20<sup>th</sup> calendar day of the month to allow adequate time for processing.
- In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.

## **11-IL.D. EFFECTIVE DATES [24 CFR 982.516(e) and Notice 2023-27]**

### **Changes Reported Timely [Notice PIH 2023-27]**



If the family reports a change in family income or composition timely in accordance with PHA policies:

- For rent increases, the PHA must provide the family with 30 days advance written notice. The rent increase is effective the first of the month after the end of that 30-day notice period.
- Rent decreases are effective on the first of the month after the date of the actual change leading to the interim reexamination of family income. This means the decrease will be applied retroactively.

#### **Changes Not Reported Timely [Notice PIH 2023-27]**

If the family failed to report a change in family income or composition timely in accordance with PHA policies:

- For rent increases, the PHA must implement any resulting rent increases retroactively to the first of the month following the date of the change leading to the interim reexamination of family income.
- For rent decreases, the PHA must implement the change no later than the first rent period following completion of the interim reexamination.

However, the PHA may choose to adopt a policy that would make the effective date of the rent decrease retroactive to the first of the month following completion of the reexamination. PHAs may choose to establish conditions or requirements for when such a retroactive application would apply. PHAs that choose to adopt such policies must ensure the earliest date that the retroactive decrease is applied is the later of:

- The first of the month following the date of the change that led to the interim reexamination;  
or
- The first of the month following the most recent previous income examination.

In applying a retroactive change in rent as the result of an interim reexamination, the PHA must clearly communicate the effect of the retroactive adjustment to the family so that there is no confusion over the amount of the rent that is the family's responsibility.

#### **PHA Policy**

In general, when the family fails to report a change in income or family composition timely, and the change would lead to a rent decrease, the PHA will apply the decrease the first of the month following completion of the interim reexamination.

However, the PHA will apply the results of the interim reexamination retroactively where a family's ability to report a change in income promptly may have been hampered due to extenuating circumstances such as a natural disaster or disruptions to PHA management operations. The PHA will decide to apply decreases retroactively on a case-by-case basis.

When the PHA applies the results of interim decreases retroactively, the PHA will clearly communicate the effect of the retroactive adjustment to the family and may enter into a repayment agreement in accordance with PHA policies.

The PHA will also clearly communicate the effect of the retroactive adjustment to the owner.





## **PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT**

### **11-III.A. OVERVIEW**

After gathering and verifying required information for an annual or interim reexamination, the PHA must recalculate the family share of the rent and the subsidy amount, and notify the family and owner of the changes [24 CFR §982.516(d)(2), HCV 12-6 and 12-10]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

### **11-III.B. CHANGES IN PAYMENT STANDARDS AND UTILITY ALLOWANCES**

In order to calculate the family share of the rent and HAP amount correctly, changes in payment standards, subsidy standards, or utility allowances may need to be updated and included in the PHA's calculations.

Specific policies governing how subsidy standards, payment standards, and utility allowances are applied are discussed below.

#### **Payment Standards [24 CFR §982.505]**

The family share of the rent and HAP calculations must use the correct payment standard for the family, taking into consideration the family unit size, the size of unit, and the area in which the unit is located [HCV GB, p. 12-5]. See Chapter 6 for information on how to select the appropriate payment standard.

When the PHA changes its payment standards or the family's situation changes, new payment standards are applied at the following times:

- If the PHA's payment standard amount changes during the term of the HAP contract, the date on which the new standard is applied depends on whether the standard has increased or decreased:
  - If the payment standard amount has *increased*, the increased payment standard will be applied at the *first annual* reexamination following the effective date of the increase in the payment standard.
  - If the payment standard amount has decreased, during the term of a HAP contract, the PHA is not required to reduce the payment standard as the HAP contract remains in effect. At the family's second annual reexamination, the PHA may, but is not required to, apply the decreased payment standard or may gradually implement the reduced payment standard (See Chapter 6 for the PHA's policy on decreases in the payment standard).

If the family moves to a new unit, or a new HAP contract is executed due to changes in the lease (even if the family remains in place) the current payment standard applicable to the family will be used when the new HAP contract is processed.

#### **Subsidy Standards [24 CFR §982.505(c)(4)]**

If there is a change in the family unit size that would apply to a family during the HAP contract term, either due to a change in family composition, or a change in the PHA's subsidy standards (see Chapter 5), the new family unit size must be used to determine the payment standard amount for the family at the family's *first annual* reexamination following the change in family unit size.

#### **Utility Allowances [24 CFR §982.517(d)]**

The family share of the rent and HAP calculations must reflect any changes in the family's utility arrangement with the owner, or in the PHA's utility allowance schedule [HCV GB, p. 12-5]. Chapter 16 discusses how utility allowance schedules are established.

When there are changes in the utility arrangement with the owner, the PHA must use the utility allowances in effect at the time the new lease and HAP contract are executed.

At reexamination, the PHA must use the PHA current utility allowance schedule [HCV GB p. 18- 8].

##### PHA Policy

Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination after the allowance is adopted.

#### **11-III.C. NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT**

The PHA must notify the owner and family of any changes in the amount of the HAP payment [form HUD-52641, HAP Contract]. The notice must include the following information [HCV GB, p. 12-6]:

- The amount and effective date of the new HAP payment
- The amount and effective date of the new family share of the rent
- The amount and effective date of the new tenant rent to owner

The family must be given an opportunity for an informal hearing regarding the PHA's determination of their annual or adjusted income, and the use of such income to compute the housing assistance payment [24 CFR 982.555(a)(1)(i)] (see Chapter 16).

##### PHA Policy

The notice to the family will include the annual and adjusted income amounts that were used to calculate the family share of the rent and the housing assistance payment.

The notice will state the family has the right to request an explanation of how the assistance was calculated and if the family disagrees, they have the right to informal hearing. The notice will include the procedures for requesting an informal hearing.

### **11-III.D. DISCREPANCIES**

During an annual or interim reexamination, the PHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the PHA may discover errors made by the PHA. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies in Chapter 13.

### **PART IV: NON-INTERIM REEXAMINATION TRANSACTIONS [Notice PIH 2023-27]**

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Families may experience changes within the household that do not trigger an interim reexamination under PHA policy and HUD regulations but which HUD still requires the PHA to report to HUD via Form HUD-50058. These are known as *non-interim reexamination transactions*. In these cases, PHAs will submit a separate, new action code on Form HUD-50058. The following is a list of non-interim reexamination transactions:

- Adding or removing a hardship exemption for the child care expense deduction;
- Updating or removing the phased-in hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction (the phased-in relief will begin at an eligible family's first annual or interim reexamination, whichever is sooner, after January 1, 2024);
- Adding or removing general hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction;
- Adding or removing a minimum rent hardship;
- Adding or removing a non-family member (i.e., live-in aide, foster child, foster adult);
- Ending a family's EID or excluding 50 percent (decreased from 100 percent) of a family member's increase in employment income at the start of the second 12- month EID period.
- Adding a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Removing a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Adding/Updating a family or household member's Social Security number; and
- Updating a family member's citizenship status from eligible to ineligible or vice versa, resulting in a change to the family's rent and/or utility reimbursement, if applicable (i.e., family begins receiving prorated assistance or previously prorated assistance becomes full assistance), or updating the prorated rent calculation due to the addition or removal of family members in household with an ineligible noncitizen(s).

PHAs must make all other changes to assets, income, and deductions at the next annual or interim reexamination of income, whichever is sooner.

**EXHIBIT 11-1: CALCULATING Income AT ANNUAL REEXAMINATION**

**Example 1: Calculating Annual Income at Annual Reexamination Using EIV**

Staff are processing the 3/1/2024 annual reexamination for Ruby Myers and her minor daughter, Georgia. No interim reexaminations have been processed, and Ruby has not reported any changes to annual income to the PHA since the 3/1/2023 annual reexamination. The SSA published 2024 COLA is 7 percent.

Last reexamination – 3/1/2023 Annual Reexamination

Ruby:

Georgia:

Wages: \$30,000

SSI: \$10,980 (\$915 monthly)s

The EIV report pulled on 12/15/2023

Ruby:

Georgia:

Wages Total: \$33,651

SSI Total: \$10,980

Quarter 3 of 2023: \$8,859 (City Public School)

2023 benefit \$915 monthly

Quarter 2 of 2023: \$8,616 (City Public School)

Quarter 1 of 2023: \$8,823 (City Public School)

Quarter 4 of 2022: \$7,353 (City Public School)



Income Reported on Reexamination Application

Ruby:

Wages at City Public School: \$32,000  
(switched jobs but no permanent change to  
amount)

Georgia:

SSI benefits: \$10,980 (no changes)

Calculating Ruby's wages:

Step 1: Determine prior annual income from  
EIV (i.e., Q4 2022 through Q3 of 2023:  
\$33,651).

Step 2: Take into consideration any interim  
reexamination of family income completed  
since the last annual reexamination (in this  
case, there have been no interim  
reexaminations processed since the last annual  
reexamination).

Step 3: Ruby certifies that the \$33,651 of  
wages in EIV is accurate and reflects her  
current annual income, so the PHA will use  
\$33,651 for annual wages for the 3/1/2024  
annual reexamination given there have been no  
additional changes to annual income.

Calculating Georgia's SSI benefit:

Step 1: Determine the prior annual income  
from EIV (i.e., \$915 x 12 months: \$10,980).

Step 2: Take into consideration any interim  
reexamination of family income completed  
since the last annual reexamination (in this  
case, there have been no interim  
reexaminations processed since the last annual  
reexamination).

Step 3: Ruby certifies the SSI income in EIV is  
accurate and reflects Georgia's current annual  
income. The PHA must adjust the prior-year  
income (2023 SSI benefit) by the 7- percent  
COLA and will use this amount to calculate  
annual SSI income for the 3/1/2024 annual  
reexamination:

COLA: \$64.05 (\$915 x 0.07)

New gross SSI benefit: \$11,748.60 (\$979.05 x  
12 months)

If Ruby did not agree with the annual wages  
reported in EIV, the PHA/MFH Owner would  
be required to verify her current income in  
accordance with HUD's verification hierarchy.

Summary of Annual Income (as reported on the HUD-50058)

Ruby (Head of Household):

Other Wage: \$33,651

Myers Family Total Annual Income: \$45,399

Georgia (Other Youth Under 18):

SSI: \$11,748

**Example 2: Calculating Annual Income at Annual Reexamination Using EIV:**

**Family Disagrees with EIV**

Staff are processing Paul Hewson's 5/1/2024 annual reexamination. Since the last annual reexamination, Paul reported a decrease in annual income that exceeded 10 percent. Last year, Paul reported a decrease in earned income because he transferred from a full-time job at Sasha's Sweets to a part-time job at Viking Bakery. Following HUD's EIV verification hierarchy, staff confirmed Paul was no longer employed at Sasha's Sweets and decreased his anticipated annual income from \$28,000 to \$7,500 resulting from his new part-time employment at Viking Bakery; an interim reexamination was processed effective 7/1/2023. After the 7/1/2023 interim, Paul worked briefly at two different jobs, but he says he is no longer working and is not planning to work.

**5/1/2023 Annual Reexamination**

Wages: \$28,000

The EIV report pulled on 1/15/2024

Wages Total: \$18,271

Quarter 3 of 2023: \$2,500 (Viking Bakery)

Quarter 3 of 2023: \$796 (Sweet Tooth Candy Bar)

Quarter 2 of 2023: \$1,300 (Sasha's Sweets)

Quarter 2 of 2023: \$584 (Larry's Concessions)

Quarter 2 of 2023: \$2,401 (Viking Bakery)

Quarter 1 of 2023: \$6,500 (Sasha's Sweets)

Quarter 4 of 2022: \$600 (Sasha's Sweets)

SS/SSI: No history of benefits

Income Reported on Reexamination Application

Wages: \$0 (permanent change; no longer receiving)

Social Security: \$14,400 (\$1,200 monthly)

Paul certified on the PHA's annual reexamination paperwork that he does not agree with the annual wages of \$18,271 reported in EIV and it is not reflective of his current anticipated annual income. He reported he is currently unemployed, and provided a copy of an award letter from the Social Security Administration to document that he will begin receiving a monthly disability benefit of \$1,200 effective 3/1/2024.

Calculating Wages and SS Benefit

Step 1: Determine prior annual income taking into consideration the 8/1/2023 interim reexamination (i.e., EIV wages reflected Q4 2022 through Q3 2023: \$18,271)

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there was a 7/1/2023 interim that reduced wages to \$7,500.

Step 3: Obtain documentation to verify current income and confirm Paul is no longer employed at Viking Bakery or The Sweet Tooth Candy Bar (the employers reported in the most recent quarter of EIV). This step is necessary, because Paul did not agree with the EIV income report or income reported on the last interim reexamination. Paul reported that he is no longer working at all.

Process the annual reexamination effective 5/1/2024 using annual SS income of \$14,400 and \$0 wages.

Summary of Annual Income (as reported on the HUD-50058)

Paul (Head of Household): \$14,400 (SS)

Hewson Family Total Annual Income: \$14,400

### Example 3: Calculating Annual Income at Annual Reexamination

Staff are processing the 11/1/2024 annual reexamination for Samantha and Fergus Pool, head of household and spouse. On 2/14/2024 Samantha reported her monthly child support payment was reduced from \$200 to \$100 per month, but an interim reexamination was not processed because the reduction in child support income for Samantha's daughter, Hailey, did not result in a decrease of 10 percent or more in annual adjusted income, and the PHA did not establish a lower threshold. Samantha did not report any additional changes to the PHA.

#### Last reexamination – 11/1/2023 Annual Reexamination

<u>Samantha:</u>	<u>Fergus:</u>
<u>Business income: \$28,000</u>	<u>Wages: \$8,250</u>
<u>VA disability pension: \$12,000</u>	<u>Other non-wage income: \$3,000 (Go Fund Me online fundraiser)</u>
<u>Child support: \$2,400</u>	

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#### The EIV report pulled on 9/16/2024

<u>Samantha:</u>	<u>Fergus:</u>
<u>Wages Total: \$0 (no wage data reported since Q1 2023)</u>	<u>Wages Total: \$8,600</u>
	<u>Quarter 1 of 2024: \$2,100 (Ian's Fish 'n' Chips)</u>
	<u>Quarter 1 of 2024: \$500 (Claire's Healthcare Supplies)</u>
	<u>Quarter 4 of 2023: \$1,000 (Claire's Healthcare Supplies)</u>
	<u>Quarter 3 of 2023: \$1,800 (The Onion Garden Shop)</u>
	<u>Quarter 2 of 2023: \$3,200 (Ivar's Fish Haus)</u>

Current Family Circumstances: Income Reported on Reexamination Application

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Samantha and Fergus reported how much income was earned/received in the previous 12-month period and noted permanent changes, where applicable, for each source of their income on PHA's annual reexamination form. However, no information was reported by the family concerning other non-wage income. Fergus reported only wages and his current employment at Ian's Fish 'n' Chips for the annual reexamination. The family supplied the supporting documentation noted below to the PHA for the 11/1/2024 annual reexamination.

Samantha:

Fergus:

Business income: \$28,750 (last year); has decreased to \$18,000 (permanent change)

Wages: \$6,000

VA disability benefit: \$12,000 (last year); has increased to \$12,300 (permanent change)

Child support: \$2,400 (last year); has decreased to \$1,200 (permanent change)

Calculating Samantha's Net Business Income

Step 1: Determine prior annual net business income (i.e., \$28,000 on last HUD-50058.

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: Adjust to reflect current net business income. Samantha reported on the annual reexamination application that business income permanently decreased to \$18,000. The PHA must obtain supporting documentation from Samantha that demonstrates current net business income. Samantha provided documentation that supported the current annual net business income is \$18,000. Process the annual reexamination effective 11/1/2024 using annual net business income determined in Step 3.

Calculating Samantha's VA Pension Income

Step 1: Determine prior annual VA pension income (i.e., \$12,000 supported by a VA award letter Samantha supplied that documents the prior year monthly VA pension was \$1,000).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: The PHA needs to adjust to reflect current VA pension income. Samantha supplies a VA award letter showing a monthly pension of \$1,025, or \$12,300 annually. Process the annual reexamination effective 11/1/2024 using annual VA pension income determined in Step 3 (\$12,300 in this example).

### Calculating Samantha's Child Support Income

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Step 1: Determine prior annual child support income (i.e., \$2,400 on the last HUD-50058).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination. The family reported a decrease from \$200 to \$100 monthly, but the change was not processed because it did not meet the threshold.

Step 3: The family reported changes, so the PHA must adjust to reflect current child support income. In this example, the family submitted a child support history report from the local child support office that documents regular \$100 monthly child supports payments beginning 3/1/2024 through the current month. Process the annual reexamination effective 11/1/2024 using current annual child support income determined in Step 3 (\$1,200 in this example).

### Calculating Fergus' Wages

Step 1: Determine prior annual income from wages in EIV (i.e., Q2 2023 through Q1 of 2024: \$8,600).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: There is a discrepancy between what the family reported and EIV, so the PHA must verify and adjust to reflect current annual income from wages. Fergus reported \$6,000 in annual income from wages on the annual reexamination from a single employer, Ian's Fish 'n' Chips. The PHA projected annual income of \$7,800 based on the two paystubs for this employer, and EIV shows \$8,600 earned in the most recent four quarters in EIV. To complete Step 3, the PHA must do the following:

- Resolve the discrepancy between EIV wages, the \$6,000 annual income Fergus reported, and the \$7,800 projected based on the paystubs he provided, and
- Verify he is no longer employed at Claire's Healthcare Supplies in accordance with HUD's verification hierarchy and local policies.

The PHA determined that Fergus reported his net vs. gross annual income from wages, which he corrected on the annual reexamination form to reflect his current gross annual income of \$9,000. The PHA verified Fergus was no longer employed at Claire's Healthcare Supplies and obtained two additional paystubs. Based on four current and consecutive paystubs, Fergus is now projected to earn \$9,360 annually. Process the annual reexamination effective 11/1/2024 using income from wages determined in Step 3 (\$9,360 in this example).

I

Calculating Fergus' Other Non-Wage Income

Step 1: Determine prior annual income from other non-wage income (i.e., \$3,000 on the last HUD- 50058).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: The family did not report any non-wage income on the annual reexamination form, but it was included on the last HUD-50058. The PHA must verify and adjust to reflect current non-wage income. The PHA must verify no income was received through a "Go Fund Me" online fundraiser so that it may be excluded. Fergus provided a self-certification that he hasn't solicited funds online and doesn't plan to in the following year; he also provided records from the account that documented no fundraising activity in the prior 12-month period. Process the annual reexamination effective 11/1/2024 using annual non-wage income of \$0 determined in Step 3.

Summary of Annual Income (as reported on the HUD-50058)

Samantha (Head of Household):

Own business: \$18,000

Pension: \$12,300

Child support: \$1,200

Fergus (Co-head):

Wages: \$9,360

Poole Family Total Annual Income: \$40,860

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## **Termination of Assistance and Tenancy**

HUD regulations specify mandatory and optional grounds for which a PHA can terminate a family's assistance. They also specify the circumstances under which an owner may terminate the tenancy of an assisted family. This chapter describes the policies that govern mandatory and optional terminations of assistance, and termination of tenancy by the owner. It is presented in three parts:

**Part I: Grounds for Termination of Assistance.** This part describes the various circumstances under which assistance under the program can be terminated by the family or by the PHA.

**Part II: Approach to Termination of Assistance.** This part describes the policies and the process that the PHA will use in evaluating decisions on whether to terminate assistance due to actions or inactions of the family where termination is an option. It specifies the alternatives that the PHA may consider in lieu of termination, the criteria the PHA will use when deciding what action to take and the steps the PHA must take when terminating a family's assistance.

**Part III: Termination of Tenancy by the Owner.** This part describes the HUD policies that govern the owner's right to terminate an assisted tenancy.

## **PART I: GROUNDS FOR TERMINATION OF ASSISTANCE**

### **12-I.A. OVERVIEW**

HUD requires the PHA to terminate assistance for certain actions and inactions of the family and when the family no longer requires assistance due to increases in family income.

HUD permits the PHA to terminate assistance for certain other actions or inactions of the family.

In addition, a family may decide to withdraw from the program and terminate their HCV assistance at any time by notifying the PHA.

### **12-I.B. FAMILY NO LONGER REQUIRES ASSISTANCE [24 CFR §982.455]**

As a family's income increases, the amount of PHA the housing assistance payment decreases. If the amount of assistance provided by the PHA is reduced to zero the family's assistance terminates automatically 180 days after the last HAP payment.

#### PHA Policy

If a participating family receiving zero assistance experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify the PHA of the change and request an interim reexamination before the expiration of the 180-day period.

### **12-I.C. FAMILY CHOOSES TO TERMINATE ASSISTANCE**

The family may request that the PHA terminate housing assistance payments on behalf of the family at any time.

#### PHA Policy

The request to terminate assistance should be made in writing and signed by the head of household and spouse, or cohead if applicable. Before terminating the family's assistance, the PHA will follow the notice requirements in Section 12-II.F.

### **12-I.D. MANDATORY TERMINATION OF ASSISTANCE**

HUD requires the PHA to terminate assistance in the following circumstances.

#### **Eviction [24 CFR §982.552(b)(2), 24 CFR 5.2005(c)(1)]**

The PHA must terminate assistance whenever a family is evicted from a unit assisted under the HCV program for a serious or repeated violation of the lease. As discussed further in section 12-II.E, incidents of actual or threatened domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking.

#### PHA Policy

A family will be considered *evicted* if the family moves after a legal eviction order has been issued, whether or not physical enforcement of the order was necessary.

If a family moves after the owner has given the family an eviction notice for serious or repeated lease violations but before a legal eviction order has been issued, termination of assistance is not mandatory. In such cases the PHA will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may terminate assistance or take any of the alternative measures described in Section 12-II.C. In making its decision, the PHA will consider the factors described in sections 12-II.D and 12-II.E. Upon consideration of such factors, the PHA may, on a case-by-case basis choose not to terminate assistance.

*Serious and repeated lease violations* will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criteria to be used is whether the reason for the eviction was through no fault of the tenant or guests.

#### **Failure to Provide Consent [24 CFR §982.552(b)(3)]**

The PHA must terminate assistance if any family member fails to sign and submit any consent form they are required to sign for a regular or interim reexamination. See Chapter 7 for a complete discussion of consent requirements.

#### **Failure to Document Citizenship [24 CFR §982.552(b)(4); [24 CFR §5.514(c)]**

The PHA must terminate assistance if:

- (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status;
- (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; or
- (3) a family member, as determined by the PHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit.

For (3) above, such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated. See Chapter 7 for a complete discussion of documentation requirements.

#### **Failure to Disclose and Document Social Security Numbers [24 CFR §5.218(c), PIH Notice 2018-24]**

The PHA must terminate assistance if a participant family fails to disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number.

However, if the family is otherwise eligible for continued program assistance, and the PHA determines that the family's failure to meet the SSN disclosure and documentation requirements

was due to circumstances that could not have been foreseen and were outside of the family's control, the PHA may defer the family's termination and provide the opportunity to comply with the requirement within a period not to exceed 90 calendar days from the date the PHA determined the family to be noncompliant.

#### PHA Policy

The PHA will defer the family's termination and provide the family with the opportunity to comply with the requirement for a period of 90 calendar days for circumstances beyond the participant's control, such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency, if there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.

#### **Methamphetamine Manufacture or Production [24 CFR §983.553(b)(1)(ii)]**

The PHA must terminate assistance if any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.

#### **Lifetime Registered Sex Offenders [PIH Notice 2012-28]**

Should a PHA discover that a member of an assisted household was subject to a lifetime registration requirement at admission and was erroneously admitted after June 25, 2001, the PHA must immediately terminate assistance for the household member.

In this situation, the PHA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the PHA must terminate assistance for the household.

#### **Failure of Students to Meet Ongoing Eligibility Requirements [24 CFR §982.552(b)(5); FR 4/10/06]**

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have dependent children, ~~and~~ is not residing with their parents in an HCV assisted household, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the PHA must terminate the student's assistance if, at the time of reexamination, either the student's income or the income of the student's parents (if applicable) exceeds the applicable income limit.

If a participant household consists of both eligible and ineligible students, the eligible students shall not be terminated, but must be issued a voucher to move with continued assistance in accordance with program regulations and PHA policies, or must be given the opportunity to lease in place if the terminated ineligible student members elect to move out of the assisted unit.

Death of the Sole Family Member [24 CFR §982.311(d); PIH Notice 2010-9]; ~~PIH Notice 2010-50~~

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~~The PHA must immediately terminate program assistance for deceased single member households, which will result in termination of the HAP contract and HAP to the owner in accordance with the aforementioned provisions. The owner is not entitled to HAP for any month following the month in which the death occurred.~~

The PHA must immediately terminate program assistance for deceased single member households..

~~There are no exceptions to this policy and procedures. PHA must notify the owner in writing of the deceased head of household.~~

## **12-I.E. MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS**

### **Mandatory Policies [24 CFR §982.553(b); §982.551(l)]**

HUD requires the PHA to establish policies that permit the PHA to terminate assistance if the PHA determines that:

- Any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents
- Any household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents
- Any household member has violated the family's obligation not to engage in any drug-related criminal activity
- Any household member has violated the family's obligation not to engage in violent criminal activity

### **Use of Illegal Drugs and Alcohol Abuse**

#### PHA Policy

The PHA will terminate a family's assistance if any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

The PHA will terminate assistance if any household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

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

The PHA will consider all credible evidence, including but not limited to, any record of convictions, or eviction of household members related to the use of illegal drugs or abuse of alcohol.

A record of arrest(s) will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate assistance, the PHA will consider alternatives as described in Section 12-II.C and other factors described in Section 12-II.D [and 12-II.E](#). Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis choose not to terminate assistance.

#### **Drug-Related and Violent Criminal Activity [24 CFR §5.100]**

*Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

*Drug-related criminal activity* is defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

*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.

##### PHA Policy

The PHA will terminate a family's assistance if any household member has violated the family's obligation not to engage in any drug-related or violent criminal activity during participation in the HCV program.

The PHA will consider all credible evidence, including but not limited to, any record of convictions of household members related to drug-related or violent criminal activity, and any eviction or notice to evict based on drug-related or violent criminal activity.

A record of arrest(s) will not be used as the basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate assistance, the PHA will consider alternatives as described in Section 12-II.C and other factors described in Section 12-II.D [and 12-II.E](#). Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis choose not to terminate assistance.

State laws purporting to legalize medical and recreational marijuana directly conflict with the admission and continued requirements of the Quality Housing and Work Responsibility Act of 1998 (QHWRA) and are thus subject to preemption [September 24, 1999 HUD Letter Re: Medical Use of Marijuana].

### Other Authorized Reasons for Termination of Assistance [24 CFR §982.552(c)]

HUD permits the PHA to terminate assistance under a number of other circumstances. It is left to the discretion of the PHA whether such circumstances in general warrant consideration for the termination of assistance. As discussed further in section 12-II.E., the Violence Against Women Reauthorization ~~Act of 2013 explicitly~~ prohibits PHAs from considering incidents of, or criminal activity directly related to, domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking as reasons for terminating the assistance of a victim of such abuse.

Additionally, per 24 CFR §984.10(d), PHAs are no longer permitted to terminate assistance to a family due to the family's failure to meet its obligations under the Family Self-Sufficiency (FSS) contract of participation [FR Notice 12/29/14].

#### PHA Policy

The PHA **will** terminate a family's assistance if:

- The family has failed to comply with any family obligations under the program. See Exhibit 12-1 for a listing of family obligations and related PHA policies ~~[24 CFR §982.552(e)(1)(i)]~~.
- Any drug-related, violent criminal activity, or criminal activity on the property by the leaseholder, a member of the household, or guest; or any criminal activity on or off the property by the leaseholder or a household member.
- Any family member has been evicted from or abandoned a federally assisted housing in the last ~~three~~five years.
- Any PHA has ever terminated assistance under the program for any member of the family.
- Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- The family currently owes rent or other amounts to any PHA in connection with Section 8 or public housing assistance under the 1937 Act.
- The family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.
- The family has breached the terms of a repayment agreement entered into with the PHA.
- A family member has engaged in or threatened violent or abusive behavior toward PHA personnel.
  - *Abusive or violent behavior towards PHA personnel* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.
  - *Threatening* refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to terminate assistance, the PHA will consider alternatives as described in Section 12-II.C and other factors described in Section 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis choose not to terminate assistance.

**Family Absence from the Unit [24 CFR §982.312, ~~Form HUD-52641~~]**

The family may be absent from the unit for brief periods. The PHA must establish a policy on how long the family may be absent from the assisted unit. However, the family may not be absent from the unit for a period of more than 180 consecutive calendar days for any reason. Absence in this context means that no member of the family is residing in the unit.

PHA Policy

If the family is absent from the unit for more than 30 calendar days, the family's assistance will be terminated. Notice of termination will be sent in accordance with Section 12-II.F.

Housing assistance payments terminate if the family is absent for longer than the maximum period permitted. The term of the HAP contract and assisted lease also terminate.

(The owner must reimburse the PHA for any housing assistance payment for the period after the termination.)

Absence means that no member of the family is residing in the unit.

If the family moves from the contract unit, the HAP contract terminates automatically. Housing assistance payments shall only be paid to the owner while the family is residing in the contract unit during the term of the HAP contract. The PHA shall not pay a housing assistance payment to the owner for any month after the month when the family moves out.

**Insufficient Funding [24 CFR §982.454]**

The PHA may terminate HAP contracts 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.

PHA Policy

The PHA will determine whether there is sufficient funding to pay for currently assisted families according to the policies in Part VIII of Chapter 16.

If the PHA determines there is a shortage of funding, prior to terminating any HAP contracts, the PHA will determine if any other actions can be taken to reduce program costs.

If, after implementing all reasonable cost cutting measures, there is not enough funding available to provide continued assistance for current participants, the PHA will terminate HAP contracts as a last resort.



Prior to terminating any HAP contracts, the PHA will inform the local HUD field office . The PHA will terminate the minimum number needed in order to reduce HAP costs to a level within the PHA's annual budget authority.

If the PHA must terminate HAP contracts due to insufficient funding, the PHA will do so in accordance with the following criteria and instructions:

- ~~Families who have been assisted in the HCV program the longest will be the first to be terminated, excluding families that include elderly or disabled family members. The PHA will review the active participant listing and determine which participants have leases and HAP contracts that are expiring.~~
- ~~Within the active participant listing, if there are participants that have transferred to the City of Chandler's jurisdiction through portability, and the initial housing agency is being billed, those participants will **not** be subject to this termination process.~~
- ~~In the executed HAP contract date order, the HAP contracts that are most subject for renewal will be terminated. A thirty-day written notice will be sent to owner and tenant notifying them of the insufficient funding.~~
  - ~~Participants whose HAP contracts are terminated will be placed back on the waiting list based upon initial date of their application.~~
  - ~~Portable transfers whose HAP contracts are terminated will be placed back on the wait list based upon their initial date of admission to the program from the initial housing agency.~~
- Families comprising the required number of special purpose vouchers, including nonelderly disabled (NED), HUD-Veteran's Affairs Supportive Housing (HUD-VASH), and family unification program (FUP) will be the last to be terminated.

## **PART II: APPROACH TO TERMINATION OF ASSISTANCE**

### **12-II.A. OVERVIEW**

The PHA is required by regulation to terminate a family's assistance for certain actions or inactions of the family. For other types of actions or inactions of the family, the regulations give the PHA the authority to either terminate the family's assistance or to take another action. This part discusses the various actions the PHA may choose to take when it has discretion, and outlines the criteria the PHA will use to make its decision about whether or not to terminate assistance. It also specifies the requirements for the notification to the family of the PHA's intent to terminate assistance.

### **12-II.B. METHOD OF TERMINATION [24 CFR §982.552(A)(3)]**

Termination of assistance for a participant may include any or all of the following:

- Terminating housing assistance payments under a current HAP contract,
- Refusing to enter into a new HAP contract or approve a lease, or
- Refusing to process a request for or to provide assistance under portability procedures.

### **12-II.C. ALTERNATIVES TO TERMINATION OF ASSISTANCE**

#### **Change in Household Composition**

As a condition of continued assistance, the PHA may require that any household member who participated in or was responsible for an offense no longer resides in the unit [24 CFR §982.552(c)(2)(ii)].

##### PHA Policy

As a condition of continued assistance, the head of household must certify that the culpable family member has vacated the unit, and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former family member's current address upon PHA request.

#### **Repayment of Family Debts**

##### PHA Policy

If a family owes amounts to the PHA, as a condition of continued assistance, the PHA will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from the PHA of the amount owed. See Chapter 16 for policies on repayment agreements.

## **12-IL.D. CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE**

### **Evidence**

For criminal activity, HUD permits the PHA to terminate assistance if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted [24 CFR §982.553(c)].

~~The fact that an applicant or tenant was arrested for a disqualifying offense shall not be treated or regarded as proof that the applicant or tenant engaged in disqualifying criminal activity.~~

~~Although a record of arrest(s) may not be used to deny a housing opportunity, PHAs may make an adverse housing decision based on the conduct underlying an arrest if the conduct indicates that the individual is not suitable for tenancy and the PHA has sufficient evidence other than the fact of arrest that the individual engaged in the conduct. The conduct, not the arrest, is what is relevant for admissions and tenancy decisions.~~

~~The arrest may however, trigger an investigation to determine whether the applicant or tenant actually engaged in disqualifying criminal activity.~~

~~As part of its investigation, COCHRD may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. COCHRD may also consider any statements made by witnesses or the applicant or tenant not included in the police report; whether criminal charges were filed; whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal; and any other evidence relevant to determining whether or not the applicant or tenant engaged in disqualifying activity. Reliable evidence of a conviction for criminal conduct that would disqualify an individual for tenancy may also be the basis for determining that the disqualifying conduct in fact occurred. [PIH Notice 2015-19]~~

### **PHA Policy**

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

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

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

### **Use of Criminal Conviction Records after Admission [24 CFR 5.903]**

The regulation at 24 CFR 5.903 governs a PHA's access to and use of criminal conviction records obtained from a "law enforcement agency" such as the National Crime Information Center (NCIC), police departments, and other law enforcement agencies that hold criminal conviction records. While the regulatory listing of permitted uses for these records includes PHA screening of applicants for admission to the HCV program, it specifically excludes the use of records for lease enforcement and eviction of HCV participants and excludes by omission a

PHA's use of records to terminate assistance for participants. While a PHA has regulatory authority to use criminal conviction records for the purpose of applicant screening for admission, there is no corresponding authority to use these records to check for criminal and illegal drug activity by participants, and therefore, PHAs may not use records for this purpose. The limitations, however, do not apply to criminal conviction information searches from non-federal sources (i.e., sources other than the "law enforcement agencies" defined in 24 CFR 5.902(b)). There is no prohibition that bars a PHA from using non-federal sources to conduct criminal background checks of program participants.

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#### **Consideration of Circumstances [24 CFR §982.552(c)(2)(i)]**

The PHA is permitted, but not required, to consider all relevant circumstances when determining whether a family's assistance should be terminated.

##### PHA Policy

The PHA will consider the following facts and circumstances when making its decision to terminate assistance:

- The seriousness of the case, especially with respect to how it would affect other residents' safety or property.
- The effects that termination of assistance may have on other members of the family who were not involved in the action or failure to act.
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities or (as discussed further in section 12-II.E) a victim of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking.
- The length of time since the violation occurred, including the age of the individual at the time of conduct, as well as the family's recent history and the likelihood of favorable conduct in the future.
- While a record of arrest(s) will not be used as the sole basis for termination, an arrest may however, trigger an investigation to determine whether the participant actually engaged in disqualifying criminal activity. As part of its investigation, the PHA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The PHA may also consider:
  - Any statements made by witnesses or the participant not included in the police report
  - Whether criminal charges were filed
  - Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal
  - Any other evidence relevant to determining whether or not the participant engaged in disqualifying activity

- Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property:
  - In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully.
  - The PHA will require the applicant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.
  - In the case of program abuse the dollar amount of the overpaid assistance and whether or not a false certification was signed by the family

**Reasonable Accommodation ~~for a Family Member with Disabilities~~ [24 CFR §982.552(c)(2)(iv)]**

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

PHA Policy

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of assistance, the PHA will determine whether the behavior is related to the disability. If so, upon the family's request, the PHA will determine whether alternative measures are appropriate as a reasonable accommodation.

The PHA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed termination of assistance. See Chapter 2 for a discussion of reasonable accommodation.

**12-ILE. TERMINATING RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, ~~OR STALKING, OR HUMAN TRAFFICKING~~**

This section describes the protections against termination of assistance that the Violence against Women Act ~~of 2013~~ (VAWA) provides for victims of domestic violence, dating violence, sexual assault, ~~and~~ stalking, and human trafficking. For general VAWA requirements, key VAWA definitions, and PHA policies pertaining to notification, documentation, and confidentiality, see section 16-IX of this plan.

**VAWA Protections against Termination**

VAWA provides four specific protections against termination of HCV assistance for victims of domestic violence, dating violence, sexual assault, or stalking. (*Note:* The second, third, and

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fourth protections also apply to terminations of tenancy or occupancy by owners participating in the HCV program as do the limitations discussed under the next heading.)

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

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1. VAWA provides that a PHA may not terminate assistance to a family that moves out of an assisted unit in violation of the lease, with or without prior notification to the PHA, if the move occurred to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking, and who reasonably believed they were imminently threatened by harm from further violence if they remained in the unit [see 24 CFR §982.314(b)(4)].
2. It provides that an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking may not be construed either as a serious or repeated lease violation by the victim or as good cause to terminate the assistance of the victim [see 24 CFR §5.2005(c)(1)].
3. It provides that criminal activity directly related to domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking may not be construed as cause for terminating the assistance of a tenant if a member of the tenant's household, a guest, or another person under the tenant's control is the one engaging in the criminal activity and the tenant or affiliated individual or other individual is the actual or threatened victim of the domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking [see 24 CFR §5.2005(c)(2)].
4. It gives PHAs the authority to terminate assistance to any tenant or lawful occupant who engages in criminal acts of physical violence against family members or others without terminating assistance to, or otherwise penalizing, the victim of the violence [24 CFR §5.2009(a)].

PHAs and owners may not coerce, intimidate, threaten, interfere with, or retaliate against any person who exercises or assists or encourages a person to exercise any rights or protections under VAWA [FR Notice 1/4/23].

### Limitations on VAWA Protections [24 CFR §5.2005(d) and (e)]

VAWA does not limit the authority of a PHA to terminate the assistance of a victim of abuse for reasons unrelated to domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking so long as the PHA does not subject the victim to a more demanding standard than it applies to other program participants [24 CFR §5.2005(d)(1)].

Likewise, VAWA does not limit the authority of a PHA to terminate the assistance of a victim of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking if the PHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the assisted property if the victim is not terminated from assistance [24 CFR §5.2005(d)(2)].

HUD regulations define *actual and imminent threat* to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and could result in death or serious bodily harm [24 CFR §5.2005(d)(2) and (e)]. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk
- The nature and severity of the potential harm
- The likelihood that the potential harm will occur
- The length of time before the potential harm would occur [24 CFR §5.2005(e)]

In order to demonstrate an actual and imminent threat, the PHA must have objective evidence of words, gestures, actions, or other indicators. Even when a victim poses an actual and imminent threat, HUD regulations authorize a PHA to terminate the victim's assistance "only when there are no other actions that could be taken to reduce or eliminate the threat" [24 CFR §5.2005(d)(3)].

#### PHA Policy

In determining whether a program participant who is a victim of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking is an actual and imminent threat to other tenants or those employed at or providing service to a property, the PHA will consider the following, and any other relevant, factors:

- Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking
- Whether the threat is a physical danger beyond a speculative threat
- Whether the threat is likely to happen within a short period of time
- Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location or seeking a legal remedy to prevent the perpetrator from acting on the threat

If the participant wishes to contest the PHA's determination that they are an actual and imminent threat to other tenants or employees, the participant may do so as part of the informal hearing.

#### **Documentation of Abuse [24 CFR §5.2007]**

##### PHA Policy

When an individual facing termination of assistance for reasons related to domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking -claims protection under VAWA, the PHA will request that the individual provide documentation supporting the claim in accordance with the policies in section 16-IX.D of this plan.

The PHA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases the PHA will document the waiver in the individual's file.

#### **Terminating the Assistance of a Domestic Violence Perpetrator ~~[24 CFR §5.2005(e)]~~**

Although VAWA provides protection against termination of assistance for victims of domestic violence, it does not provide such protection for perpetrators. VAWA gives the PHA the explicit authority to "terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others" without terminating assistance to "or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant" [24 CFR 5.2009(a)]. This authority is not dependent on a bifurcated lease or other eviction action by an owner against an individual family member. Further, this authority supersedes any local, state, or other federal law to the contrary. However, if the PHA chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law regarding termination of assistance. This means that the PHA must follow the same rules when terminating assistance to an individual as it would when terminating the assistance of an entire family [FR Notice 3/16/07].

If the perpetrator remains in the unit, the PHA continues to pay the owner until the PHA terminates the perpetrator from the program. The PHA must not stop paying HAP until 30 days after the owner bifurcates the lease to evict the perpetrator. The PHA may pay HAP for the full month if the 30-day period will end mid-month [Notice PIH 2017-08].

If the perpetrator is the only participant eligible to receive assistance, the PHA will provide any remaining participant a chance to establish eligibility for the program. If the remaining participant cannot do so, the PHA will provide them with 30 days to establish eligibility for another housing program prior to termination of the HAP contract.

##### PHA Policy

The PHA will terminate assistance to a family member if the PHA determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the assistance of the remaining, nonculpable family members.

In making its decision, the PHA will consider all credible evidence, including, but not limited to, a signed certification (form HUD-5382) or other documentation of abuse



submitted to the PHA by the victim in accordance with this section and section 16-IX.D. The PHA will also consider the factors in section 12-II.D. Upon such consideration, the PHA may, on a case-by-case basis, choose not to terminate the assistance of the culpable family member.

If the PHA does terminate the assistance of the culpable family member, it will do so in accordance with applicable law, HUD regulations, and the policies in this plan.

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~~Although VAWA provides protection against termination of assistance for victims of domestic violence, it does not provide protection for perpetrators. VAWA gives the PHA the explicit authority to “terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others.” without terminating assistance to “or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant.” [24 CFR 5.2009(a)].~~

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~~This authority is not dependent on a bifurcated lease or other eviction action by an owner against an individual family member. Further, this authority supersedes any local, state, or other federal law to the contrary.~~

~~However, if the PHA chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law regarding termination of assistance. This means that the PHA must follow the same rules when terminating assistance to an individual as it would when terminating the assistance of an entire family [3/16/07 *Federal Register* notice on the applicability of VAWA to HUD programs].~~

~~If the perpetrator remains in the unit, the PHA continues to pay the owner until the PHA terminates the perpetrator from the program. The PHA must not stop paying HAP until 30 days after the owner bifurcates the lease to evict the perpetrator. The PHA may pay HAP for the full month if the 30-day period will end mid-month [PIH Notice 2017-08].~~

~~If the perpetrator is the only participant eligible to receive assistance, the PHA will provide any remaining participant a chance to establish eligibility for the program. If the remaining participant cannot do so, the PHA will provide them with 30 days to establish eligibility for another housing program prior to termination of the HAP contract.~~

#### PHA Policy

~~The PHA will terminate assistance to a family member if the PHA determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the assistance of the remaining, non-culpable family members.~~

~~In making its decision, the PHA will consider all credible evidence, including, but not limited to, a signed certification (form HUD-5382) or other documentation of abuse submitted to the PHA by the victim in accordance with this section and section 16 IX.D. The PHA will also consider the factors in section 12 II.D. Upon such consideration, the PHA may, on a case-by-case basis, choose not to terminate the assistance of the culpable family member.~~

~~If the PHA does terminate the assistance of the culpable family member, it will do so in accordance with applicable law, HUD regulations, and the policies in this plan.~~

#### ~~PHA Confidentiality Requirements [24 CFR §5.2007(a)(1)(v)]~~

~~All information provided to the PHA regarding domestic violence, dating violence, sexual assault, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence and may neither be entered into any shared data base nor provided to any related entity, except to the extent that the disclosure:~~

- ~~(a) is requested or consented to by the individual in writing;~~
- ~~(b) is required for use in an eviction proceeding; or~~
- ~~(c) is otherwise required by applicable law.~~

#### **12-ILF. TERMINATION NOTICE ~~[HCV GB, P. 15-7]~~**

HUD regulations require PHAs to provide written notice of termination of assistance to a family only when the family is entitled to an informal hearing. However, since the family's HAP contract and lease will also terminate when the family's assistance terminates [form HUD-52641], it is a good business practice to provide written notification to both owner and family anytime assistance will be terminated, whether voluntarily or involuntarily.

##### PHA Policy

Whenever a family's assistance will be terminated, the PHA will send a written notice of termination to the family and to the owner. The PHA will also send a form HUD-5382 and form HUD-5380 to the family with the termination notice. The notice will state the date on which the termination will become effective. This date generally will be at least 30 calendar days following the date of the termination notice, but exceptions will be made whenever HUD rules, other PHA policies, or the circumstances surrounding the termination require.

When the PHA notifies an owner that a family's assistance will be terminated, the PHA will, if appropriate, advise the owner of their right to offer the family a separate, unassisted lease.

If a family whose assistance is being terminated is entitled to an informal hearing, the notice of termination that the PHA sends to the family must meet the additional HUD and PHA notice requirements discussed in section 16-III.C of this plan. VAWA ~~2013 expands notification requirements to require~~ PHAs to provide notice of VAWA rights and the HUD 5382 form when a PHA terminates a household's housing benefits.

##### PHA Policy

Whenever the PHA decides to terminate a family's assistance because of the family's action or failure to act, the PHA will include in its termination notice the VAWA information described in section 16-IX.C of this plan and a form HUD-5382 and form HUD-5380. The PHA will request in writing that a family member wishing to claim protection under VAWA notify the PHA within 14 business days.

Still other notice requirements apply in two situations: ~~In addition, other notice requirements apply in two situations:~~

- If a criminal record is the basis of a family's termination, the PHA must provide a copy of the record to the subject of the record and the tenant so that they have an opportunity to dispute the accuracy and relevance of record [24 CFR §982.553(d)].
- If immigration status is the basis of a family's termination, as discussed in Section 12-I.D, the special notice requirements in Section 16-III.D must be followed.

## **PART III: TERMINATION OF TENANCY BY THE OWNER**

### **12-III.A. OVERVIEW**

Termination of an assisted tenancy is a matter between the owner and the family; the PHA is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy. Termination of tenancy for certain reasons will also result in termination of assistance as discussed in this section.

### **12-III.B. GROUNDS FOR OWNER TERMINATION OF TENANCY [24 CFR §982.310, 24 CFR 5.2005(C), AND ~~+~~FORM HUD-52641-A, TENANCY ADDENDUM]**

During the term of the lease, the owner is not permitted to terminate the tenancy except for serious or repeated violations of the lease, certain violations of state or local law, or other good cause.

#### **Serious or Repeated Lease Violations**

The owner is permitted to terminate the family's tenancy for serious or repeated violations of the terms and conditions of the lease, except when the violations are related to incidents of actual or threatened domestic violence, dating violence, sexual assault, ~~or~~ stalking, and human trafficking and the victim is protected from eviction by the Violence against Women Act of 2013 (see Section 12-II.E).

A serious lease violation includes failure to pay rent or other amounts due under the lease.

However, the PHA's failure to make a HAP payment to the owner is not a violation of the lease between the family and the owner.

#### **Violation of Federal, State, or Local Law**

The owner is permitted to terminate the tenancy if a family member violates federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

#### **Criminal Activity or Alcohol Abuse**

The owner may terminate tenancy during the term of the lease if any *covered person*, meaning any member of the household, a guest or another person under the tenant's control commits any of the following types of criminal activity (for applicable definitions see 24 CFR §5.100):

- 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);
- 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;
- Any violent criminal activity on or near the premises; or

- Any drug-related criminal activity on or near the premises.

However, in the case of criminal activity directly related to domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking if the tenant or an affiliated individual is the victim, the criminal activity may not be construed as cause for terminating the victim's tenancy (see Section 12-II.E).

The owner may terminate tenancy during the term of the lease if any member of the household is:

- Fleeing to avoid prosecution, custody, or confinement after conviction for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or
- Violating a condition of probation or parole imposed under federal or state law.

The owner may terminate 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.

#### **Evidence of Criminal Activity**

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines the covered person has engaged in the criminal activity, regardless of whether the covered person has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction. This is the case except in certain incidents where the criminal activity directly relates to domestic violence, dating violence, sexual assault, stalking, or human trafficking, and the tenant or an affiliated individual is the victim or threatened victim of the domestic violence, dating violence, sexual assault, stalking, or human trafficking.

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#### **Other Good Cause**

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During the initial lease term, the owner may not terminate the tenancy for "other good cause" unless the owner is terminating the tenancy because of something the family did or failed to do.

During the initial lease term or during any extension term, other good cause includes the disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises.

After the initial lease term, "other good cause" for termination of tenancy by the owner includes:

- Failure by the family to accept the offer of a new lease or revision;
- The owner's desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit; or
- A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rent).

After the initial lease term, the owner may give the family notice at any time, in accordance with the terms of the lease.

If a property is subject to foreclosure, during the term of the lease, the new owner of the property does not have good cause to terminate the tenant's lease, unless the new owner will occupy the unit as their primary residence and has provided the tenant with at least a 90-day notice. In that case, the lease may be terminated effective on the date of sale, although the tenant is still entitled to a 90-day notice to vacate. See Section 13-II.G for a discussion of PHA policies relating to units in foreclosure.

#### **12-III.C. EVICTION [24 CFR §982.310(E) AND (F) AND FORM HUD-52641-A, TENANCY ADDENDUM]**

The owner must give the tenant a written notice that specifies the grounds for termination of tenancy during the term of the lease. The tenancy does not terminate before the owner has given this notice, and the notice must be given at or before commencement of the eviction action.

The notice of grounds may be included in, or may be combined with, any owner eviction notice to the tenant.

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. The owner may only evict the tenant from the unit by instituting a court action.

The owner must give the PHA a copy of any eviction notice at the same time the owner notifies the family. The family is also required to give the PHA a copy of any eviction notice (see Chapter 5).

##### PHA Policy

If the eviction action is finalized in court, the owner must provide the PHA with documentation related to the eviction, including notice of the eviction date, as soon as possible, but no later than 5 business days following the court-ordered eviction.

#### **12-III.D. DECIDING WHETHER TO TERMINATE TENANCY [24 CFR §982.310(H)], [24 CFR §982.310(H)(4)]**

An owner who has grounds to terminate a tenancy is not required to do so, and may consider all of the circumstances relevant to a particular case before making a decision. These might include:

- The nature of the offending action
- The seriousness of the offending action;
- The effect on the community of the termination, or of the owner's failure to terminate the tenancy;
- The extent of participation by the leaseholder in the offending action;
- The effect of termination of tenancy on household members not involved in the offending activity;



- The demand for assisted housing by families who will adhere to lease responsibilities;
- The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action;
- The effect of the owner's action on the integrity of the program.

The owner may require a family 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.

In determining whether to terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the owner may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully (42 U.S.C. 13661). For this purpose, the owner may require the tenant 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.

The owner's termination of tenancy actions must be consistent with the fair housing and equal opportunity provisions in 24 CFR §5.105.

An owner's decision to terminate tenancy for incidents related to domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking is limited by the Violence against Women Act ~~of 2005~~ (VAWA) and the conforming regulations in 24 CFR Part 5, Subpart L. (See Section 12-III.E.)

#### **12-III.E. EFFECT OF ~~TENANCY TERMINATION~~ OF TENANCY ON THE FAMILY'S ASSISTANCE**

If a termination is not due to a serious or repeated violation of the lease, and if the PHA has no other grounds for termination of assistance, the PHA may issue a new voucher so that the family can move with continued assistance (see Chapter 10).

## EXHIBIT 12-1: STATEMENT OF FAMILY OBLIGATIONS

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### EXHIBIT 12-1: Statement of Family Obligations

Following is a listing of a participant family's obligations under the HCV program:

- The family must supply any information that the PHA or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.
- The family must supply any information requested by the PHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition.
- The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.
- Any information supplied by the family must be true and complete.
- The family is responsible for abiding by any inspection standards (NSPIRE) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.

#### PHA Policy

Damages beyond normal wear and tear will be considered to be damages, which could be assessed against the security deposit.

- The family must allow the PHA to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.
- The family must not commit any serious or repeated violation of the lease.

#### PHA Policy

The PHA will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction, or an owner's notice to evict police reports, and affidavits from the owner, neighbors, or other credible parties with direct knowledge.

*Serious and repeated lease violations* will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests. Any incidents of, or criminal activity related to, domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking will not be construed as serious or repeated lease violations by the victim [see 24 CFR §5.2005(c)(1)].

- The family must notify the PHA and the owner before moving out of the unit or terminating the lease.

#### PHA Policy

The family must comply with lease requirements regarding written notice to the owner.

The family must provide written notice to the PHA at the same time the owner is notified.

- The family must promptly give the PHA a copy of any owner eviction notice.
- The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
- The composition of the assisted family residing in the unit must be approved by the PHA. The family must promptly notify the PHA in writing of the birth, adoption, or court-awarded custody of a child. The family must request PHA approval to add any other family member as an occupant of the unit.

#### PHA Policy

The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. The PHA will determine eligibility of the new member in accordance with the policies in Chapter 3.

- The family must promptly notify the PHA in writing if any family member no longer lives in the unit.
- If the PHA has given approval, a foster child or a live-in aide may reside in the unit. The PHA has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when PHA consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3 (Sections I.K and I.M), and Chapter 11 (Section II.B).
- The family must not sublease the unit, assign the lease, or transfer the unit.

#### PHA Policy

Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.

- The family must supply any information requested by the PHA to verify that the family is living in the unit or information related to family absence from the unit.
- The family must promptly notify the PHA when the family is absent from the unit.

#### PHA Policy

Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be provided to the PHA at the start of the extended absence.

- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].
- The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).
- Family members must 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. See Chapter 12 for HUD and PHA policies related to drug-related and violent criminal activity.
- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety, or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for a discussion of HUD and PHA policies related to alcohol abuse.
- An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.
- A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]

## Owners

### Introduction

Owners play a major role in the HCV program by supplying decent, safe, and sanitary housing for participating families.

The term “owner” refers to any person or entity with the legal right to lease or sublease a unit to a participant in the HCV program [24 CFR §982.4(b)]. The term “owner” includes a principal or other interested party [24 CFR §982.453; 24 CFR §982.306(f)], such as a designated agent of the owner.

Owners have numerous responsibilities under the program, including screening and leasing to families, maintaining the dwelling unit, enforcing the lease, and complying with various contractual obligations.

The chapter is organized in two parts:

**Part I: Owners in the HCV Program.** This part discusses the role of an owner in the PHA’s HCV program and highlights key owner rights and responsibilities.

**Part II: HAP Contracts.** This part explains provisions of the HAP contract and the relationship between the PHA and the owner as expressed in the HAP contract.

For detailed information about HCV program responsibilities and processes, including PHA policies in key areas, owners will need to refer to several other chapters in this plan. Where appropriate, Chapter 13 will reference the other chapters.

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## PART I. OWNERS IN THE HCV PROGRAM

### **13-I.A. OWNER RECRUITMENT AND RETENTION [HCV GB, PP. 2-4 TO 2-6; HCV LANDLORD STRATEGY GUIDEBOOK FOR PHA]; ~~42 USC §1437 F(O)(7)(C) (LOW INCOME HOUSING ASSISTANCE/VOUCHER PROGRAM/LEASES & TENANCY)~~**

#### **RECRUITMENT**

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PHAs are responsible for ensuring that very low-income families have access to all types and ranges of affordable housing in the PHA's jurisdiction, particularly housing outside areas of poverty or minority concentration. A critical element in fulfilling this responsibility is for the PHA to ensure that a sufficient number of owners, representing all types and ranges of affordable housing in the PHA's jurisdiction, are willing to participate in the HCV program.

To accomplish this objective, PHAs must identify and recruit new owners to participate in the program.

If the PHA will be conducting outreach events, the PHA must ensure that notices and communications during outreach events are provided in a manner that is effective for persons with hearing, visual, and other communications-related disabilities. PHAs must also take reasonable steps to ensure meaningful access to programs to persons with limited English proficiency.

#### **PHA Policy**

The PHA will conduct owner outreach to ensure that owners are familiar with the program and its advantages. The PHA will actively recruit property owners with property located outside areas of poverty and minority concentration. These outreach strategies will include:

- Distributing printed material about the program to prospective property owners and managers
- Contacting property owners and managers by phone, email, or in-person
- Holding owner recruitment/information meetings as necessary
- Developing working relationships with owners and real estate brokers' associations. PHA will attempt to also include apartment associations
- Free vacancy listing. The PHA may provide in-house referral listing and has partnered with [www.Gosection8.com](http://www.Gosection8.com), which provides an enhanced program to list rental properties on line. Listings are available to potential Section 8 tenants seeking apartment units, duplexes, single-family homes or townhomes in the private market.
- Printed material is offered to acquaint owners and managers with the opportunities available under the program.
- To the extent practical, partnering with and attending events hosted by other area agencies to deliver information about the HCV program

Outreach strategies will be monitored for effectiveness and will be adapted accordingly based on need.

### **Retention**

In addition to recruiting owners to participate in the HCV program, the PHA must also provide the kind of customer service that will encourage participating owners to remain active in the program.

#### PHA Policy

All PHA activities that may affect an owner's ability to lease a unit will be processed as rapidly as possible, in order to minimize vacancy losses for owners.

The PHA will provide owners with a handbook that explains the program, including HUD and PHA policies and procedures, in easy-to-understand language.

The PHA will give special attention to helping new owners succeed through activities such as:

- Providing the owner with a designated PHA contact person.
- Coordinating inspection and leasing activities between the PHA, the owner, and the family.
- Initiating telephone contact with the owner to explain the inspection process, and providing an inspection booklet and other resource materials about HUD housing quality standards.
- Providing other written information about how the program operates, including answers to frequently asked questions.
- Contacting owners via letters, emails or, texts to disseminate information.

Additional services may be undertaken on an as-needed basis, and as resources permit.

### **13-I.B. BASIC HCV PROGRAM REQUIREMENTS**

HUD requires the PHA to assist families in their housing search by providing the family with a list of landlords or other parties known to the PHA who may be willing to lease a unit to the family, or to help the family find a unit. Although the PHA cannot maintain a list of owners that are pre-qualified to participate in the program, owners may indicate to the PHA their willingness to lease a unit to an eligible HCV family, or to help the HCV family find a unit [24 CFR §982.301(b)(11)].

#### PHA Policy

Owners that wish to indicate their willingness to lease a unit to an eligible HCV family or to help the HCV family find a unit must notify the PHA. The PHA will maintain a listing of such owners and provide this listing to the HCV family as part of the informational briefing packet.

When a family approaches an owner to apply for tenancy, the owner is responsible for screening the family and deciding whether to lease to the family, just as the owner would with any potential unassisted tenant. The PHA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy. See chapters 3 and 9 for more detail on tenant family screening policies and process.

If the owner is willing, the family and the owner must jointly complete a Request for Tenancy Approval (RTA, Form HUD 52517), which constitutes the family's request for assistance in the specified unit, and which documents the owner's willingness to lease to the family and to follow the program's requirements.

When submitted to the PHA, this document is the first step in the process of obtaining approval for the family to receive the financial assistance it will need in order to occupy the unit.

Also submitted with the RTA is a copy of the owner's proposed dwelling lease, including the HUD-required Tenancy Addendum (Form HUD-52641-A). See Chapter 9 for more detail on request for tenancy approval policies and process.

HUD regulations stipulate requirement for the approval of an assisted tenancy.

The owner must be qualified to participate in the program [24 CFR §982.306]. Some owners are precluded from participating in the program, or from renting to a particular family, either because of their past history with this or another federal housing program, or because of certain conflicts of interest. Owner qualifications are discussed later in this chapter.

The selected unit must be of a type that is eligible for the program [24 CFR §982.305(a)]. Certain types of dwelling units cannot be assisted under the HCV program. Other types may be assisted under certain conditions. See chapter 9 for more detail on unit eligibility policies and process.

The selected unit must meet HUD's inspection standards (NSPIRE ) and/or equivalent state or local standards approved by HUD [24 CFR 982.305(a)]. The PHA will inspect the owner's dwelling unit at least annually to ensure that the unit continues to meet NSPIRE requirements. See chapter 8 for a discussion of the NSPIRE standards and policies for NSPIRE inspections at initial lease-up and throughout the family's tenancy.

The PHA must determine that the proposed rent for the unit is reasonable [24 CFR 982.305(a)]. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See chapter 8 for a discussion of requirements and policies on rent reasonableness, rent comparability and the rent reasonableness determination process.

At initial lease-up of a unit, if the gross rent exceeds the applicable payment standard, the PHA must ensure that the family share does not exceed 40 percent of the family's monthly adjusted income [24 CFR §982.305(a)]. See chapter 6 for a discussion of the calculation of family income, family share of rent and HAP.

The dwelling lease must comply with all program requirements [24 CFR §982.308]. Owners are encouraged to use their standard leases when renting to an assisted family. The HUD Tenancy Addendum, includes the HUD requirement governing the tenancy and must be added word-for-



word to the owner's lease. See chapter 9 for a discussion of the dwelling lease and tenancy addendum, including lease terms and provisions.

The PHA and the owner must execute a Housing Assistance Payment (HAP) Contract (Form HUD-52641). The HAP contract format is prescribed by HUD. See chapter 9 for a discussion of the HUD requirements for execution of the HAP contract.

### **13-I.C. OWNER RESPONSIBILITIES [24 CFR §982.452]**

The basic owner responsibilities in the HCV program are outlined in the regulations as follows:

- Complying with all of the owner's obligations under the Housing Assistance Payments (HAP) contract and the lease
- 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
- Maintaining the unit in accordance with the inspection standards(NSPIRE ), including performance of ordinary and extraordinary maintenance
- Complying with equal opportunity requirements
- Preparing and furnishing to the PHA information required under the HAP contract
- Collecting the security deposit, the tenant rent, and any charges for unit damage by the family
- Enforcing tenant obligations under the dwelling lease
- Paying for utilities and services that are not the responsibility of the family as specified in the lease
- Allowing reasonable modifications to a dwelling unit occupied or to be occupied by a disabled person [24 CFR §100.203]
- Complying with the Violence against Women Reauthorization Act ~~of 2013~~ (VAWA) when screening prospective HCV tenants or terminating the tenancy of an HCV family [see 24 CFR Part 5, Subpart L; 24 CFR §982.310(h)(4); and 24 CFR §982.452(b)(1)]; [and FR Notice 1/4/23](#).

### **13-I.D. OWNER QUALIFICATIONS**

The PHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the PHA may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV program [24 CFR §982.306(e)].

#### **Owners Barred from Participation [24 CFR §982.306(a) and (b)]**

The PHA must not approve the assisted tenancy if the PHA has been informed that the owner has been debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24.

HUD may direct the PHA not to approve a tenancy request if a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements, or if such an action is pending.

**Leasing to Relatives [24 CFR §982.306(d), HCV GB p. 11-2]**

The PHA must not approve a tenancy if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family. The PHA may make an exception as a reasonable accommodation for a family member with a disability. The owner is required to certify that no such relationship exists. This restriction applies at the time that the family receives assistance under the HCV program for occupancy of a particular unit. Current contracts on behalf of owners and families that are related may continue, but any new leases or contracts for these families may not be approved.

**Conflict of Interest [24 CFR §982.161; ~~NEW HCV GB, Housing Assistance Payments (HAP) Contract, Chp 2.4, Conflicts of Interest~~; p. 8-19; Form HUD-52641, ~~Housing Assistance Payment Contract (HAPC)~~, Section 13]**

The PHA must not approve a tenancy 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
- Any member of the Congress of the United States

Such “covered individual” may not have any direct or indirect interest in the HAP contract or in any benefits or payments under the contract (including the interest of an immediate family member of such covered individual) while such person is a covered individual or for one year thereafter.

Immediate family member means the spouse, parent (including a stepparent), child (including a stepchild), grandparent, grandchild, sister, or brother (including a stepsister or stepbrother) of any covered individual.

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HUD may waive the conflict of interest requirements, except for members of Congress, for good cause. The PHA must submit a waiver request to the appropriate HUD Field Office for determination.

Any waiver request submitted by the PHA must include the following [HCV Guidebook pp.11-2 and 11-3]:

- Complete statement of the facts of the case;
- Analysis of the specific conflict of interest provision of the HAP contract and justification as to why the provision should be waived;
- Analysis of, and statement of consistency with state and local laws. The local HUD office, the PHA, or both parties may conduct this analysis. Where appropriate, an opinion by the state's attorney general should be obtained;
- Opinion by the local HUD office as to whether there would be an appearance of impropriety if the waiver were granted;
- Statement regarding alternative existing housing available for lease under the HCV program or other assisted housing if the waiver is denied;
- If the case involves a hardship for a particular family, statement of the circumstances and discussion of possible alternatives;
- If the case involves a public official or member of the governing body, explanation of their duties under state or local law, including reference to any responsibilities involving the HCV program;
- If the case involves employment of a family member by the PHA or assistance under the HCV program for an eligible PHA employee, explanation of the responsibilities and duties of the position, including any related to the HCV program;
- If the case involves an investment on the part of a member, officer, or employee of the PHA, description of the nature of the investment, including disclosure/divestiture plans.

Where the PHA has requested a conflict of interest waiver, the PHA may not execute the HAP contract until HUD has made a decision on the waiver request.

#### PHA Policy

In considering whether to request a conflict of interest waiver from HUD, the PHA will consider certain factors such as consistency of the waiver with state and local laws; the existence of alternative housing available to families; the individual circumstances of a particular family; the specific duties of individuals whose positions present a possible conflict of interest; the nature of any financial investment in the property and plans for disclosure/divestiture; and the possible appearance of impropriety.

#### **Owner Actions That May Result in Disapproval of a Tenancy Request [24 CFR §982.306(c)]**

HUD regulations permit the PHA, To disapprove a request for tenancy for various actions and inactions of the owner.

If the PHA disapproves a request for tenancy because an owner is not qualified, it may not terminate the HAP contract for any assisted families that are already living in the owner's properties unless the owner has violated the HAP contract for those units [HCV GB p. 11-4].

#### PHA Policy

The PHA will refuse to approve a request for tenancy if any of the following are true:

- The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f);
- The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The owner has engaged in any drug-related criminal activity or any violent criminal activity;
- The owner has a history or practice of non-compliance with the NSPIRE Protocol for units leased under the tenant-based programs, or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program;
- The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other 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:
  - (i) Threatens the right to peaceful enjoyment of the premises by other residents;
  - (ii) 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;
  - (iii) 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; or
  - (iv) Is drug-related criminal activity or violent criminal activity.
- The owner has a history or practice of renting units that fail to meet state or local housing codes;
- The owner has not paid state or local real estate taxes, fines, or assessment

In considering whether to disapprove owners for any of the discretionary reasons listed above, the PHA will consider any mitigating factors. Such factors may include, but are not limited to, the seriousness of the violation in relation to program requirements, the impact on the ability of families to lease units under the program, health and safety of participating families, among others.

#### **Legal Ownership of Unit**

The following represents PHA policy on legal ownership of a dwelling unit to be assisted under the HCV program.

PHA Policy

The PHA will only enter into a contractual relationship with the legal owner of a qualified unit. No tenancy will be approved without acceptable documentation of legal ownership (e.g., deed of trust, proof of taxes for most recent year).

**13-I.E. NON-DISCRIMINATION [HAP CONTRACT – FORM HUD-52641]**

The owner must not discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability, in connection with any actions or responsibilities under the HCV program and the HAP contract with the PHA.

The owner must cooperate with the PHA and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the HCV program and the HAP contract with the PHA.

See Chapter 2 for a more thorough discussion of Fair Housing and Equal Opportunity requirements in the HCV program.

## **PART II. HAP CONTRACTS**

### **13-II.A. OVERVIEW**

The HAP contract represents a written agreement between the PHA and the owner of the dwelling unit occupied by a HCV assisted family. The contract spells out the owner's responsibilities under the program, as well as the PHA's obligations. Under the HAP contract, the PHA agrees to make housing assistance payments to the owner on behalf of a the family approved by the PHA to occupy the unit.

The HAP contract is used for all HCV tenant-based program tenancies except for assistance under the Section 8 homeownership program, and assistance to families that own a manufactured home and use their assistance to lease the space for the manufactured home. See chapter 15 for a discussion of any special housing types included in the PHA's HCV program.

When the PHA has determined that the unit meets program requirements and the tenancy is approvable, the PHA and owner must execute the HAP contract. See Chapter 9 for a discussion of the leasing process, including provisions for execution of the HAP contract.

### **13-II.B. HAP CONTRACT CONTENTS**

The HAP contract format is required by HUD, specifically Housing Assistance Payment (HAP) Contract, Form HUD-52641.

The HAP contract contains three parts.

Part A of the contract includes basic **contract information** the names of the tenant and all household members, the address of the contract unit, start and end dates of initial lease term, the amount of initial monthly rent to owner, the amount of initial housing assistance payment, the utilities and appliances to be supplied by owner and tenant, and the signatures of the PHA representative and owner [HCV Guidebook, pp 11-10 and 11-11].

In general, the HAP contract cannot be modified. However, PHAs do have the discretion to add language to Part A of the HAP contract, which prohibits the owner from collecting a security deposit in excess of private market practices or in excess of amounts charged to unassisted tenants. PHA policy on the amount of security deposit an owner may collect is found in Chapter 9.

PHAs also have the discretion to add language to Part A of the HAP contract that defines when the housing assistance payment by the PHA is deemed received by the owner (e.g., upon mailing by the PHA or actual receipt by the owner).

#### **PHA Policy**

The PHA has not adopted a policy that defines when the housing assistance payment by the PHA is deemed received by the owner. Therefore, no modifications to the HAP contract will be necessary.

Part B is the body of the contract. It describes in detail program requirements affecting the owner and owner roles and responsibilities under the HCV program. Most of the requirements contained in Part B of the HAP contract are outlined elsewhere in this plan. Topics addressed in Part B include:

- Lease of Contract Unit
- Maintenance, Utilities, and Other Services
- Term of HAP Contract
- Provision and Payment of Utilities and Appliances
- Rent to Owner: Reasonable Rent
- PHA Payment to Owner
- Prohibition of Discrimination
- Owner's Breach of HAP Contract
- PHA and HUD Access to Premises and Owner's Records
- Exclusion of Third Party Rights
- Conflict of Interest
- Assignment of the HAP Contract
- Written Notices
- Entire Agreement Interpretation

Part C of the contract includes the Tenancy Addendum (Form HUD-52641-A). The addendum sets forth the tenancy requirements for the program and the composition of the household, as approved by the PHA. The tenant has the right to enforce the Tenancy Addendum against the owner. The terms of the Tenancy Addendum prevail over any other provisions of the lease.

### **13-ILC. HAP CONTRACT PAYMENTS**

#### **General**

During the term of the HAP contract, and subject to the provisions of the HAP contract, the PHA must make monthly HAP payments to the owner on behalf of the family, at the beginning of each month. If a lease term begins after the first of the month, the HAP payment for the first month is prorated for a partial month.

The amount of the HAP payment is determined according to the policies described in Chapter 6, and is subject to change during the term of the HAP contract. The PHA must notify the owner and the family in writing of any changes in the HAP payment.

HAP payments can be made only during the lease term, and only while the family is residing in the unit.

The monthly HAP payment by the PHA is credited toward the monthly rent to owner under the family's lease. The total of the rent paid by the tenant, and the HAP payment is equal to the rent to owner as specified in the lease.

The family is not responsible for payment of the HAP payment, and the PHA is not responsible for payment of the family share of rent.

The family's share of the rent cannot be more than the difference between the rent to owner and the HAP payment. The owner may not demand or accept any rent payment from the tenant in excess of this maximum [24 CFR §982.451(b)(4)]. The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises [24 CFR §982.510(c)]. See chapter 9 for a discussion of separate, non-lease agreements for services, appliances and other items that are not included in the lease.

If the owner receives any excess HAP from the PHA, the excess amount must be returned immediately. If the PHA determines the owner is not entitled to all or a portion of the HAP, the PHA may deduct the amount of overpayment from any amounts due to the owner, including amounts due under any other Section 8 HCV contract. See Chapter 16 for additional detail on owner reimbursement of HAP overpayments.

#### **Owner Certification of Compliance**

Unless the owner complies with all provisions of the HAP contract, the owner is not entitled to receive housing assistance payments under the HAP contract [HAP Contract – Form HUD-52641].

By endorsing the monthly check from the PHA, the owner certifies to compliance with the terms of the HAP contract. This includes certification that the owner is maintaining the unit and premises in accordance with NSPIRE ; that the contract unit is leased to the tenant family and, to the best of the owner's knowledge, the family resides in the unit as the family's only residence; the rent to owner does not exceed rents charged by the owner for comparable unassisted units on the premises; and that the owner does not receive (other than rent to owner) any additional payments or other consideration for rent of the contract unit during the HAP term.

#### **Late HAP Payments [24 CFR §982.451(a)(5)]**

The PHA is responsible for making HAP payments promptly when due to the owner, in accordance with the terms of the HAP contract. After the first two calendar months of the HAP contract term, the HAP contract provides for late penalties if the PHA fails to make the HAP payment on time.

Penalties for late HAP payments can only be imposed if 1) the penalties are in accordance with generally accepted local rental market practices and law governing penalties for late payment by tenants; 2) it is the owner's normal business practice to charge late payment penalties for both assisted and unassisted families; and 3) the owner charges the assisted family for late payment of the family's share of the rent.



The PHA is not required to pay a late payment penalty if HUD determines that the payment is late for reasons beyond the PHA's control. In addition, late payment penalties are not required if the PHA intentionally delays or denies payment as a remedy to an owner breach of the HAP contract [HCV Guidebook p. 11-7].

### **Termination of HAP Payments**

The PHA must continue making housing assistance payments to the owner in accordance with the HAP contract as long as the tenant continues to occupy the unit and the HAP contract is not violated.

HAP payments terminate when the HAP contract terminates or when the tenancy is terminated in accordance with the terms of the lease.

If the owner has initiated eviction proceedings against the family and the family continues to reside in the unit, the PHA must continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant.

#### **PHA Policy**

The owner must inform the PHA when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.

The owner must inform the PHA when the owner has obtained a court judgment or other process allowing the owner to evict the tenant, and provide the PHA with a copy of such judgment or determination.

After the owner has obtained a court judgment or other process allowing the owner to evict the tenant, the PHA will continue to make HAP payments to the owner until the family actually moves from the unit or until the family is physically evicted from the unit, whichever is earlier. The owner must inform the PHA of the date when the family actually moves from the unit or the family is physically evicted from the unit.

### **13-IL.D. BREACH OF HAP CONTRACT [24 CFR §982.453]**

Any of the following actions by the owner constitutes a breach of the HAP contract:

- If the owner violates any obligations under the HAP contract including failure to maintain the unit in accordance with NSPIRE
- If the owner has violated any obligation under any other HAP contract under Section 8
- If the owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program
- For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the regulation for the applicable program; or if the owner has committed fraud, bribery or any other corrupt or criminal act in connection with the mortgage or loan

- If the owner has engaged in drug-related criminal activity
- If the owner has committed any violent criminal activity

If the PHA determines that a breach of the HAP contract has occurred, it may exercise any of its rights and remedies under the HAP contract.

The PHA rights and remedies against the owner under the HAP contract include recovery of any HAP overpayment, suspension of housing assistance payments, abatement or reduction of the housing assistance payment, termination of the payment or termination of the HAP contract. The PHA may also obtain additional relief by judicial order or action.

The PHA must notify the owner of its determination and provide in writing the reasons for the determination. The notice may require the owner to take corrective action by an established deadline. The PHA must provide the owner with written notice of any reduction in housing assistance payments or the termination of the HAP contract.

#### PHA Policy

Before the PHA invokes a remedy against an owner, the PHA will evaluate all information and documents available to determine if the contract has been breached.

If relevant, the PHA will conduct an audit of the owner's records pertaining to the tenancy or unit.

If it is determined that the owner has breached the contract, the PHA will consider all of the relevant factors including the seriousness of the breach, the effect on the family, the owner's record of compliance and the number and seriousness of any prior HAP contract violations.

### **13-ILE. HAP CONTRACT TERM AND TERMINATIONS**

The term of the HAP contract runs concurrently with the term of the dwelling lease [24 CFR §982.451(a)(2)], beginning on the first day of the initial term of the lease and terminating on the last day of the term of the lease, including any lease term extensions.

The HAP contract and the housing assistance payments made under the HAP contract terminate if [HCV Guidebook pp.11-4 and 11-5, pg. 15-3]:

- The owner or the family terminates the lease;
- The lease expires;
- The PHA terminates the HAP contract;
- The PHA terminates assistance for the family;
- The family moves from the assisted unit. In this situation, the owner is entitled to keep the housing assistance payment for the month when the family moves out of the unit.
- 180 calendar days have elapsed since the PHA made the last housing assistance payment to the owner;

- The family is absent from the unit for longer than the maximum period permitted by the PHA;
- The Annual Contributions Contract (ACC) between the PHA and HUD expires;
- The PHA elects to terminate the HAP contract.

#### PHA Policy

The PHA may elect to terminate the HAP contract in each of the following situations:

- Available program funding is not sufficient to support continued assistance for families in the program [24 CFR §982.454];
- The unit does not meet NSPIRE size requirements due to change in family composition [24 CFR §982.403] – see Chapter 8;
- The unit does not meet NSPIRE [24 CFR §982.404] – see chapter 8;
- The family breaks up [HUD Form 52641] – see Chapter 3;
- The owner breaches the HAP contract [24 CFR §982.453(b)] – see Section 13-II.D.

If the PHA terminates the HAP contract, the PHA must give the owner and the family written notice. The notice must specify the reasons for the termination and the effective date of the termination. Once a HAP contract is terminated, no further HAP payments may be made under that contract [HCV Guidebook pg.15-4].

#### PHA Policy

Generally, the HAP contract terminates at the end of the calendar month that follows the calendar month in which the PHA gives written notice to the owner.

The PHA cannot make any HAP payment for any month after the month the family vacates the unit.

The owner is not entitled to any housing assistance payment after this period and must return to the PHA any housing assistance payment received after this period. In all cases, the HAP contract terminates at the end of the calendar month that follows the calendar month in which the PHA gives written notice to the owner. The owner is not entitled to any housing assistance payment after this period, and must return to the PHA any housing assistance payment received after this period.

If the family moves from the assisted unit into a new unit, even if the new unit is in the same building or complex as the assisted unit, the HAP contract for the assisted unit terminates. A new HAP contract would be required [HCV GB, p. 11-17].

When the family moves from an assisted unit into a new unit, the term of the HAP contract for the new unit may begin in the same month in which the family moves out of its old unit. This is not considered a duplicative subsidy [HCV GB, p. 8-22].

**13-ILF. CHANGE IN OWNERSHIP / ASSIGNMENT OF THE HAP CONTRACT [form HUD-52641]**

The HAP contract cannot be assigned to a new owner without the prior written consent of the PHA.

An owner under a HAP contract must notify the PHA in writing prior to a change in the legal ownership of the unit. The owner must supply all information as requested by the PHA.

~~The assignment will be approved only if the new owner is qualified to become an owner under the HCV program according to the policies in Section 13-I.D. of this chapter.~~

Prior to approval of assignment to a new owner, the new owner must agree to be bound by and comply with the HAP contract. The agreement between the new owner and the former owner must be in writing and in a form that the PHA finds acceptable. The new owner must provide the PHA with a copy of the executed agreement.

**PHA Policy**

~~Assignment of the HAP contract will be approved only if the new owner is qualified to become an owner under the HCV program according to the policies in Section 13-I.D. of this chapter.~~

The PHA must receive a signed, written request from the existing owner stating the name and address of the new HAP payee and the effective date of the assignment in order to change the HAP payee under an outstanding HAP contract.

Within 10 business days of receiving the owner's request, the PHA will inform the current owner in writing whether the assignment may take place.

The new owner must provide a written certification to the PHA that includes:

- A copy of the escrow statement or other document showing the transfer of title and recorded deed;
- A copy of the owner's IRS Form W-9, Request for Taxpayer Identification Number and Certification, or the social security number of the new owner;
- The effective date of the HAP contract assignment;
- A written agreement to comply with the terms of the HAP contract; and
- A certification that the new owner is not a prohibited relative.

If the new owner does not agree to an assignment of the HAP contract, or fails to provide the necessary documents, the PHA will terminate the HAP contract with the old owner. If the new owner wants to offer the family a new lease, and the family elects to stay with continued assistance, the PHA will process the leasing in accordance with the policies in Chapter 9.

**13-ILG. FORECLOSURE [NOTICE PIH 2010-49][40-49PIHN; PIH NOTICE 2009-52][42**

U.S.C. 1437(F)(O)(7)(C); PUBLIC LAW 111-221

**FAMILIES RECEIVING HCV ASSISTANCE ARE ENTITLED TO CERTAIN PROTECTIONS SET FORTH UNDER THE PROTECTING TENANTS AT FORECLOSURE ACT (PTFA).**

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Families receiving HCV assistance are entitled to certain protections set forth under the Protecting Tenants at Foreclosure Act (PTFA). During the term of the lease, the new owner of the property does not have good cause to terminate the tenant's lease, unless the new owner will occupy the unit as their primary residence and has provided the tenant with at least a 90-day notice. In that case, the lease may be terminated effective on the date of sale, although the tenant is still entitled to a 90-day notice to vacate. Further, the new owner assumes interest in the lease between the prior owner and the tenant and to the HAP contract.

Any state or local law that provides longer time periods or other additional protections for tenants also applies.

PHA Policy

If a property is in foreclosure, the PHA will make all reasonable efforts to determine the status of the foreclosure and ownership of the property and will continue to make payments to the original owner until ownership legally transfers in accordance with the HAP contract.

The PHA will attempt to obtain a written acknowledgement of the assignment of the HAP contract from the successor in interest. This will include a request for owner information, including a tax identification number and payment instructions from the new owner. Even if the new owner does not acknowledge the assignment of the HAP contract in writing, the assignment is still effective by operation of law.

The PHA will inform the tenant that they must continue to pay rent in accordance with the lease, and if the new owner refuses to accept payment or cannot be identified, the tenant should pay rent into escrow. Failure to pay rent may constitute an independent ground for eviction.

In the event that the PHA is unable to make HAP payments to the new owner due to an action or inaction by the new owner that prevents such payments (e.g., rejection of payments or failure to maintain the property according to NSPIRE, or due to an inability to identify the new owner, the PHA will either use the funds to pay:

The utilities that are the owner's responsibility after taking reasonable steps to notify the owner; except that if the unit has been or will be rendered uninhabitable due to termination or threat of termination of service, prior notice is not required. In the latter case, the PHA shall notify the owner within a reasonable time after making the utility payment; or

For the family's reasonable moving costs, including security deposit costs.

The PHA will also refer the tenant, as needed, to the local legal aid office in order to ensure adequate protection of the tenant's rights and enforcement of the successor in interest's performance under the HAP contract.

See Section 12-III.B for a discussion of foreclosure as it pertains to owner termination of tenancy.

~~During the term of the lease, the new owner of the property does not have good cause to terminate the tenant's lease and must honor the lease until the expiration date of the lease, unless the new owner will occupy the unit as their primary residence and has provided the tenant with at least a 90-day notice.~~

~~In that case, the lease may be terminated effective on the date of sale, although the tenant is still entitled to a 90-day notice to vacate. Further, the new owner assumes interest in the lease between the prior owner and the tenant and to the HAP contract.~~

~~Any state or local law that provides longer time periods or other additional protections for tenants also applies.~~

#### PHA Policy

~~If a PHA learns that the property is in foreclosure, the PHA must:~~

- ~~A. Make all reasonable efforts to determine the status of the foreclosure and ownership of the property:
  - ~~(1) This information can most likely be obtained through information that has been sent to the tenant notifying them of the foreclosure, and possibly in a 90-day notice to vacate.~~
  - ~~(2) Additionally, PHAs may review legal notices in the local newspaper or the local governments' websites to keep apprised of foreclosure actions initiated against owners of HCV-assisted properties.)~~~~
- ~~B. Continue to make payments to the original owner until ownership legally transfers in accordance with the HAP contract. With the exception of HUD-insured mortgages or loans, defaulting on a mortgage/loan is not a breach of the HAP contract.~~
- ~~C. Attempt to obtain a written acknowledgement of the assignment of the HAP contract from the successor in interest. The written agreement should include a request for owner information such as a Tax Identification Number, and payment instructions from the new owner. Even if the new owner does not acknowledge the assignment of the HAP contract in writing, the assignment is nevertheless effective by operation of law.~~
- ~~D. Inform the tenant that they must continue to pay rent in accordance with the lease, and if the successor in interest refuses to accept payment or cannot be identified,~~

~~the tenant should pay the rent into escrow, because failure to pay rent may constitute an independent ground for eviction.~~

~~E. If the PHA is unable to make HAP payments to the successor in interest due to:~~

- ~~(1) An action or inaction by the successor in interest that prevents such payments, including the rejection of payments or the failure of the successor to maintain the property in accordance with Housing Quality Standards (HQS); or~~
- ~~(2) an inability to identify the successor, the PHA should inform the family of this.~~

~~— In order to ensure adequate protection of the tenant's rights under the statutory authority as well as enforcing performance of the successor in interest under the HAP contract, the PHA should refer tenants, as services are needed, to the local Legal Aid Office.~~

~~The PHA must make reasonable inquiries to determine whether the unit, in addition to having a tenant receiving HCV assistance, will be (or has been) assisted under the Neighborhood Stabilization Program (NSP). (The Department believes that units covered by this Notice that receive such assistance will be rare.)~~

~~The PHA may inquire with the applicable units of local government to determine if properties occupied by Section 8 participants are under consideration for the NSP program.~~

~~In cases where the units have received assistance under the NSP, the PHA may use the funds that would have been used to pay the rent for other purposes. These other purposes include:~~

- ~~(1) To pay utilities that are the owner's responsibility under the lease or applicable law, after taking reasonable steps to notify the owner that it intends to pay utilities rather than make payments to the owner;~~
- ~~(2) The PHA is not required to notify the owner before making a utility payment if the unit has been or will be rendered uninhabitable by the termination or threat of termination of service. In that case, the PHA will notify the owner within a reasonable time after making the payment.~~
- ~~(3) To pay the families moving costs, including security deposit costs.~~

~~Any funds that remain after use for these authorized purposes must only be used for housing assistance payments.~~

~~See Section 12 III.B for a discussion of foreclosure as it pertains to owner termination of tenancy.~~

## Program Integrity

### Introduction

The PHA is committed to ensuring that subsidy funds made available to the PHA are spent in accordance with HUD requirements.

This chapter covers HUD and PHA policies designed to prevent, detect, investigate and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

**Part I: Preventing, Detecting, and Investigating Errors and Program Abuse.** This part presents PHA policies related to preventing, detecting, and investigating errors and program abuse.

**Part II: Corrective Measures and Penalties.** This part describes the corrective measures the PHA must and may take when errors or program abuses are found.

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## **PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE**

### **14-I.A. PREVENTING ERRORS AND PROGRAM ABUSE**

HUD created the Enterprise Income Verification (EIV) system to provide PHAs with a powerful tool for preventing errors and detecting program abuse. PHAs are required to use the EIV system ~~in its entirety~~ at annual reexamination in accordance with HUD administrative guidance [24 CFR §5.233]. PHAs are further required to:

- Provide applicants and participants with form HUD-52675, “Debts Owed to PHAs and Terminations”
- Require all adult members of an applicant or participant family to acknowledge receipt of form HUD-52675 by signing a copy of the form for retention in the family file

#### **PHA Policy**

To ensure that the PHA’s HCV program is administered according to the highest ethical and legal standards, the PHA will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

The PHA will discuss program compliance and integrity issues during the voucher briefing sessions described in Chapter 5.

The PHA will provide each applicant and participant with a the publication a copy of “Is Fraud Worth It?” (form HUD-1141-OIG, which explains the types of actions a family must avoid and the penalties for program abuse.

The PHA will provide each applicant and participant with a copy of “What You Should Know about EIV,” a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to PIH Notice 2017-12. In addition, the PHA will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.

The PHA will place a warning statement about the penalties for fraud (as described in 18 U.S.C. 1001 and 1010) on key PHA forms and form letters that request information from a family or owner.

PHA staff will be required to review and explain the contents of all HUD- and PHA-required forms prior to requesting family member signatures.

At every regular reexamination, PHA staff will explain any changes in HUD regulations or PHA policy that affect program participants.

The PHA will require first-time owners (or their agents) to participate in a briefing session on HAP contract requirements.

The PHA will provide owners with ongoing information about the program, with an emphasis on actions and situations to avoid.

The PHA will provide each PHA employee with the necessary training on program rules and the organization's standards of conduct and ethics.

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For purposes of this chapter the term *error* refers to an unintentional error or omission. *Program abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

#### **14-I.B. DETECTING ERRORS AND PROGRAM ABUSE**

In addition to taking steps to prevent errors and program abuse, the PHA will use a variety of activities to detect errors and program abuse.

##### **Quality Control and Analysis of Data**

Under the Section 8 Management Assessment Program (SEMAP), HUD requires the PHA to review a random sample of tenant records annually to determine if the records conform to program requirements and to conduct quality control inspections of a sample of units to ensure NSPIRE compliance [24 CFR, Part §985]. (See Chapter 16 for additional information about SEMAP requirements).

##### **PHA Policy**

In addition to the SEMAP quality control requirements, the PHA will employ a variety of methods to detect errors and program abuse:

- The PHA routinely will use HUD and other non-HUD sources of up-front income verification. This includes the Work Number and any other private or public database available to the PHA.
- At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.
- The PHA will compare family-reported income and expenditures to detect possible unreported income.

##### **Independent Audits and HUD Monitoring**

OMB Circular A-133 requires all PHAs that expend \$500,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of PHA activities and notifies the PHA of errors and potential cases of program abuse.

##### **PHA Policy**

The PHA will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of the PHA's error detection and abuse prevention efforts.

##### **Individual Reporting of Possible Errors and Program Abuse**

##### **PHA Policy**

The PHA will encourage staff, program participants, and the public to report possible program abuse.

## **14-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE**

### **When the PHA Will Investigate**

#### **PHA Policy**

The PHA will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for the PHA to investigate, the allegation must contain at least one independently-verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

The PHA will investigate when inconsistent or contradictory information is detected through file reviews and the verification process.

### **Consent to Release of Information [24 CFR §982.516]**

The PHA may investigate possible instances of error or abuse using all available PHA and public records. If necessary, the PHA will require HCV families to sign consent forms for the release of additional information.

### **Analysis and Findings**

#### **PHA Policy**

The PHA will base its evaluation on a preponderance of the evidence collected during its investigation.

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

For each investigation the PHA will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed the PHA, and (3) what corrective measures or penalties will be assessed.

### **Consideration of Remedies**

All errors and instances of program abuse must be corrected prospectively. Whether the PHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

#### **PHA Policy**

In the case of family-caused errors or program abuse, the PHA will take into consideration:

- (1) The seriousness of the offense and the extent of participation or culpability of individual family members,
- (2) Any special circumstances surrounding the case,

- (3) Any mitigating circumstances related to the disability of a family member,
- (4) The effects of a particular remedy on family members who were not involved in the offense.

In the case of owner-caused errors or program abuse, the PHA will take into consideration:

- (1) the seriousness of the offense,
- (2) the length of time since the violation has occurred, and
- (3) the effects of a particular remedy on family members who were not involved in the offense.

### **Notice and Appeals**

#### PHA Policy

The PHA will inform the relevant party in writing of its findings and remedies within 10 business days of the conclusion of the investigation. The notice will include

- (1) a description of the error or program abuse,
- (2) the basis on which the PHA determined the error or program abuses,
- (3) the remedies to be employed, and
- (4) the families right to appeal the results through the informal review or hearing process, if applicable (see Chapter 16).

## **PART II: CORRECTIVE MEASURES AND PENALTIES**

### **14-IL.A. SUBSIDY UNDER- OR OVERPAYMENTS**

A subsidy under- or overpayment includes

- (1) an incorrect housing assistance payment to the owner,
- (2) an incorrect family share established for the family, and
- (3) an incorrect utility reimbursement to a family.

#### **Corrections**

Whether the incorrect subsidy determination is an overpayment or underpayment of subsidy, the PHA must promptly correct the HAP, family share, and any utility reimbursement prospectively.

##### PHA Policy

Increases in the family share will be implemented on the first of the month following a written 30-day notice.

Any decreases in family share will become effective the first of the month following the discovery of the error.

#### **Reimbursement**

Whether the family or owner is required to reimburse the PHA or the PHA is required to make retroactive subsidy payments to the owner or family depends upon which party is responsible for the incorrect subsidy payment and whether the action taken was an error or program abuse.

Policies regarding reimbursement are discussed in the three sections that follow.

### **14-IL.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE**

Family obligations and general administrative requirements for participating in the program are discussed throughout this plan. This section deals specifically with errors and program abuse by family members.

An incorrect subsidy determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows the PHA to use incorrect information provided by a third party.

#### **Family Reimbursement to PHA [HCV GB pp. 22-12 to 22-13]**

##### PHA Policy

In the case of family-caused errors (unintentional error or omission) the family will be required to repay any excess subsidy received. The PHA may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to

repay the excess subsidy, the PHA will terminate the family's assistance in accordance with the policies in Chapter 12.

In the case of family program abuse or fraud, see penalties for program abuse below.

#### **PHA Reimbursement to Family [HCV GB p. 22-12]**

##### PHA Policy

The PHA will not reimburse the family for any underpayment of assistance when the underpayment clearly is caused by the family.

#### **Prohibited Actions**

An applicant or participant in the HCV program must not knowingly:

- Make a false statement to the PHA [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.552(c)(iv)].

##### PHA Policy

Any of the following will be considered evidence of family program abuse:

- Payment to the owner in excess of amounts authorized by the PHA for rent, security deposit, and additional services
- Offering bribes or illegal gratuities to the PHA Board of Commissioners, employees, contractors, or other PHA representatives
- Offering payments or other incentives to the owner or a third party as an inducement for the third party to make false or misleading statements to the PHA on the family's behalf
- Use of a false name or the use of falsified, forged, or altered documents
- Intentional misreporting of family information or circumstances (e.g. income, family composition)
- Omitted facts that were obviously known by a family member (e.g., not reporting employment income)
- Admission of program abuse by an adult family member

The PHA may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

#### **Penalties for Program Abuse**

In the case of program abuse caused by a family the PHA may, at its discretion, impose any of the following remedies.

- The PHA may require the family to repay excess subsidy amounts paid by the PHA, as described earlier in this section.

- The PHA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 12 (for participants).
- The PHA may deny or terminate the family's assistance following the policies set forth in Chapter 3 and Chapter 12 respectively.
- The PHA may refer the family for state or federal criminal prosecution as described in Section 14-II.E.

#### **14-ILC. OWNER-CAUSED ERROR OR PROGRAM ABUSE**

Owner requirements that are part of the regular process of offering, leasing, and maintaining a unit (e.g., NSPIRE compliance, fair housing) are addressed in the appropriate chapters of this plan. This section focuses on errors and program abuse by owners.

An incorrect subsidy determination caused by an owner generally would be the result of an incorrect owner statement about the characteristics of the assisted unit (e.g., the number of bedrooms, which utilities are paid by the family). It also includes accepting duplicate housing assistance payments for the same unit in the same month, or after a family no longer resides in the unit.

##### **Owner Reimbursement to the PHA**

In all cases of overpayment of subsidy caused by the owner, the owner must repay to the PHA any excess subsidy received. The PHA may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, the PHA may allow the owner to pay in installments over a period of time [HCV GB p. 22-13].

##### PHA Policy

In cases where the owner has received excess subsidy, the PHA will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

##### **Prohibited Owner Actions**

An owner participating in the HCV program must not:

- Make any false statement to the PHA [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.453(a)(3)] including:

##### PHA Policy

Any of the following will be considered evidence of owner program abuse:

- Charging the family rent above or below the amount specified by the PHA
- Charging a security deposit other than that specified in the family's lease
- Charging the family for services that are provided to unassisted tenants at no extra charge



- Knowingly accepting housing assistance payments for any month(s) after the family has vacated the unit
- Knowingly accepting incorrect or excess housing assistance payments
- Offering bribes or illegal gratuities to the PHA Board of Commissioners, employees, contractors, or other PHA representatives
- Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to the PHA
- Residing in the unit with an assisted family
- Committing sexual or other harassment, either quid pro quo or hostile environment based on the protected classes defined in Chapter 2
- Retaliating against any applicant or participant reporting/alleging sexual or other harassment, either quid pro quo or hostile environment, based on the protected classes defined in Chapter 2.

#### **Remedies and Penalties**

When the PHA determines that the owner has committed program abuse, the PHA may take any of the following actions:

- Require the owner to repay excess housing assistance payments, as discussed earlier in this section and in accordance with the policies in Chapter 16.
- Terminate the HAP contract (See Chapter 13).
- Bar the owner from future participation in any PHA programs.
- Refer the case to state or federal officials for criminal prosecution as described in Section 14-II.E.

#### **14-IL.D. PHA-CAUSED ERRORS OR PROGRAM ABUSE**

The responsibilities and expectations of PHA staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of a PHA staff member that are considered errors or program abuse related to the HCV program. Additional standards of conduct may be provided in the PHA personnel policy.

PHA-caused incorrect subsidy determinations include

- (1) failing to correctly apply HCV rules regarding family composition, income, assets, and expenses,
- (2) assigning the incorrect voucher size to a family, and
- (3) errors in calculation.

#### **De Minimis Errors [24 CFR 5.609(c)(4)]**

The PHA will not be considered out of compliance when making annual income determinations solely due to de minimis errors in calculating family income. 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.

PHAs must take corrective action to credit or repay a family if the family was overcharged rent, including when PHAs make de minimis errors in the income determination. Families will not be required to repay the PHA in instances where the PHA miscalculated income resulting in a family being undercharged for rent. PHAs state in their policies how they will repay or credit a family the amount they were overcharged as a result of the PHA's de minimis error in income determination.

#### PHA Policy

The PHA will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff-caused error, staff program abuse, or a de minimis error.

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#### **Repayment to the PHA**

~~Neither a family nor an owner is required to repay an overpayment of subsidy if the error or program abuse is caused by PHA staff [HCV GB, 22-12].~~

#### **PHA Reimbursement to Family or Owner**

~~The PHA must reimburse a family for any underpayment of subsidy, regardless of whether the underpayment was the result of staff-caused error or staff or owner program abuse. Funds for this reimbursement must come from the PHA's administrative fee reserves [HCV GB p. 22-12].~~

#### **Prohibited Activities**

##### PHA Policy

Any of the following will be considered evidence of program abuse by PHA staff:

- Failing to comply with any HCV program requirements for personal gain
- Failing to comply with any HCV program requirements as a result of a conflict of interest relationship with any applicant, participant, or owner
- Seeking or accepting anything of material value from applicants, participating families, vendors, owners, contractors, or other persons who provide services or materials to the PHA
- Disclosing confidential or proprietary information to outside parties
- Gaining profit as a result of insider knowledge of PHA activities, policies, or practices
- Misappropriating or misusing HCV funds

- Destroying, concealing, removing, or inappropriately using any records related to the HCV program
- Committing any other corrupt or criminal act in connection with any federal housing program

#### **14-ILE. CRIMINAL PROSECUTION**

##### PHA Policy

When the PHA determines that program abuse by an owner, family, or PHA staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, the PHA will refer the matter to the appropriate entity for prosecution. When the amount of overpaid assistance meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the HCV program will be referred to the appropriate local, state, or federal entity.

##### HA Policy

~~Criminal violations related to the HCV program will be referred to the appropriate local, state, or federal entity.~~

~~In determining prosecution, the COCHRD will examine each case by case using a three (3) prong approach. The three (3) prong approach is as follows:~~

- ~~(1) Loss;~~
- ~~(2) Criminal intent that is egregious;~~
- ~~(3) Extenuating Circumstances. The COCHRD reserves the right to terminate assistance in high profile or violent crime cases.~~

#### **14-ILF. FRAUD AND PROGRAM ABUSE RECOVERIES**

The PHA may retain a portion of program fraud losses that the PHA recovers from a family or owner through litigation, court order, or a repayment agreement [24 CFR §982.163].

The PHA must be the principal party initiating or sustaining the action to recover amounts due from tenants that are due as a result of fraud and abuse. 24 CFR §792.202 permits the PHA to retain the greater of:

- 50 percent of the amount it actually collects from a judgment, litigation (including settlement of a lawsuit) or an administrative repayment agreement, or
- Reasonable and necessary costs that the PHA incurs related to the collection including costs of investigation, legal fees, and agency collection fees.

The family must be afforded the opportunity for an informal hearing in accordance with requirements in 24 CFR §982.555.

If HUD incurs costs on behalf of the PHA related to the collection, these costs must be deducted from the amount retained by the PHA.

**IMPORTANT: PLEASE READ**

~~Since allowing special housing types is optional for PHAs, (except where necessary as a reasonable accommodation. Therefore, for ease of use), the Chapter 15 Model Plan presented below contains limited policy language~~ policy language is included in this chapter where relevant in the event the PHA does grant use as a reasonable accommodation. ~~Please see the instructions contained in the Administrative Plan Guide for Chapter 15 before proceeding.~~ Be sure to delete this box before finalizing your document.

## **Chapter 15**

### **Special Housing Types** **[24 CFR 982, Subpart M; NEW HCV GB, Special Housing Types]**

#### **Introduction**

The PHA may permit a family to use any of the special housing types discussed in this chapter. However, the PHA is not required to permit families receiving assistance in its jurisdiction to use these housing types, except that PHAs must permit use of any special housing type if needed as a reasonable accommodation for a person with a disability. The PHA also may limit the number of families who receive HCV assistance in these housing types and cannot require families to use a particular housing type. No special funding is provided for special housing types.

#### **PHA Policy**

Families will not be permitted to use any special housing types, unless use is needed as a reasonable accommodation so that the program is readily accessible to a person with disabilities .

However, policy language is included in this chapter where relevant in the event the PHA does grant use as a reasonable accommodation.

Special housing types include single room occupancy (SRO), congregate housing, group homes, shared housing, cooperative housing, manufactured homes where the family owns the home and leases the space, and homeownership [24 CFR §982.601].

A single unit cannot be designated as more than one type of special housing. The PHA cannot give preference to households that wish to live in any of these types of housing and cannot require households to select any of these types of housing [NEW HCV GB, *Special Housing Types*, p. 3].

This chapter consists of the following seven parts. Each part contains a description of the housing type and any special requirements associated with it. Except as modified by this chapter, the general requirements of the HCV program apply to special housing types.

#### **Part I: Single Room Occupancy**

#### **Part II: Congregate Housing**

#### **Part III: Group Homes**

#### **Part IV: Shared Housing**

#### **Part V: Cooperative Housing**

#### **Part VI: Manufactured Homes (including manufactured home space rental)**

#### **Part VII: Homeownership**



## PART I. SINGLE ROOM OCCUPANCY

[24 CFR §982.602 through §982.605; Form HUD-52641, ~~Housing Assistance Payments Contract (HAPC)~~; NEW HCV GB, Special Housing Types, p. 4] ~~Chp 2, Single Room Occupancy Facilities~~

### **15-I.A. OVERVIEW**

A single room occupancy (SRO) unit provides living and sleeping space for the exclusive use of the occupant but requires the occupant to share sanitary and/or food preparation facilities with others. More than one person may not occupy an SRO unit. HCV regulations do not limit the number of units in an SRO facility, but the size of a facility may be limited by local ordinances.

~~When providing HCV assistance in an SRO unit, a separate lease and HAP contract are executed for each assisted person. The standard form of the HAP contract is used (form HUD-52641) with the special housing type specified in Part A of the HAP contract, as follows: "This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Single room occupancy (SRO) housing."~~

~~When providing HCV assistance in an SRO unit, a separate lease and HAP contract are executed for each assisted person, and the standard form of the HAP contract is used.~~

- ~~• The standard HAPC, form HUD 52641, must be used for SRO units, as well as the other listed special housing types as defined by HUD. When preparing the contract for a lease with a special housing type, the following statement must be added to the HAPC, Part A, page 1:~~

~~"This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: (Single Room Occupancy (SRO))."  
[Instructions for use of HAP Contract, Use for Special Housing Types]~~

### **15-I.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION**

The payment standard for SRO housing is 75 percent of the zero-bedroom payment standard amount on the PHA's payment standard schedule.

The utility allowance for an assisted person residing in SRO housing is 75 percent of the zero bedroom utility allowance.

The HAP for an assisted occupant in an SRO facility is the lower of the SRO payment standard amount minus the TTP or the gross rent for the unit minus the TTP.

### **15-I.C. HOUSING QUALITY STANDARDS (HQS) – THE NSPIRE PROTOCOL WILL BE USED AS PART OF A DEMONSTRATION PROGRAM WITH HUD**

HQS requirements described in Chapter 8 apply to SRO housing except that sanitary facilities, and space and security characteristics must meet local code standards for SRO housing. In the absence of applicable local code standards for SRO housing, the following standards apply: ~~[24 CFR §982.605];~~



- *Access:* Access doors to the SRO unit must have working locks for privacy. The occupant must be able to access the unit without going through any other unit. 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. The SRO unit must also have any other means of exit required by State or local law.

- *Fire Safety:* All SRO facilities must have a sprinkler system that protects major spaces. “Major spaces” are defined as hallways, common areas, and any other areas specified in local fire, building, or safety codes. SROs must also have hard-wired smoke detectors, and any other fire and safety equipment required by state or local law.

Sanitary facilities and space and security standards must meet local code requirements for SRO housing. In the absence of local code standards, the requirements discussed below apply [24 CFR 982.605].

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- *Sanitary Facilities:* 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. If the SRO units are leased only to ~~males~~, flush urinals may be substituted for up to one-half of the required number of toilets. 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. They may not be located below grade unless the SRO units are located on that level.

~~Shared Sanitary facilities must be reasonably accessible from a common hall or passageway, and may not be located more than one floor above or below the SRO unit. They may not be located below grade unless the SRO units are located on that level.~~

- *Space and Security:* 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. 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. Exterior doors and windows accessible from outside the SRO unit must be lockable.

Because no children live in SRO housing, the housing quality standards applicable to lead-based paint do not apply.

## PART II. CONGREGATE HOUSING

[24 CFR §982.606 through §982.609; Form HUD-52641, ~~Housing Assistance Payments Contract (HAPC)~~; NEW HCV GB, Special Housing Types, p. 6 ~~Chp 3, Congregate Housing~~]

### 15-II.A. OVERVIEW

Congregate housing is intended for use by elderly persons or persons with disabilities. A congregate housing facility contains a shared central kitchen and dining area and a private living area for the individual household that includes at least a living room, bedroom and bathroom. Food service for residents must be provided.

If approved by the PHA, a family member or live-in aide may reside with the elderly person or person with disabilities. 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.

When providing HCV assistance in congregate housing, a separate lease and HAP contract are executed for each assisted family. The standard form of the HAP contract is used (form HUD-52641) with the special housing type specified in Part A of the HAP contract, as follows: "This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Congregate housing."

~~When providing HCV assistance in congregate housing, a separate lease and HAP contract are executed for each assisted family, and the standard form of the HAP contract is used~~

~~• The standard HAPC, form HUD-52641, must be used for congregate housing units, as well as the other listed special housing types as defined by HUD. When preparing the contract for a lease with a special housing type, the following statement must be added to the HAPC, Part A, page 1:~~

~~“This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: (Congregate Housing).” [Instructions for use of HAP Contract, Use for Special Housing Types]~~

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### **15-IL.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION**

The payment standard for an individual unit in a congregate housing facility is based on the number of rooms in the ~~private living area for the assisted family~~ ~~assisted family's private living area~~. If there is only one room in the unit (not including the bathroom or the kitchen, if a kitchen is provided), the PHA must use the payment standard for a zero-bedroom unit. If the unit has two or more rooms (other than the bathroom and the kitchen), the PHA must use the one-bedroom payment standard.

The HAP for an assisted occupant in a congregate housing facility is the lower of the applicable payment standard minus the TTP or the gross rent for the unit minus the TTP.

The gross rent for the unit for the purpose of calculating HCV assistance is the shelter portion (including utilities) of the resident's monthly housing expense only. The residents' costs for food service should not be included in the rent for a congregate housing unit.

### **15-IL.C. HOUSING QUALITY STANDARDS – (INSPECTIONS WILL BE CONDUCTED AS PART OF THE NSPIRE DEMONSTRATION WITH HUD AND ALL REQUIREMENTS THAT ARE PART OF THE DEMONSTRATION)**

HQS requirements as described in Chapter 8 apply to congregate housing except for the requirements stated below:

- Congregate housing must have
  - (1) a refrigerator of appropriate size in the private living area of each resident;
  - (2) a central kitchen and dining facilities located within the premises and accessible to the residents, and
  - (3) food service for the residents, that is not provided by the residents themselves.

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.

The housing quality standards applicable to lead-based paint do not apply unless a child under the age of six is expected to reside in the unit.

### PART III. GROUP HOME

[24 CFR §~~9~~82.610 through §~~9~~82.614; ~~and Form HUD-52641; Housing Assistance Payments Contract (HAPC);~~ NEW HCV GB, Special Housing Types, p. 8 Chp 4, Group Homes]

#### **15-III.A. OVERVIEW**

A group home is a state-approved (licensed, certified, or otherwise approved in writing by the state) facility intended for occupancy by elderly persons and/or persons with disabilities. Except for live-in aides, all persons living in a group home, whether assisted or not, must be elderly persons or persons with disabilities. Persons living in a group home must not require continuous medical or nursing care.

A group home consists of bedrooms for residents, 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.

No more than 12 persons may reside in a group home including assisted and unassisted residents and any live-in aides.

If approved by the PHA, a live-in aide may live in the group home with a person with disabilities. 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.

When providing HCV assistance in a group home, a separate lease and HAP contract is executed for each assisted family. The standard form of the HAP contract is used (form HUD-52641) with the special housing type specified in Part A of the HAP contract, as follows: "This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Group home."

~~When providing HCV assistance in a group home, a separate lease and HAP contract is executed for each assisted family, and the standard form of the HAP contract is used.~~

- ~~• The standard HAPC, form HUD-52641, must be used for group homes, as well as the other listed special housing types as defined by HUD. When preparing the contract for a lease with a special housing type, the following statement must be added to the HAPC, Part A, page 1:~~

~~"This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: (Group Homes)." [Instructions for use of HAP Contract, Use for Special Housing Types]~~

#### **15-III.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION**

Unless there is a live-in aide, the family unit size (voucher size) for an assisted occupant of a group home must be ~~zero~~<sup>0</sup> or ~~one~~<sup>1</sup> bedroom. If there is a live-in aide, the aide must be counted in determining the household's unit size.

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. The pro-rata share is calculated by dividing the number of persons in the assisted household by the number of persons (assisted and unassisted) living in the group home.

The number of persons in the assisted household equals one assisted person plus any PHA-approved live-in aide

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.

The utility allowance for an assisted occupant in a group home is the pro-rata share of the family unit size to the utility allowance for the group home.

The rents paid for participants residing in group homes are subject to generally applicable standards for rent reasonableness. The rent for an assisted person must not exceed the pro-rata portion of the reasonable rent for the group home. In determining reasonable rent, the PHA must consider whether sanitary facilities and facilities for food preparation and service are common facilities or private facilities.

**15-III.C. HOUSING QUALITY STANDARDS - ALL INSPECTION REQUIREMENTS WILL BE CONDUCTED IN ALIGNMENT WITH HUD'S NSPIRE PROTOCOL.**

The entire unit must comply with HQS requirements described in Chapter 8 except for the requirements stated below.

- *Sanitary Facilities:* A group home must have at least one bathroom in the facility, 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. A group home may contain private or common bathrooms. However, no more than four residents can be required to share a bathroom.
- *Food Preparation and Service:* Group home units must contain a kitchen and dining area with adequate space to store, prepare, and serve food. The facilities for food preparation and service may be private or may be shared by the residents. The kitchen must contain a range, an oven, a refrigerator, and a sink with hot and cold running water. The sink must drain into an approvable public or private disposal system.
- *Space and Security:* 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. Doors and windows accessible from outside the unit must be lockable.
- *Structure and Material:* To avoid any threat to the health and safety of the residents, group homes must be structurally sound. Elevators must be in good condition. Group homes must be accessible to and usable by residents with disabilities.

- *Site and Neighborhood:* Group homes must be located in a residential setting. The site and neighborhood should be reasonably free from disturbing noises and reverberations, and other 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
  - Instability
  - Flooding, poor drainage
  - Septic tank back-ups
  - Sewage hazards
  - Mud slides
  - Abnormal air pollution
  - Smoke or dust
  - Excessive noise
  - Vibrations or vehicular traffic
  - Excessive accumulations of trash
  - Excessive accumulations of trash
  - Fire hazards.

The housing quality standards applicable to lead-based paint do not apply unless a child under age six (6) is expected to reside in the unit.

#### PART IV: SHARED HOUSING

[24 CFR §982.615 through §982.618; ~~Notice PIH 2021-05~~; Form HUD-52641; ~~Notice PIH 2021-05~~; ~~Housing Assistance Payments Contract (HAPC)~~; NEW HCV GB, Special Housing Types, p. 11]  
~~Types, Chp 5, Shared Housing~~

##### **15-IV.A. OVERVIEW**

Families in markets with tight rental conditions or with a prevalence of single-family housing may determine a shared housing living arrangement to be a useful way to secure affordable housing. PHAs offering shared housing as a housing solution may also experienced some reduction in the average per-unit-cost (PUC) paid on behalf of assisted families.

Shared housing is a single housing unit occupied by an assisted family and another resident or residents. The unit may be a house or an apartment. The shared unit consists of both common space for use by the occupants of the unit and separate private space for each assisted family.

An assisted family may share a unit with other persons assisted under the HCV program or with other unassisted persons.

Shared housing may be offered in a number of ways, including for-profit co-living (such as a boarding house, single bedroom with common living room/kitchen/dining room) run by a private company [Notice PIH 2021-05].

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.

If approved by the PHA, a live-in aide may reside with the family to care for a person with disabilities. 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.

When shared housing is offered as a housing option, HUD encourages PHAs to consider ways in which the families may be assisted in finding shared housing, including for-profit shared housing matching (such as roommates or single-family homes) and online sites that charge a fee for their matching services, or nonprofit shared housing matching services. HUD further encourages PHAs to include information about this housing possibility in the family's voucher briefing.

##### **PHA Policy**

The PHA will provide information to families regarding the shared housing option, including a listing to families of any known for-profit or nonprofit shared housing matching services in the community at briefing, and upon request. Families will be advised they can conduct their own internet search. Families will be cautioned to not enter into any rental agreement or pay any deposit or rental payment until the tenancy is approved by the PHA.



PHAs should be aware of potential local legal barriers to HCV participants using shared housing, which can create additional obstacles for shared housing:

- Municipalities may have occupancy limits for the number of unrelated persons who may share a housing unit.
- Local zoning codes for single family housing may restrict occupancy in certain areas to households whose family members are related by blood.

PHAs should work with local jurisdictions to find solutions that encourage affordable housing and are consistent with the Fair Housing Act, Title VI, and other federal, state, and local fair housing laws. PHAs should inform HUD if they encounter barriers to shared housing that may conflict with fair housing laws.

#### PHA Policy

The PHA will work with local jurisdictions as necessary to identify solutions consistent with fair housing laws and will inform HUD if the PHA encounters barriers to shared housing that conflict with fair housing laws.

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When providing HCV assistance in shared housing, a separate lease and HAP contract are executed for each assisted family. The standard form of the HAP contract is used (form HUD-52641) with the special housing type specified in Part A of the HAP contract, as follows: "This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Shared housing."

~~When providing HCV assistance in shared housing, a separate lease and HAP contract are executed for each assisted family. The standard form of the HAP contract is used.~~

~~• The standard HAPC, form HUD-52641, must be used for shared housing units, as well as the other listed special housing types as defined by HUD. When preparing the contract for a lease with a special housing type, the following statement must be added to the HAPC, Part A, page 1:~~

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~~“This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: (Shared Housing).” [Instructions for use of HAP Contract, Use for Special Housing Types]~~

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#### **15-IV.B. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION**

The payment standard for a family in shared housing is the lower of the payment standard for the family unit size (voucher size) or the pro-rata share of the payment standard for the shared housing unit size.

The pro-rata share is calculated by dividing the number of bedrooms available for occupancy by the assisted family in the private, non-shared space by the total number of bedrooms in the unit.

**Example:** Family holds a two-bedroom voucher.

Shared housing unit size: bedrooms available to assisted family = 2

Total bedrooms in the unit: 3

2 Bedrooms for assisted family

÷ 3 Bedrooms in the unit.

.667 pro-rata share

2 BR payment standard: \$1200

3 BR payment standard: \$1695  
 $\$1695 \times .667 \text{ (pro-rata share)} = \$1131$   
\$1131 is lower than the \$1200 payment standard for the 2 BR family unit size \$1131 is the payment standard used to calculate the HAP

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.

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.

**Example:** A family holds a 2-bedroom voucher. The family decides to occupy 3 out of 4 bedrooms available in the unit.

The utility allowance for a 4-bedroom unit equals \$200

The utility allowance for a 2-bedroom unit equals \$100

The pro-rata share of the utility allowance is \$150 (3/4 of \$200)

The PHA will use the 2-bedroom utility allowance of \$100.

The rents paid for families living in shared housing are subject to generally applicable standards for rent reasonableness. 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. In determining reasonable rent, the PHA may consider whether sanitary and food preparation areas are private or shared.

**15-IV.C. HOUSING QUALITY STANDARDS - ALL INSPECTION REQUIREMENTS WILL BE CONDUCTED IN ALIGNMENT WITH HUD'S NSPIRE PROTOCOL.**

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 the housing quality standards.

HQS requirements described in Chapter 8 apply to shared housing except for the requirements stated as follows.

- *Facilities Available for the Family:* Facilities available to the assisted family, whether shared or private, must include a living room, a bathroom, and food preparation and refuse disposal facilities.
- *Space and Security:* The entire unit must provide adequate space and security for all assisted and unassisted residents. The private space for each assisted family must contain at least one bedroom for each two persons in the family. The number of bedrooms in the private space of an assisted family must not be less than the family unit size (voucher size). A zero-bedroom or one (1)-bedroom unit may not be used for shared housing.

## PART V. COOPERATIVE HOUSING

[24 CFR §982.619; NEW HCV GB, Special Housing Types, p. 14] ~~Chp. 6, Cooperative Housing~~

### 15-V.A. OVERVIEW

This part applies to rental assistance for a cooperative member residing in cooperative housing. It does not apply to assistance for a cooperative member who has purchased membership under the HCV homeownership option, or to rental assistance for a family that leases a cooperative housing unit from a cooperative member.

~~A cooperative is a form of ownership (nonprofit corporation or association) in which the residents purchase memberships in the ownership entity. Rather than being charged “rent” a cooperative member is charged a “carrying charge.” The monthly carrying charge includes the member’s share of the cooperative debt service, operating expenses, and necessary payments to cooperative reserve funds. It 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.~~

~~The occupancy agreement or lease and other appropriate documents must provide that the monthly carrying charge is subject to Section 8 limitations on rent to owner, and the rent must be reasonable as compared to comparable unassisted units.~~

~~When providing HCV assistance in cooperative housing, the standard form of the HAP contract is used with the special housing type specified in Part A of the HAP contract, as follows: “This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Cooperative housing.”~~

~~A cooperative is a form of ownership (nonprofit corporation or association) in which the residents purchase memberships in the ownership entity. Rather than being charged “rent” a cooperative member is charged a “carrying charge.”~~

~~.” The monthly carrying charge includes the member’s share of the cooperative debt service, operating expenses, and necessary payments to cooperative reserve funds. It 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.~~

~~The occupancy agreement or lease and other appropriate documents must provide that the monthly carrying charge is subject to Section 8 limitations on rent to owner, and the rent must be reasonable as compared to comparable unassisted units.~~

~~When providing HCV assistance in cooperative housing, the standard form of the HAP contract is used.~~

- ~~• The standard HAPC, form HUD-52641, must be used for cooperative housing units, as well as the other listed special housing types as defined by HUD. When preparing the contract for a lease with a special housing type, the following statement must be added to the HAPC, Part A, page 1:~~

~~“This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: (Cooperative Housing).”~~  
~~[Instructions for use of HAP Contract, Use for Special Housing Types]~~

#### **15-V.B. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION**

The payment standard and utility allowance are determined according to regular HCV program requirements.

The HAP for a cooperative housing unit is the lower of the payment standard minus the TTP or the gross rent (monthly carrying charge for the unit, plus any utility allowance) minus the TTP. The monthly carrying charge includes the member's share of the cooperative debt service, operating expenses, and necessary payments to cooperative reserve funds. 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.

#### **15-V.C. HOUSING QUALITY STANDARDS - ALL INSPECTION REQUIREMENTS WILL BE CONDUCTED IN ALIGNMENT WITH HUD'S NSPIRE PROTOCOL.**

All standard HQS requirements apply to cooperative housing units. There are no additional HQS requirements.

~~–~~The PHA remedies described in 24 CFR §982.404 do not apply. 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 cooperative is responsible for the breach of HQS.

No housing assistance payment can be made unless unit meets HQS and the defect is corrected within the period as specified by the PHA and the PHA verifies correction (see Chapter 8).

In addition to regular breaches of HQS, breaches of HQS by the family include failure to perform any maintenance for which the family is responsible in accordance with the terms of the cooperative occupancy agreement [~~NEW HCV GB, Special Housing Types, Chp 6.2, Housing Quality Standards~~].

## PART VI. MANUFACTURED HOMES

[24 CFR §982.620 through §982.624; FR Notice 1/18/17; NEW HCV GB, Special Housing Types, p. 15~~Chp. 7, Manufactured Homes~~]

### **15-VI.A. OVERVIEW**

A manufactured home is a manufactured structure, transportable in one or more parts, that is built on a permanent chassis, and designed for use as a principal place of residence. HCV-assisted families may occupy manufactured homes in three different ways:

- (1) A family can choose to rent a manufactured home already installed on a space and the PHA must permit it. In this instance program rules are the same as when a family rents any other residential housing, except that there are special HQS requirements as provided in Section 15-VI.D below.
- (2) A family can purchase a manufactured home under the Housing Choice Voucher Homeownership program.
- (3) HUD also permits an otherwise eligible family that owns a manufactured home to rent a space for the manufactured home and receive HCV assistance with the rent for the space as well as certain other housing expenses. PHAs may, but are not required to, provide assistance for such families.

### **15-VI.B. SPECIAL REQUIREMENTS FOR MANUFACTURED HOME OWNERS WHO LEASE A SPACE**

#### **Family Income**

In determining the annual income of families leasing manufactured home spaces, the value of the family's equity in the manufactured home in which the family resides is not counted as a family asset.

#### **Lease and HAP Contract**

There is a designated HAP Contract (form HUD-52642) and designated separate Tenancy Addendum (form HUD 52642-Aa) and separate HAP Contract (form HUD-52642) for this special housing type.

### **15-VI.C. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION** **[FR NOTICE 1/18/17] [24 CFR §982.623(A)]**

#### **Payment Standards**

The PHA payment standard for manufactured homes is determined in accordance with 24 CFR 982.505 and is the payment standard used for the PHA's HCV program. It is based on the applicable FMR for the area in which the manufactured home space is located.

The payment standard for the family is the lower of the family unit size (voucher size) or the payment standard for the number of bedrooms in the manufactured home.

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~~There is a separate fair market rent for a manufactured home space. The FMR for a manufactured home space is determined in accordance with 24 CFR §888.113(g) of this title.~~

~~The FMR for a manufactured home space rental (for the HCV program under 24 CFR part §982.620-621) is 40 percent of the FMR for a two bedroom unit for the metropolitan area or non-metropolitan county, as applicable.~~

~~The PHA payment standard for manufactured homes is determined in accordance with 24 CFR §982.505 and is the payment standard used for the PHA's HCV program. It is based on the applicable FMR for the area in which the manufactured home space is located.~~

~~The payment standard for the family is the lower of the family unit size (voucher size) or the payment standard for the number of bedrooms in the manufactured home.~~

### **Utility Allowance**

The PHA must establish utility allowances for manufactured home space rental. For the first 12 months of the initial lease term only, the allowance must include an amount for a utility hook-up charge if the family actually incurred a hook-up charge because of a move. This allowance will not be given to a family that leases in place. Utility allowances for manufactured home space must not include the costs of digging a well or installing a septic system.

If the amount of the monthly assistance payment for a family exceeds the monthly rent for the manufactured home space (including the owner's monthly management and maintenance charges), the PHA may pay the remainder to the family, lender, or utility company.

### **Space Rent**

The rent for the manufactured home space (including other eligible housing expenses) is the total of:

- The rent charged for the manufactured home space;
- Owner maintenance and management charges for the space;
- The monthly payments made by the family to amortize the cost of purchasing the manufactured home, including any required insurance and property taxes; and
- The applicable allowance for tenant-paid utilities.

### **Amortization Costs**

The monthly payment made by the family to amortize the cost of purchasing the manufactured home is the debt service established at the time of application to a lender for financing the purchase of the manufactured home if monthly payments are still being made. Any increase in debt service due to refinancing after purchase of the home may not be included in the amortization cost. Debt service for set-up charges incurred by a family may be included in the monthly amortization payments made by the family. In addition, set-up charges incurred before the family became an assisted family may be included in the amortization cost if monthly payments are still being made to amortize the charges.

### **Housing Assistance Payment (HAP)**

The HAP for a manufactured home space under the housing choice voucher program is the lower of the payment standard minus the TTP or the manufactured home space rent (including other eligible housing expenses) minus the TTP.

### **Rent Reasonableness**

Initially, and at least annually thereafter, the PHA must determine that the rent for the manufactured home space is reasonable based on rents for comparable manufactured home spaces. The PHA must consider the location and size of the space, and any services and maintenance to be provided by the owner. By accepting the monthly housing assistance payment, the owner of the manufactured home space certifies that the rent does not exceed rents charged by the owner for comparable unassisted spaces in the same manufactured home park or elsewhere.

If requested by the PHA, the owner must give the PHA information on rents charged by the owner for other manufactured home spaces.

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~~Chapter 2 Initially and annually thereafter, the PHA must determine that the rent for the manufactured home space is reasonable based on rents for comparable manufactured home spaces. The PHA must consider the location and size of the space, and any services and maintenance to be provided by the owner.~~

~~By accepting the monthly housing assistance payment, the owner certifies that the rent does not exceed rents charged by the owner for comparable unassisted spaces in the same manufactured home park or elsewhere.~~

~~If requested by the PHA, the owner must give the PHA information on rents charged by the owner for other manufactured home spaces.~~

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#### **15-VI.D. HOUSING QUALITY STANDARDS - ALL INSPECTION REQUIREMENTS WILL BE CONDUCTED IN ALIGNMENT WITH HUD'S NSPIRE PROTOCOL**

Under either type of occupancy described in 15-VI.A above, the manufactured home must meet all HQS performance requirements and acceptability criteria discussed in Chapter 8 of this plan. In addition, the following requirement applies:

##### **Manufactured Home Tie-Down**

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. The 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 overturning and sliding.

**PART VII. HOMEOWNERSHIP**  
**[24 CFR §982.625 through §982.643]**

**15-VII.A. OVERVIEW [24 CFR §982.625]**

The homeownership option is used to assist a family residing in a home purchased and owned by one or more members of the family. A family assisted under this option may be newly admitted or an existing participant in the HCV program. The PHA must have the capacity to operate a successful HCV homeownership program as defined by the regulations.

PHA Policy

The PHA has instituted a minimum homeowner down payment requirement of at least three percent of the purchase price and requires that at least one percent of the purchase price come from the family's personal resources.

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There are two forms of homeownership assistance described in the regulations: monthly homeownership assistance payments and single down payment assistance grants. However, PHAs may not offer down payment assistance until and unless funding is allocated by Congress. Since this has not yet happened, only monthly homeownership assistance may be offered.

PHA Policy

The PHA will offer the monthly homeownership assistance payments to qualified families.

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The PHA may choose not to offer homeownership assistance. However, the PHA must offer homeownership assistance if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities. It is the sole responsibility of the PHA to determine whether it is reasonable to implement a homeownership program as a reasonable accommodation. The PHA must determine what is reasonable based on the specific circumstances and individual needs of the person with a disability. The PHA may determine that it is not reasonable to offer homeownership assistance as a reasonable accommodation in cases where the PHA has otherwise opted not to implement a homeownership program.

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.

**15-VII.B. FAMILY ELIGIBILITY [24 CFR §982.627]**

If the PHA offers the homeownership option, participation by the family is optional. However, the family must meet all of the requirements listed below before the commencement of homeownership assistance. The PHA may also establish additional initial requirements as long as they are described in the PHA administrative plan.

~~The family must meet all of the requirements listed below before the commencement of homeownership assistance. The PHA may also establish additional initial requirements as long as they are described in the PHA administrative plan.~~

- The family must have been admitted to the Housing Choice Voucher program.

- The family must qualify as a first-time homeowner, or may be a cooperative member.
- The family must meet the Federal minimum income requirement.
  - The family must have a gross annual income equal to the Federal minimum wage multiplied by 2000, based on the income of adult family members who will own the home.
  - The PHA may establish a higher income standard for families. However, a family that meets the federal minimum income requirement (but not the PHA's requirement) will be considered to meet the minimum income requirement if it can demonstrate that it has been pre-qualified or pre-approved for financing that is sufficient to purchase an eligible unit.

PHA Policy

The PHA will not establish a higher minimum income standard for disabled and/or non-disabled families.

- For disabled families, the minimum income requirement is equal to the current SSI monthly payment for an individual living alone, multiplied by 12.
- For elderly or disabled families, welfare assistance payments for adult family members who will own the home will be included in determining whether the family meets the minimum income requirement. It will not be included for other families.
- The family must satisfy the employment requirements by demonstrating that one or more adult members of the family who will own the home at commencement of homeownership assistance is currently employed on a full-time basis (the term 'full-time employment' means not less than an average of 30 hours per week); and has been continuously so employed during the year before commencement of homeownership assistance for the family.

PHA Policy

Families will be considered "continuously employed" if the break in employment does not exceed four months.

♦ The PHA will count self-employment in a business when determining whether the family meets the employment requirement.

- The employment requirement does not apply to elderly and disabled families. In addition, if a family, other than an elderly or disabled family includes a person with disabilities, the PHA must grant an exemption from the employment requirement if the PHA determines that it is needed as a reasonable accommodation.
- The family has not defaulted on a mortgage securing debt to purchase a home under the homeownership option
- Except for cooperative members who have acquired cooperative membership shares prior to commencement of homeownership assistance, no family member has a present ownership interest in a residence at the commencement of homeownership assistance for the purchase of any home.

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- Except for cooperative members who have acquired cooperative membership shares prior to the commencement of homeownership assistance, the family has entered a contract of sale in accordance with 24 CFR §982.631(c).

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#### PHA Policy

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The PHA will impose additional eligibility requirements. To be eligible to participate in the homeownership option, families must meet the following criteria:

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The family has had no family-caused violations of HUD's Housing Quality standards within the past year.

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The family is not within the initial one-year period of a HAP Contract.

The family owes no money to the PHA

- The family has not committed any serious or repeated violations of a PHA-assisted lease within the past year.

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### **15-VII.C. SELECTION OF FAMILIES [24 CFR §982.626]**

Unless otherwise provided (under the homeownership option), the PHA may limit homeownership assistance to families or purposes defined by the PHA, and may prescribe additional requirements for commencement of homeownership assistance for a family. Any such limits or additional requirements must be described in the PHA administrative plan.

If the PHA limits the number of families that may participate in the homeownership option, the PHA must establish a system by which to select families to participate.

#### PHA Policy

The PHA will administer up to five new homeownership units per year. The PHA may exceed the number of units planned per year if it is necessary as a reasonable accommodation for a person with a disability. If this occurs, the PHA may reduce the number of homeownership units offered in subsequent years.

Families who have been participating in an economic self-sufficiency program for at least six months, or have graduated from such a program, will be given preference over other families. Elderly and disabled families will automatically be given this preference.

Within preference and non-preference categories, families will be selected according to the date and time their application for participation in the homeownership option is submitted to the PHA.

All families must meet eligibility requirements as defined in Section 15-VII.B. of this plan.

#### **15-VII.D. ELIGIBLE UNITS [24 CFR §982.628(E)]**

In order for a unit to be eligible, the PHA must determine that the unit satisfies all of the following requirements:

- The unit must meet HUD’s “eligible housing” requirements. The unit may not be any of the following:
  - A public housing or Indian housing unit;
  - A unit receiving Section 8 project-based assistance;
  - A nursing home, board and care home, or facility providing continual psychiatric, medical or nursing services;
  - A college or other school dormitory;
  - On the grounds of penal, reformatory, medical, mental, or similar public or private institutions.
- ~~• The unit must be under construction or already exist at the time the family enters into the contract of sale.~~
- ~~• The unit must be a one unit property or a single dwelling unit in a cooperative or condominium.~~
- The unit must have been inspected by the PHA and by an independent inspector designated by the family.
- The unit must meet Housing Quality Standards (see Chapter 8).
- For a unit where the family will not own fee title to the real property (such as a manufactured home), the home must have a permanent foundation and the family must have the right to occupy the site for at least 40 years.

Families may enter into contracts of sale for units not yet under construction. However, the PHA will not commence homeownership assistance for the family for that unit until:

1. Either the responsible entity completes the environmental review as required by 24 CFR part 58 and HUD approved the environmental certification and request for release of funds prior to commencement of construction or HUD performed an environmental review under CFR part 50 and notified the PHA in writing of environmental approval of the site prior to construction commencement; and
  2. Construction of the unit has been completed and the unit has passed the required HQS inspection and independent inspection as addressed elsewhere in this chapter.
- For PHA-owned units all of the following conditions must be satisfied:
    - The PHA informs the family, both orally and in writing, that the family has the right to purchase any eligible unit and a PHA-owned unit is freely selected by the family without PHA pressure or steering;
    - The unit is not ineligible housing;

- The PHA obtains the services of an independent agency to inspect the unit for compliance with NSPIRE, review the independent inspection report, review the contract of sale, determine the reasonableness of the sales price and any PHA provided financing. All of these actions must be completed in accordance with program requirements.

The PHA must not approve the unit if the PHA has been informed that the seller is debarred, suspended, or subject to a limited denial of participation.

**15-VII.E. ADDITIONAL PHA REQUIREMENTS FOR SEARCH AND PURCHASE [24 CFR §982.629]**

It is the family's responsibility to find a home that meets the criteria for voucher homeownership assistance. The PHA may establish the maximum time that will be allowed for a family to locate and purchase a home, and may require the family to report on their progress in finding and purchasing a home. If the family is unable to purchase a home within the maximum time established by the PHA, the PHA may issue the family a voucher to lease a unit or place the family's name on the waiting list for a voucher.

PHA Policy

The family will be allowed 120 days to identify a unit and submit a sales contract to the PHA for review. The family will be allowed an additional 120 days to close on the home. PHAs may grant extensions to either of these periods for good cause. The length of the extension(s) will be determined on a case-by-case, but in no case will an extension exceed a total of 125 days. The maximum amount of time a family will be given to locate and complete the purchase of a home under the homeownership option is 365 days.

During these periods, the family will continue to receive HCV rental assistance in accordance with any active lease and HAP contract until the family vacates the rental unit for its purchased home.

All requests for extensions must be submitted in writing to the PHA prior to the expiration of the period for which the extension is being requested. The PHA will approve or disapprove the extension request within 10 business days. The family will be notified of the PHA's decision in writing.

The family will be required to report their progress on locating and purchasing a home to the PHA every 30 days until the home is purchased.

If the family cannot complete the purchase of a unit within the maximum required time frame, and is not receiving rental assistance under a HAP contract at the time the search and purchase time period expires, the family will be issued a voucher to lease a unit.

#### **15-VIL.F. HOMEOWNERSHIP COUNSELING [24 CFR §982.630]**

Before commencement of homeownership assistance for a family, the family must attend and satisfactorily complete the pre-assistance homeownership and housing counseling program required by the PHA. HUD suggests the following topics for the PHA-required pre-assistance counseling:

- Home maintenance (including care of the grounds);
- Budgeting and money management;
- Credit counseling;
- How to negotiate the purchase price of a home;
- How to obtain homeownership financing and loan pre-approvals, including a description of types of financing that may be available, and the pros and cons of different types of financing;
- How to find a home, including information about homeownership opportunities, schools, and transportation in the PHA jurisdiction;
- Advantages of purchasing a home in an area that does not have a high concentration of low-income families and how to locate homes in such areas;
- Information on fair housing, including fair housing lending and local fair housing enforcement agencies; and
- Information about the Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.) (RESPA), state and Federal truth-in-lending laws, and how to identify and avoid loans with oppressive terms and conditions.

The PHA may adapt the subjects covered in pre-assistance counseling (as listed) to local circumstances and the needs of individual families.

The PHA may also offer additional counseling after commencement of homeownership assistance (ongoing counseling). If the PHA offers a program of ongoing counseling for participants in the homeownership option, the PHA shall have discretion to determine whether the family is required to participate in the ongoing counseling.

If the PHA does not use a HUD-approved housing counseling agency to provide the counseling, the PHA should ensure that its counseling program is consistent with the counseling provided under HUD's Housing Counseling program.

#### **PHA Policy**

**Families will not be required to participate in ongoing counseling after commencement of homeownership assistance.**

**15-VIL.G. HOME INSPECTIONS, CONTRACT OF SALE, AND PHA DISAPPROVAL  
OF SELLER [24 CFR §982.631]**

**Home Inspections**

The PHA may not commence monthly homeownership assistance payments for a family until the PHA has inspected the unit and has determined that the unit passes NSPIRE.

PHA Policy

When the family locates a home they wish to purchase and submits a copy of their purchase offer/contract, the PHA will conduct a NSPIRE inspection within 10 business days. Any items found not to meet HQS must be repaired before the unit can be determined eligible for the homeownership program.

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An independent professional inspector selected by and paid for by the family must also inspect the unit. The independent inspection must cover major building systems and components, including foundation and structure, housing interior and exterior, and the roofing, plumbing, electrical, and heating systems. The independent inspector must be qualified to report on property conditions, including major building systems and components.

The PHA may not require the family to use an independent inspector selected by the PHA. The independent inspector may not be a PHA employee or contractor, or other person under control of the PHA. However, the PHA may establish standards for qualification of inspectors selected by families under the homeownership option.

PHA Policy

The family must hire an independent professional inspector, whose report must be submitted to the PHA for review. This inspector must be a member of the American Society of Home Inspectors (ASHI) or other recognized professional society, or a licensed engineer. The inspector cannot be a PHA employee or contractor.

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The PHA may disapprove a unit for assistance based on information in the independent inspector's report, even if the unit was found to comply with NSPIRE.

PHA Policy

The PHA will review the professional report in a timely fashion and, based on the presence of major physical problems, may disapprove the purchase of the home.

If the PHA disapproves the purchase of a home, the family will be notified in writing of the reasons for the disapproval.

While the family is receiving homeownership assistance, the PHA will conduct an NSPIRE inspection every other year.



## **Contract of Sale**

Before commencement of monthly homeownership assistance payments, a member or members of the family must enter into a contract of sale with the seller of the unit to be acquired by the family.

The family must give the PHA a copy of the contract of sale. The contract of sale must:

- Specify the price and other terms of sale by the seller to the purchaser;
- Provide that the purchaser will arrange for a pre-purchase inspection of the dwelling unit by an independent inspector selected by the purchaser;
- Provide that the purchaser is not obligated to purchase the unit unless the inspection is satisfactory to the purchaser;
- Provide that the purchaser is not obligated to pay for any necessary repairs; and
- Contain a certification from the seller that the seller has not been debarred, suspended, or subject to a limited denial of participation under CFR part 24.
- A contract for the sale of a unit not yet under construction must meet all above requirements, and requirements below. Commencement of construction in violation of the below requirements voids the purchase contract.
  - The purchaser is not obligated to purchase the unit unless an environmental review has been performed and the site received environmental approval prior to commencement of construction in accordance with 24 CFR 982.628; and
  - The construction will not commence until the environmental review has been completed and the seller has received written notice from the PHA that environmental approval has been obtained. Environmental approval may be conditioned on the contracting parties' agreement to modification to the unit design or to mitigation actions.

## **Disapproval of a Seller**

In its administrative discretion, the PHA may deny approval of a seller for the same reasons a PHA may disapprove an owner under the regular HCV program [see 24 CFR §982.306(c)].

## **15-VII.H. FINANCING [24 CFR §982.632]**

The PHA may establish requirements for financing purchase of a home under the homeownership option. This may include requirements concerning qualification of lenders, terms of financing, restrictions concerning debt secured by the home, lender qualifications, loan terms, and affordability of the debt. The PHA must establish policies describing these requirements in the administrative plan.

A PHA may not require that families acquire financing from one or more specified lenders, thereby restricting the family's ability to secure favorable financing terms.

[PHA Policy](#)

As a check against predatory lending, the PHA will review the financing of each purchase transaction, including estimated closing costs. The PHA will review the loans for features, such as balloon payments, adjustable rate mortgages, and unusually high interest rates, all of which are prohibited. The PHA also will not approve “seller financing” or “owner-held” mortgages. Beyond these basic criteria, the PHA will rely on the lenders to determine that the loan will be affordable to program participants.

The mortgage the family applies for must require a minimum down payment of at least three percent of the sales price with one percent of the down payment coming from the purchaser’s personal funds. The PHA will not require that the family have any more than the minimum of one percent of their own money in the transaction. However, in cases where a lender is requiring a larger amount, the family may be held to the underwriting guidelines set by their lending institution.

The PHA will approve a family’s request to utilize its Family Self-Sufficiency escrow account after final disbursement for down payment and/or closing costs when purchasing a unit under the HCV homeownership option.

**15-VIII. CONTINUED ASSISTANCE REQUIREMENTS; FAMILY OBLIGATIONS [24 CFR §982.633]**

Homeownership assistance may only be paid while the family is residing in the home. If the family moves out of the home, the PHA may not continue homeownership assistance after the month when the family moves out. The family or lender is not required to refund to the PHA the homeownership assistance for the month when the family moves out.

Before commencement of homeownership assistance, the family must execute family obligations in the form prescribed by HUD [form HUD-52649]. In the statement, the family agrees to comply with all family obligations under the homeownership option.:

- The family must comply with the terms of the mortgage securing debt incurred to purchase the home, or any refinancing of such debt.
- The family may not convey or transfer ownership of the home, except for purposes of financing, refinancing, or pending settlement of the estate of a deceased family member. Use and occupancy of the home are subject to 24 CFR §982.551 (h) and (i).
- The family must supply information to the PHA or HUD as specified in 24 CFR §982.551(b). The family must further supply any information required by the PHA or HUD concerning mortgage financing or refinancing, sale or transfer of any interest in the home, or homeownership expenses.
- The family must notify the PHA before moving out of the home.
- The family must notify the PHA if the family defaults on the mortgage used to purchase the home.
- The family must provide the PHA with information on any satisfaction or payment of the mortgage debt.
- No family member may have any ownership interest in any other residential property.

The family must comply with the obligations of a participant family described in 24 CFR §982.551, except for the following provisions which do not apply to assistance under the homeownership option: 24 CFR §982.551(c), (d), (e), (f), (g) and (j).

**PHA Policy**

- Any inspection the PHA conducts after the initial inspection will be done on an advisory basis. The family will be encouraged to make the repairs, but will not be required to do so as a condition of ongoing assistance.

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**15-VII.J. MAXIMUM TERM OF HOMEOWNER ASSISTANCE [24 CFR §982.634]**

Except in the case of a family that qualifies as an elderly or disabled family, other family members (described below) shall not receive homeownership assistance for more than:

- Fifteen years, if the initial mortgage incurred to finance purchase of the home has a term of 20 years or longer; or
- Ten years, in all other cases.

The maximum term described above applies to any member of the family who:

- Has an ownership interest in the unit during the time that homeownership payments are made; or
- Is the spouse of any member of the household who has an ownership interest in the unit during the time homeownership payments are made.

In the case of an elderly family, the exception only applies if the family qualifies as an elderly family at the start of homeownership assistance. In the case of a disabled family, the exception applies if at any time during receipt of homeownership assistance the family qualifies as a disabled family.

If, during the course of homeownership assistance, the family ceases to qualify as a disabled or elderly family, the maximum term becomes applicable from the date homeownership assistance commenced. However, such a family must be provided at least 6 months of homeownership assistance after the maximum term becomes applicable (provided the family is otherwise eligible to receive homeownership assistance).

If the family has received such assistance for different homes, or from different PHAs, the total of such assistance terms is subject to the maximum term described in this part.

#### **15-VILK. HOMEOWNERSHIP ASSISTANCE PAYMENTS AND HOMEOWNERSHIP EXPENSES [24 CFR §982.635]**

The monthly homeownership assistance payment is the lower of the voucher payment standard minus the total tenant payment, or the monthly homeownership expenses minus the total tenant payment.

In determining the amount of the homeownership assistance payment, the PHA will use the same payment standard schedule, payment standard amounts, and subsidy standards as those described elsewhere in this plan for the Housing Choice Voucher program. The payment standard for a family is the greater of

- (i) The payment standard as determined at the commencement of homeownership assistance for occupancy of the home, or
- (ii) The payment standard at the most recent regular reexamination of family income and composition since the commencement of homeownership assistance for occupancy of the home.

~~The PHA may pay the homeownership assistance payments directly to the family, or at the PHA's discretion, to a lender on behalf of the family. If the assistance payment exceeds the amount due to the lender, the PHA must pay the excess directly to the family. (24 CFR §982.635 (d))~~

~~Homeownership assistance for a family terminates automatically 180 calendar days after the last homeownership assistance payment on behalf of the family. (24 CFR §982.635 (e))~~

The PHA must adopt policies for determining the amount of homeownership expenses to be allowed by the PHA in accordance with HUD requirements.

Homeownership expenses (not including cooperatives) may only include amounts allowed by the PHA to cover:

- Principal and interest on initial mortgage debt, any refinancing of such debt, and any mortgage insurance premium incurred to finance purchase of the home;
- Real estate taxes and public assessments on the home;
- Home insurance;
- The PHA allowance for maintenance expenses;
- The PHA allowance for costs of major repairs and replacements;
- The PHA utility allowance for the home;
- Principal and interest on mortgage debt incurred to finance costs for major repairs, replacements, or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the PHA determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person;
- Land lease payments where a family does not own fee title to the real property on which the home is located; [see 24 CFR §982.628(b)].
- For a condominium unit, condominium operating charges or maintenance fees assessed by the condominium homeowner association.

The PHA does not have the discretion to exclude any of the listed homeownership expenses or to add any additional items.

Homeownership expenses for a cooperative member include amounts allowed by the PHA to cover:

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~~Homeownership expenses for a cooperative member may only include amounts allowed by the PHA to cover:~~

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- The cooperative charge under the cooperative occupancy agreement including payment for real estate taxes and public assessments on the home;
- Principal and interest on initial debt incurred to finance purchase of cooperative membership shares and any refinancing of such debt;
- Home insurance;
- The PHA allowance for maintenance expenses;
- The PHA allowance for costs of major repairs and replacements;
- The PHA utility allowance for the home; and

- Principal and interest on debt incurred to finance major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the PHA determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person.
- Cooperative operating charges or maintenance fees assessed by the cooperative homeowner association.

#### PHA Policy

The PHA will use the following amounts for homeownership expenses:

**Monthly homeownership payment.** This includes principal and interest on initial mortgage debt, taxes and insurance, public assessments, and any mortgage insurance premium, if applicable.

**Utility allowance.** The PHA's utility allowance for the unit, based on the current HCV utility allowance schedule.

**Monthly maintenance/major repair/replacement allowance.** A single monthly maintenance/repair/replacement allowance will be provided at \$120 per month.

**Monthly co-op/condominium assessments.** If applicable, the monthly amount of co-op or condominium association operation and maintenance assessments.

**Monthly principal and interest on debt for improvements.** Principal and interest for major home repair, replacements, or improvements, if applicable.

**Land lease payments.** Land lease payments where a family does not own fee title to the real property on which the home is located.

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The PHA may pay the homeownership assistance payments directly to the family, or at the PHA's discretion, to a lender on behalf of the family. If the assistance payment exceeds the amount due to the lender, the PHA must pay the excess directly to the family.

#### PHA Policy

The PHA's housing assistance payment will be paid directly to the family. It will be the family's responsibility to make the entire payment to the lender. The PHA may make an exception if the family requests the payment to go directly to the lender, and this arrangement is acceptable to the mortgage company. If the assistance payment exceeds the amount due to the lender, the PHA must pay the excess directly to the family.

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**15-VIII.L. PORTABILITY [24 CFR §982.636, §982.637, §982.353(B); (C); §982.552; §982.553]**

Subject to the restrictions on portability included in HUD regulations and PHA policies, a family may exercise portability if the receiving PHA is administering a voucher homeownership program and accepting new homeownership families. The receiving PHA may absorb the family into its voucher program, or bill the initial PHA.

The family must attend the briefing and counseling sessions required by the receiving PHA. The receiving PHA will determine whether the financing for, and the physical condition of the unit, are acceptable. The receiving PHA must promptly notify the initial PHA if the family has purchased an eligible unit under the program, or if the family is unable to purchase a home within the maximum time established by the PHA.

**15-VIII.M. MOVING WITH CONTINUED ASSISTANCE [24 CFR §982.637]**

A family receiving homeownership assistance may move with continued tenant-based rental assistance, or with voucher homeownership assistance.

The PHA must determine that all initial requirements have been satisfied if a family that has received homeownership assistance wants to move with continued homeownership assistance. However, the following do not apply:

- The requirement for pre-assistance counseling (~~§982.630~~) is not applicable. However, the PHA may require that the family complete additional counseling (before or after moving to a new unit with continued ~~assistance under the~~ homeownership ~~assistance option~~).
- The requirement that a family must be a first-time homeowner (~~§982.627~~) is not applicable.

Continued tenant-based assistance for a new unit cannot begin so long as any family member holds title to the prior home. However, when the family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, ~~or stalking, or human trafficking~~ and the move is needed to protect the health or safety of the family or family member (or any family member has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's request to move), such family or family member may be assisted with continued tenant-based assistance even if they own any title or other interest in the prior home.

- ~~See 24 CFR §982.637 for detailed information on allowed tenant-based assistance for a family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault or stalking, and the move is needed to protect the health or safety of the family or family member.~~

The PHA may deny permission to move to a new unit with continued voucher assistance:

- If the PHA has insufficient funding to provide continued assistance.
- In accordance with 24 CFR 982.638, regarding denial or termination of assistance.

- In accordance with the PHA's policy regarding number of moves within a 12-month period.

The **PHA must deny** the family permission to move to a new unit with continued voucher rental assistance if:

- The family defaulted on an FHA-insured mortgage; and
- The family fails to demonstrate that the family has conveyed, or will convey, title to the home, as required by HUD, to HUD or HUD's designee; and

The family has moved, or will move, from the home within the period established or approved by HUD.

PHA Policy

For families participating in the homeownership option, requests to move will be approved and/or denied in accordance with PHA policies in Chapter 10.

The PHA will not require additional counseling of any families who move with continued assistance.



#### **15-VII.N. DENIAL OR TERMINATION OF ASSISTANCE [24 CFR §982.638]**

At any time, the PHA may deny or terminate homeownership assistance in accordance with HCV program requirements in 24 CFR §982.552 (Grounds for denial or termination of assistance) or 24 CFR §982.553 (Crime by family members).

The PHA may also deny or terminate assistance for violation of participant obligations described in 24 CFR Parts §982.551 or §982.633 and in accordance with its own policy, with the exception of failure to meet obligations under the Family Self-Sufficiency program as prohibited under the alternative requirements set forth in FR Notice 12/29/14.

Homeownership assistance for a family automatically terminates 180 calendar days after the last homeownership assistance payment on behalf of the family. However, a PHA may grant relief from this requirement in those cases where automatic termination would result in extreme hardship for the family.

##### **PHA Policy**

In order for the PHA to consider granting relief from the requirement to automatically terminate homeownership assistance 180 days following the PHA's last housing assistance payment on behalf of the family, the family must submit a written request to the PHA at least 30 days prior to the date of automatic termination. The request must include an explanation of the circumstances that will cause an extreme hardship for the family (e.g., the imminent loss of income or employment) as well as documentation supporting the request. The PHA will determine on a case-by-case basis whether to grant relief from the requirement and for what period of time. In no case will the PHA postpone termination beyond an additional 90 days.

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The PHA must terminate voucher homeownership assistance for any member of family receiving homeownership assistance that is dispossessed from the home pursuant to a judgment or order of foreclosure on any mortgage (whether FHA insured or non-FHA) securing debt incurred to purchase the home, or any refinancing of such debt.

##### **PHA Policy**

The PHA will terminate a family's homeownership assistance if the family violates any of the homeowner obligations listed in Section 1, as well as for any of the reasons listed in Section 2 of form HUD-52649, Statement of Homeowner Obligations Housing Choice Homeownership Voucher Program.

In making its decision to terminate homeownership assistance, the PHA will consider alternatives as described in Section 12-II.C and other factors described in Section 12-II.D. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate assistance.

Termination notices will be sent in accordance with the requirements and policies set forth in Section 12-II.F.

## Chapter 16

### Program Administration

#### Introduction

This chapter discusses administrative policies and practices that are relevant to the activities covered in this plan. The policies are discussed in seven parts as described below:

**Part I: Administrative Fee Reserve.** This part describes the PHA's policies with regard to oversight of expenditures from its administrative fee reserve.

**Part II: Setting Program Standards and Schedules.** This part describes what payment standards are, and how they are updated, as well as how utility allowances are established and revised.

**Part III: Informal Reviews and Hearings.** This part outlines the requirements and procedures for informal reviews and hearings, and for informal hearings regarding citizenship status.

**Part IV: Owner or Family Debts to the PHA.** This part describes policies for recovery of monies that the PHA has overpaid on behalf of families, or to owners, and describes the circumstances under which the PHA will offer repayment agreements to owners and families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

**Part V: Section 8 Management Assessment Program (SEMAP).** This part describes what the SEMAP scores represent, how they are established, and how those scores affect a PHA.

**Part VI: Record-Keeping.** All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies the PHA will follow.

**Part VII: Reporting and Record Keeping for Children with Elevated Blood Lead Level.** This part describes the PHA's responsibilities for reporting, data collection, and record keeping relative to children with elevated blood lead levels that are less than six years of age, and are receiving HCV assistance.

**Part VIII: Determination of Insufficient Funding.** This part describes the PHA's policies for determining if there is sufficient funding to issue vouchers, to approve moves to higher cost units or areas, and to continue assistance for all participant families.

**Part IX: Violence against Women Act (VAWA): Notification, Documentation, Confidentiality.** This part contains key terms used in VAWA and describes requirements related to notifying families and owners about their rights and responsibilities under VAWA; requesting documentation from victims of domestic violence, dating violence, sexual assault, ~~and~~ stalking, and human trafficking; and maintaining the confidentiality of information obtained from victims.

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## **PART I: ADMINISTRATIVE FEE RESERVE [24 CFR §982.155]**

The PHA will maintain administrative fee reserves, or unrestricted net position (UNP) for the program to pay program administrative expenses in excess of administrative fees paid by HUD for a PHA fiscal year. HUD appropriations acts beginning with FFY 2004 have specified that administrative fee funding may be used only for activities related to the provision of HCV assistance, including related development activities.

PIH Notice 2012-9 cites two examples of related development activities: unit modification for accessibility purposes and development of project-based voucher units. The notice makes clear that other activities may also qualify as related development activities.

Administrative fees that remain in the UNP account from funding provided prior to 2004 may be used for “other housing purposes permitted by state and local law,” in accordance with 24 CFR §982.155(b)(1).

In addition, as specified in Notice PIH 2022-18, PHAs may use administrative fee funding for both administrative and “other expenses” needed to employ strategies and undertake activities beyond regular administrative responsibilities to facilitate the successful leasing and use of housing choice vouchers by families, such as through the use of security deposit assistance and landlord recruitment and incentive payments, among other allowable expenses specified in the notice. PHAs are also permitted to use UNP for these expenses [Notice PIH 2022-18].

If a PHA has not adequately administered its HCV program, HUD may prohibit use of funds in the UNP Account and may direct the PHA to use funds in that account to improve administration of the program, for HCV HAP expenses, or to reimburse ineligible expenses in accordance with the regulation at 24 CFR §982.155(b)(3).

HUD requires the PHA Board of Commissioners or other authorized officials to establish the maximum amount that may be charged against the UNP account without specific approval.

### **PHA Policy**

Expenditures from the UNP account will be made in accordance with all applicable federal requirements. Expenditures will not exceed \$29,999 per occurrence without the prior approval of the PHA’s Board of Commissioners.

## **PART II: SETTING PROGRAM STANDARDS AND SCHEDULES**

### **16-II.A. OVERVIEW**

Although many of the program's requirements are established centrally by HUD, the HCV program's regulations recognize that some flexibility is required to allow the PHA to adapt the program to local conditions. This part discusses how the PHA establishes and updates certain schedules and standards that are used to administer the program locally. Details about how these schedules are applied to individual families are provided in other chapters. The schedules and standards discussed here include:

- *Payment Standards*, which dictate the maximum subsidy a family can receive (application of the payment standards is discussed in Chapter 6); and
- *Utility Allowances*, which specify how a family's payment should be adjusted to account for tenant-paid utilities (application of utility allowances is discussed in Chapter 6).

#### **PHA Policy**

Copies of the payment standard and utility allowance schedules are available for review in the PHA's offices during normal business hours.

Families, owners, and members of the public may submit written comments on the schedules discussed in this part, at any time, for consideration during the next revision cycle.

The PHA will maintain documentation to support its annual review of payment standards and utility allowance schedules. This documentation will be retained for at least 3 years.

Establishing and updating the PHA passbook rate, which is used to calculate imputed income from assets, is covered in Chapter 6 (see Section 6-I.G.).

### **16-II.B. PAYMENT STANDARDS [24 CFR §982.503; HCV GB, CHAPTER 7]**

The payment standard sets the maximum subsidy payment a family can receive from the PHA each month [24 CFR §982.505(a)]. Payment standards are based on fair market rents (FMRs) published annually by HUD. FMRs are set at a percentile within the rent distribution of standard quality rental housing units in each FMR area. For most jurisdictions, FMRs are set at the 40th percentile of rents in the market area.

The PHA must establish a payment standard schedule that establishes payment standard amounts for each FMR area within the PHA's jurisdiction, and for each unit size within each of the FMR areas. For each unit size, the PHA may establish a single payment standard amount for the whole FMR area, or may set different payment standards for different parts of the FMR area. Unless HUD grants an exception, the PHA is required to establish a payment standard within a "basic range" established by HUD – between 90 and 110 percent of the published FMR for each unit size.

## Updating Payment Standards

When HUD updates its FMRs, the PHA must update its payment standards if the standards are no longer within the basic range [24 CFR §982.503(b)]. HUD may require the PHA to make further adjustments if it determines that rent burdens for assisted families in the PHA's jurisdiction are unacceptably high [24 CFR §982.503(g)].

### PHA Policy

The PHA will review the appropriateness of the payment standards on an annual basis when the new FMR is published, and at other times as determined necessary. In addition to ensuring the payment standards are always within the "basic range" the PHA may consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

- **Funding Availability:** The PHA will review the budget to determine the impact projected subsidy adjustments will have on funding available for the program and the number of families served. The PHA will compare the number of families who could be served under revised payment standard amounts with the number assisted under current payment standard amounts.
- **Rent Burden of Participating Families:** Rent burden will be determined by identifying the percentage of families, for each unit size, that are paying more than 30 percent of their monthly adjusted income as the family share. When 40 percent or more of families, for any given unit size, are paying more than 30 percent of adjusted monthly income as the family share, the PHA will consider increasing the payment standard. In evaluating rent burdens, the PHA will not include families renting a larger unit than their family unit size.
- **Quality of Units Selected:** The PHA may review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing, to ensure that payment standard increases are only made when needed to reach the mid-range of the market.
- **Changes in Rent to Owner:** The PHA may review a sample of the units to determine how often owners are increasing or decreasing rents and the average percent of increases/decreases by bedroom size.
- **Unit Availability:** The PHA should review the availability of units for each unit size, particularly in areas with low concentrations of poor and minority families.
- **Lease-up Time and Success Rate:** The PHA should consider the percentage of families that are unable to locate suitable housing before the voucher expires and whether families are leaving the jurisdiction to find affordable housing.

Effective dates of changes to payment standard amounts will be determined at the time of update. The PHA will ensure the payment standards will be within the basic range.

**Exception Payment Standards [24 CFR §982.503(c)(5); PIH Notice 2018-01; FR Notice 9/27/2021]**

A non-SAFMR PHA may establish an exception payment standard for a zip code area of up to and including 110 percent of the SAFMR determined by HUD for that zip code area.

Regardless of the level of the exception payment standard compared to the metropolitan area FMRs (MAFMRs), the PHA must send an email to [SAFMRs@hud.gov](mailto:SAFMRs@hud.gov) to notify HUD that it has adopted an exception payment standard based on the SAFMR.

A PHA that adopts an exception payment standard pursuant to this authority must apply it to the entire ZIP code area, for both its HCV, and if applicable, its PBV program. For the PBV program, this means that the rent to owner may not exceed the new exception payment standard amount, provided the rent is still reasonable. A PHA that adopts an exception payment standard area must revise its briefing materials to make families aware of the exception payment standard and the area that it covers.

In addition, HUD allows PHAs to establish a HUD-Veterans Affairs Supportive Housing (HUD-VASH) exception payment standard. PHAs may go up to but no higher than 120 percent of the FMR or SAFMR specifically for VASH families. PHAs who want to establish a VASH exception payment standard over 120 percent must still request a waiver from HUD (See Section 19-III.E.).

**Voluntary Use of Small Area FMRs [24 CFR §982.503; PIH Notice 2018-01]**

PHAs that administer voucher in a metropolitan area where the adoption of small area FMRs (SAFMRs) is not required may request approval from HUD to voluntarily adopt SAFMRs. SAFMRs may be voluntarily adopted for one or more zip code areas.

**PHA Policy**

The PHA will not voluntarily adopt the use of SAFMRs except to establish exception payment standards in certain zip code areas.

**Unit-by-Unit Exceptions [24 CFR §982.503(b); 24 CFR §982.505(d); PIH Notice 2010-26]**

Unit-by-unit exceptions to the PHA's payment standards generally are not permitted. However, an exception may be made as a reasonable accommodation for a family that includes a person with disabilities. (See Chapter 2 for a discussion of reasonable accommodations.) This type of exception does not affect the PHA's payment standard schedule.

When needed as a reasonable accommodation, the PHA may make an exception to the payment standard without HUD approval if the exception amount does not exceed 120 percent of the applicable FMR for the unit size [24 CFR §982.503(b)]. The PHA may request HUD approval for an exception to the payment standard for a particular family if the required amount exceeds 120 percent of the FMR.

**PHA Policy**

A family that requires a reasonable accommodation may request a higher payment standard at the time the Request for Tenancy Approval (RFTA) is submitted. The family

must document the need for the exception. In order to approve an exception, or request an exception from HUD, the PHA must determine that:

- There is a shortage of affordable units that would be appropriate for the family;
- The family's ~~TTP~~share -would otherwise exceed 40 percent of adjusted monthly income; and
- The rent for the unit is reasonable.

#### **"Success Rate" Payment Standard Amounts [24 CFR §982.503(e)]**

If a substantial percentage of families have difficulty finding a suitable unit, the PHA may request a "success rate payment standard" that applies to the entire jurisdiction. If approved by HUD, a success rate payment standard allows the PHA to set its payment standards at 90-110 percent of a higher FMR (the 50<sup>th</sup>, rather than the 40<sup>th</sup> percentile FMR).

To support the request, the PHA must demonstrate that during the most recent 6-month period for which information is available:

- Fewer than 75 percent of families who were issued vouchers became participants;
- The PHA had established payment standards for all unit sizes, and for the entire jurisdiction, at 110 percent of the published FMR; and
- The PHA had a policy of allowing voucher holders who made sustained efforts to locate units at least 90 days to search for a unit.

Although HUD approves the success rate payment standard for all unit sizes in the FMR area, the PHA may choose to adjust the payment standard for only some unit sizes in all, or a designated part, of the PHA's jurisdiction within the FMR area.

#### **Decreases in the Payment Standard below the Basic Range [24 CFR §982.503(d)]**

The PHA must request HUD approval to establish a payment standard amount that is lower than the basic range. At HUD's sole discretion, HUD may approve establishment of a payment standard lower than the basic range. HUD will not approve a lower payment standard if the family share for more than 40 percent of program participants exceeds 30 percent of adjusted monthly income.

#### **16-ILC. UTILITY ALLOWANCES [24 CFR §982.517]**

A PHA-established utility allowance schedule is used in determining family share and PHA subsidy. The PHA must maintain a utility allowance schedule for

- (1) all tenant-paid utilities,
- (2) the cost of tenant-supplied refrigerators and ranges, and
- (3) other tenant-paid housing services such as trash collection.

The utility allowance schedule must be determined based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in

the same locality. In developing the schedule, the PHA must use normal patterns of consumption for the community as a whole, and current utility rates.

The utility allowance must include the utilities and services that are necessary in the locality to provide housing that complies with housing quality standards. Costs for telephone, cable/satellite television, and internet services are not included in the utility allowance schedule.

In the utility allowance schedule, the PHA must classify utilities and other housing services according to the following general categories: space heating; air conditioning; cooking; water heating; water; sewer; trash collection; other electric; cost of tenant-supplied refrigerator; cost of tenant-supplied range; and other specified housing services.

The cost of each utility and housing service must be stated separately by unit size and type. Chapter 16 of the *HCV Guidebook* provides detailed guidance to the PHA about establishing utility allowance schedules.

### **Air Conditioning**

An allowance for air-conditioning must be provided when the majority of housing units in the market have central air-conditioning or are wired for tenant-installed air conditioners.

#### PHA Policy

The PHA has included an allowance for air-conditioning in its schedule. Central air-conditioning or a portable air conditioner must be present in a unit before the PHA will apply this allowance to a family's rent and subsidy calculations.

### **Reasonable Accommodation and Individual Relief**

Upon request from a family that includes a person with disabilities, the PHA must 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 and usable by the family member with a disability [24 CFR 982.517(e)].~~HCV program regulations require a PHA to approve a utility allowance amount higher than shown on the PHA's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, the PHA will approve an allowance for air conditioning, even if the PHA has determined that an allowance for air conditioning generally is not needed~~ (See Chapter 2 for policies regarding the request and approval of reasonable accommodations).

Further, the PHA may grant requests for relief from charges in excess of the utility allowance on reasonable grounds, such as special needs of the elderly, ill, or residents with disabilities, or special factors not within control of the resident, as the PHA deems appropriate. The family must request the higher allowance and provide the PHA with an explanation of the need for the individual relief and information about the amount of additional allowance required [see HCV GB, p. 18-8].

PHAs should develop criteria for granting individual relief and to notify residents about the availability of individual relief, and also to notify participants about the availability of individual relief programs (sometimes referred to as "Medical Baseline discounts") offered by the local



utility company. Policies for granting exception utility allowances can be found in Section 6-III.D. of this plan.

#### **Utility Allowance Revisions**

The PHA must review its schedule of utility allowances each year, and must revise the schedule if there has been a change of 10 percent or more in any utility rate since the last time the allowance for that utility was revised [24 CFR 982.517(c)(1)].

The PHA must maintain information supporting its annual review of utility allowance and any revisions made in its utility allowance schedule.

## **PART III: INFORMAL REVIEWS AND HEARINGS**

### **16-III.A. OVERVIEW**

Both applicants and participants have the right to disagree with, and appeal, certain decisions of the PHA that may adversely affect them. PHA decisions that may be appealed by applicants and participants are discussed in this section.

The process for applicant appeals of PHA decisions is called the “informal review.” For participants (or applicants denied admission because of citizenship issues), the appeal process is called an “informal hearing.” PHAs are required to include informal review procedures for applicants, and informal hearing procedures for participants in their administrative plans [24 CFR §982.54(d)(12) and (13)].

### **16-III.B. INFORMAL REVIEWS**

Informal reviews are provided for program applicants. An applicant is someone who has applied for admission to the program, but is not yet a participant in the program. Informal reviews are intended to provide a “minimum hearing requirement” [24 CFR 982.554], and need not be as elaborate as the informal hearing requirements [Federal Register 60, no. 127 (3 July 1995): 34690].

#### **Decisions Subject to Informal Review [24 CFR 982.554(a) and (c)]**

The PHA must give an applicant the opportunity for an informal review of a decision denying assistance [24 CFR 982.554(a)]. Denial of assistance may include any or all of the following [24 CFR 982.552(a)(2)]:

- Denying listing on the PHA waiting list
- Denying or withdrawing a voucher
- Refusing to enter into a HAP contract or approve a lease
- Refusing to process or provide assistance under portability procedures

Informal reviews are *not* required for the following reasons [24 CFR 982.554(c)]:

- Discretionary administrative determinations by the PHA
- General policy issues or class grievances
- A determination of the family unit size under the PHA subsidy standards
- A PHA determination not to approve an extension of a voucher term
- A PHA determination not to grant approval of the tenancy
- A PHA determination that the unit is not in compliance with the NSPIRE
- A PHA determination that the unit is not in accordance with the NSPIRE due to family size or composition

#### PHA Policy

The PHA will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes: denying listing on the PHA waiting list; denying or withdrawing a voucher; refusing to enter into a HAP contract or approve a lease; refusing to process or provide assistance under portability procedures.

#### **Notice to the Applicant [24 CFR 982.554(a)]**

The PHA must give an applicant prompt notice of a decision denying assistance. The notice must contain a brief statement of the reasons for the PHA decision, and must also state that the applicant may request an informal review of the decision. The notice must describe how to obtain the informal review.

#### **Scheduling an Informal Review**

##### PHA Policy

A request for an informal review must be made in writing and delivered to the PHA either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of the PHA's denial of assistance.

The PHA must schedule and send written notice of the informal review within 10 business days of the family's request.

If the informal review will be conducted remotely, at the time the PHA notifies the family of the informal review, the family will be informed:

Regarding the processes to conduct a remote informal review;

That, if needed, the PHA will provide technical assistance prior to and during the informal review; and

That if the family or any individual witness has any technological, resource, or accessibility barriers preventing them from fully accessing the remote informal review, the family may inform the PHA and the PHA will assist the family in either resolving the issues or allow the family to participate in an in-person informal review, as appropriate.

#### **Informal Review Procedures [24 CFR 982.554(b)]**

The informal review must be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant must be provided an opportunity to present written or oral objections to the decision of the PHA.

#### **Remote Informal Reviews [Notice PIH 2020-32]**

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There is no requirement that informal reviews be conducted in-person and, as such, HUD allows PHAs to conduct all or a portion of their informal review remotely either over the phone, via video conferencing, or through other virtual platforms. If the PHA chooses to conduct remote informal reviews, applicants may still request an in-person informal review, as applicable.

#### PHA Policy

The PHA has the sole discretion to require that informal reviews be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster.

In addition, the PHA will conduct an informal review remotely upon request of the applicant as a reasonable accommodation for a person with a disability, if an applicant does not have child care or transportation that would enable them to attend the informal review, or if the applicant believes an in-person informal review would create an undue health risk. The PHA will consider other reasonable requests for a remote informal review on a case-by-case basis.

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## Ensuring Accessibility for Persons with Disabilities and LEP Individuals ~~in Informal Reviews and Informal Hearings~~

~~As with in-person informal reviews and hearings, the method for conducting remote informal reviews/hearings must be accessible to persons with disabilities and the review/hearing must be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities.~~

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As with in-person informal reviews, the platform for conducting remote informal reviews must be accessible to persons with disabilities and the informal review must be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual. PHAs may never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote informal hearings.

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PHAs are required to make reasonable accommodations in policies, practices, and procedures to ensure persons with disabilities have a full and equal opportunity to participate in and benefit from all aspects of the informal review process. See Chapter 2 for a more detailed discussion of reasonable accommodation requirements.

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▲ If no method of conducting a remote informal review is available that appropriately accommodates an individual's disability, the PHA may not hold against the individual their inability to participate in the remote informal review, and the PHA should consider whether postponing the remote informal review to a later date is appropriate or whether there is a suitable alternative.

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▲ Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation, will depend on the specific circumstances and requirements.

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▲ As with in-person reviews, Limited English Proficiency (LEP) requirements also apply to remote informal reviews, including the use of interpretation services and document translation. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements, all of which apply in the context of remote informal reviews.

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~~Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual.~~

~~PHAs may never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote informal reviews/hearings.~~

PHAs are required to make reasonable accommodations in policies, practices, and procedures to ensure persons with disabilities have a full and equal opportunity to participate in and benefit from all aspects of the informal review/hearing process. See Chapter 2 for a more detailed discussion of reasonable accommodation requirements.

If no method of conducting a remote informal review/hearing is available that appropriately accommodates an individual's disability, the PHA may not hold against the individual their inability to participate in the remote informal review/hearing, and the PHA should consider whether postponing the remote informal review/hearing to a later date is appropriate or whether there is a suitable alternative.

Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation, will depend on the specific circumstances and requirements.

As with in person reviews/hearings, Limited English Proficiency (LEP) requirements also apply to remote informal reviews/hearings, including the use of interpretation services and document translation. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements, all of which apply in the context of remote informal reviews/hearings.

### **16 III.B. INFORMAL REVIEWS**

Informal reviews are provided for program applicants. An applicant is someone who has applied for admission to the program, but is not yet a participant in the program. Informal reviews are intended to provide a “minimum hearing requirement” [24 CFR §982.554], and need not be as elaborate as the informal hearing requirements. (Federal Register Volume 60, No. 127, (3 July 1995): 34690)

#### **Decisions Subject to Informal Review [24 CFR §982.554(a) and (c)]**

The PHA must give an applicant the opportunity for an informal review of a decision denying assistance [24 CFR §982.554(a)]. Denial of assistance may include any or all of the following [24 CFR §982.552(a)(2)]:

- Denying listing on the PHA waiting list
- Denying or withdrawing a voucher
- Refusing to enter into a HAP contract or approve a lease
- Refusing to process or provide assistance under portability procedures

Informal reviews are *not* required for the following reasons [24 CFR §982.554(c)]:

- Discretionary administrative determinations by the PHA
- General policy issues or class grievances
- A determination of the family unit size under the PHA subsidy standards
- A PHA determination not to approve an extension of a voucher term
- A PHA determination not to grant approval of the tenancy

- ~~A PHA determination that the unit is not in compliance with the NSPIRE~~
- ~~A PHA determination that the unit is not in accordance with the NSPIRE due to family size or composition~~

#### PHA Policy

~~The PHA will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes denying listing on the PHA waiting list; denying or withdrawing a voucher; refusing to enter into a HAP contract or approve a lease; refusing to process or provide assistance under portability procedures.~~

#### **Notice to the Applicant [24 CFR §982.554(a)]**

~~The PHA must give an applicant prompt notice of a decision denying assistance. The notice must contain a brief statement of the reasons for the PHA decision, and must also state that the applicant may request an informal review of the decision. The notice must describe how to obtain the informal review.~~

#### **Scheduling an Informal Review**

##### PHA Policy

~~A request for an informal review must be made in writing and delivered to the PHA either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of the PHA's denial of assistance.~~

~~The PHA must schedule and send written notice of the informal review within 10 business days of the family's request.~~

~~If the informal review will be conducted remotely, at the time the PHA notifies the family of the informal review, the family will be informed:~~

- ~~Regarding the processes to conduct a remote informal review;~~
- ~~That, if needed, the PHA will provide technical assistance prior to and during the informal review; and~~
- ~~That if the family or any individual witness has any technological, resource, or accessibility barriers preventing them from fully accessing the remote informal review, the family may inform the PHA and the PHA will assist the family in either resolving the issues or allow the family to participate in an in-person informal review, as appropriate.~~

#### **Informal Review Procedures [24 CFR §982.554(b)]**

~~There is no requirement that informal reviews be conducted in-person and, as such, HUD allows PHAs to conduct all or a portion of their informal review remotely either over the phone, via video conferencing, or through other virtual platforms.~~

~~If the PHA chooses to conduct remote informal reviews, applicants may still request an in-person informal review, as applicable.~~



~~The informal review must be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.~~

~~The applicant must be provided an opportunity to present written or oral objections to the decision of the PHA.~~

~~The PHA's essential responsibility is to ensure informal reviews meet the requirements of due process and comply with HUD regulations.~~

#### PHA Policy

~~The PHA has the sole discretion to require informal reviews be conducted remotely.~~

~~COCHRD will conduct informal reviews remotely. However, on a case-by-case basis, the PHA reserves the right to utilize an optional method, or a combination of methods, such as videoconferencing, telephone, and if necessary, in person.~~

~~24 CFR §982.554(b) states, "The PHA must give an applicant an opportunity for an informal review of the PHA decision denying assistance to the applicant. The administrative plan must state the PHA procedures for conducting an informal review."~~

~~Remote informal reviews, as a standard of customer service, will allow the PHA to provide a reasonable accommodation for a person with a disability, if an applicant does not have childcare or transportation that would enable them to attend the informal hearing, or if the applicant believes an in-person informal hearing would create an undue health risk. The PHA will consider other reasonable requests for a remote informal review on a case-by-case basis.~~

### **Conducting Remote Informal Reviews [PIH Notice 2020-32; 24 CFR §982.554]**

The PHA must ensure that the lack of technology or inability to use technology for remote informal reviews does not pose a disadvantage to families that may not be apparent to the PHA. The PHA should determine through a survey or other means if these barriers exist prior to conducting the remote informal review and, if the family does not have the proper technology to fully participate, either postpone the informal review or provide an alternative means of access.

As with in-person informal reviews, the PHA must provide all materials presented, whether paper or electronic, to the family prior to the remote informal review. The family must also be provided with an accessible means by which to transmit their own evidence.

The PHA must ensure that the applicant has the right to hear and be heard. All PHA policies and processes for remote informal reviews must be conducted in accordance with due process requirements and be in compliance with HUD regulations at 24 CFR 982.554 and guidance specified in Notice PIH 2020-32.

#### PHA Policy

The PHA will conduct remote informal reviews via a video conferencing platform, when available. If, after attempting to resolve any barriers, applicants are unable to adequately

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access the video conferencing platform at any point, or upon applicant request, the informal review will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in at any point, the remote informal review will be postponed, and an in-person alternative will be provided promptly within a reasonable time.

▲ At least five business days prior to scheduling the remote review, the PHA will provide the family with login information and/or conferencing call-in information and an electronic and/or physical copy of all materials being presented via first class mail and/or email. The notice will advise the family of technological requirements for the informal review and request the family notify the PHA of any known barriers. The PHA will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person informal review.

▲ If the informal review is to be conducted remotely, the PHA will require the family to provide any documents directly relevant to the informal review at least 24 hours before the scheduled review through the mail, via email, or text. The PHA will scan and email copies of these documents to the PHA representative the same day.

▲ Documents will be shared electronically whenever possible.

▲ The PHA will follow up the email with a phone call and/or email to the applicant at least one business day prior to the remote informal review to ensure that the applicant received all information and is comfortable accessing the video conferencing or call-in platform.

▲ The PHA will ensure that all electronic information stored or transmitted with respect to the informal review is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP.

~~The PHA must ensure that the participant has the right to hear and be heard. The PHA shall ensure due process and that all parties are able to have full access to the review.~~

~~The PHA must ensure that the lack of technology or inability to use technology for remote reviews does not pose a disadvantage to families that may not be apparent to the PHA.~~

~~The PHA must ensure that the family has appropriate technological access in order to fully participate in the remote review.~~

~~The PHA should determine through a survey or other means (See PIH Notice 2020-32, Section 6) if these barriers exist prior to conducting the remote informal review and, if the family does not have the proper technology to fully participate, either postpone the informal review until access can be provided, or provide an alternative means of access.~~

~~The PHA must provide all materials presented, whether paper or electronic, to the family prior to the remote informal review. The family must also be provided with an accessible means by which to transmit their own evidence.~~

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All PHA policies and processes for remote informal reviews must be conducted in accordance with due process requirements and be in compliance with HUD regulations at 24 CFR §982.554 and guidance specified in PIH Notice 2020-32.

#### PHA Policy

The PHA will conduct remote informal reviews via videoconferencing or telephone conferencing, when available. If the informal review will be conducted via videoconferencing, the PHA will ensure the following:

- All applicants, applicant representatives, PHA representatives, and the person conducting the informal review can adequately access the platform (i.e., hear, be heard, see, and be seen).
  - At least 48 hours prior to date and time of the remote review, the PHA will provide the family with login information and/or conferencing call-in information.
  - The notice will advise the family of technological requirements for the hearing and request the family notify the PHA immediately of any known barriers to accessing the remote review.
    - The PHA will resolve any barriers using the guidance in PIH Notice 2020-32, Section 6.
- The notice will advise the family of technological requirements for the review and request the family notify the PHA immediately of any known barriers to accessing the remote review. All parties who must have necessary documentation, whether paper or electronic, from the PHA has received it, and can access it.
  - The PHA will send the documents to the applicant by US Mail to ensure delivery to the correct address.
  - At least 24 hours in advance of the review, the PHA will verify that all parties have received the documentation to be presented at the review, and can access it.
- The family must also be provided with an accessible means by which to transmit their own evidence.
  - Within 48 hours in advance of the review, the applicant has provided the PHA with any documents directly relevant to the review.
  - The PHA will accept documentation by US Mail, email, or hand delivered to the housing office.
- The PHA has tested their access with the applicants to ensure on the day and time of the review, delays due to inability to access will be at a minimum.
  - At least 24 hours in advance of the review, the PHA will verify that all parties have received information on how to access the video or telephone conference.
- If any applicant, applicant representative, PHA representative, or person conducting the informal review is unable to effectively utilize the

~~videoconferencing platform, the review will be conducted allowing those participants to utilize telephone conferencing call-in for those that cannot access video conferencing, or another means acceptable to the PHA and the Hearing Officer.~~

- ~~• If the family (or the family's witness(es) is/are unable to adequately access the optional telephone conferencing call-in at any point, the remote informal review will be postponed, and an in-person alternative will be provided promptly for a date within a reasonable time.~~
- ~~• If the applicant does not have proper technology access and the remote hearing or remote briefing warrants postponement due to the lack of remote access, the PHA may not hold against the individual his or her inability to participate in the remote hearing or remote briefing.~~
- ~~• Documents will be shared electronically whenever possible.~~
- ~~• The PHA will ensure that all electronic information stored or transmitted with respect to the informal review is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP.~~

#### **Informal Review Decision [24 CFR §982.554(b)]**

The PHA must notify the applicant of the PHA's final decision, including a brief statement of the reasons for the final decision.

##### PHA Policy

In rendering a decision, the PHA will evaluate the following matters:

- Whether or not the grounds for denial were stated factually in the notice to the family.
- The validity of the grounds for denial of assistance. If the grounds for denial are not specified in the regulations, then the decision to deny assistance will be overturned.
- The validity of the evidence. The PHA will evaluate whether the facts presented prove the grounds for denial of assistance. If the facts prove that there are grounds for denial, and the denial is required by HUD, the PHA will uphold the decision to deny assistance.
- If the facts prove the grounds for denial, and the denial is discretionary, the PHA will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.

The PHA will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 10 business days of the informal review, to the applicant and their representative, if any, along with proof of mailing.

If the decision to deny is overturned as a result of the informal review, processing for admission will resume.

If the family fails to appear for their informal review, the denial of admission will stand and the family will be so notified.

**16-III.C. INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR §982.555; PUB. L. 109-162]**

PHAs must offer an informal hearing for certain PHA determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to the PHA's HCV program and is currently assisted in the program. The purpose of the informal hearing is to consider whether the PHA's decisions related to the family's circumstances are in accordance with the law, HUD regulations, and PHA policies.

The PHA is not permitted to terminate a family's assistance until the time allowed for the family to request an informal hearing has elapsed, and any requested hearing has been completed.

Termination of assistance for a participant may include any or all of the following:

- Refusing to enter into a HAP contract or approve a lease
- Terminating housing assistance payments under an outstanding HAP contract
- Refusing to process or provide assistance under portability procedures

**Decisions Subject to Informal Hearing**

Circumstances for which the PHA must give a participant family an opportunity for an informal hearing are as follows:

- A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment
- A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the PHA utility allowance schedule
- A determination of the family unit size under the PHA's subsidy standards
- A determination to terminate assistance for a participant family because of the family's actions or failure to act
- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under PHA policy and HUD rules
- A determination to terminate a family's Family Self Sufficiency contract, withhold supportive services, or propose forfeiture of the family's escrow account [24 CFR §984.303(i)].

**Circumstances for which an informal hearing is not required are as follows:**

- Discretionary administrative determinations by the PHA

- General policy issues or class grievances
- Establishment of the PHA schedule of utility allowances for families in the program
- A PHA determination not to approve an extension of a voucher term
- A PHA determination not to approve a unit or tenancy
- A PHA determination that a unit selected by the applicant is not in compliance with the NSPIRE
- A PHA determination that the unit is not in accordance with NSPIRE because of family size
- A determination by the PHA to exercise or not to exercise any right or remedy against an owner under a HAP contract

#### PHA Policy

The PHA will only offer participants the opportunity for an informal hearing when required to by the regulations, and if the PHA denies a request for a reasonable accommodation (see Chapter 2).

#### **Remote Informal Hearings [PIH Notice 2020-32]**

~~If the PHA denies a request for an accommodation because there is no relationship or nexus found between the disability and the requested accommodations, the PHA will discuss with the family the reason for the denial. If the family cannot provide additional information to clarify the requested accommodation, the PHA will notify the family, in writing, of its determination within 10 business days from the date of the most recent discussion or communication with the family.~~

There is no requirement that informal hearings be conducted in-person, and as such, HUD allows PHAs to conduct all or a portion of their informal hearings remotely either over the phone, via video conferencing, or through other virtual methods. If the PHA chooses to conduct remote informal hearings, applicants may still request an in-person informal hearing, as applicable.

~~The PHA's essential responsibility is to ensure hearings meet the requirements of due process and comply with HUD regulations.~~

#### PHA Policy

The PHA has the sole discretion to require informal hearings be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster.

In addition, the PHA will conduct an informal hearing remotely upon request as a reasonable accommodation for a person with a disability, if a participant does not have child care or transportation that would enable them to attend the informal hearing, or if the participant believes an in-person hearing would create an undue health risk. The PHA will consider other reasonable requests for a remote informal hearing on a case-by-case basis.

COCHRD will conduct informal hearings remotely. However, on a case-by-case basis, the PHA reserves the right to utilize an optional method, or a combination of methods, such as in-person, or videoconferencing combined with telephone.

— **24 CFR §982.555(b)** states, “Where a hearing for a participant family is required under this section, the PHA must proceed with the hearing in a reasonably expeditious manner upon the request of the family.”

— **24 CFR §982.555 (c)** states, “The administrative plan must state the PHA procedures for conducting informal hearings for participants.”

Remote hearings as a standard of customer service, will allow the PHA to provide a reasonable accommodation for a person with a disability, if an applicant does not have childcare or transportation that would enable them to attend the informal hearing, or if the applicant believes an in-person informal hearing would create an undue health risk. The PHA will consider other reasonable requests for a remote informal hearing on a case-by-case basis.

#### **Discovery of Documents Before the Remote Informal Hearing**

##### **PHA Policy**

If the hearing will be conducted remotely, the PHA will compile a hearing packet, consisting of all documents the PHA intends to produce at the hearing. The PHA will deliver by mail, email, or hand delivery, copies of the hearing packet to the participant, the participant’s representatives, if any, and the hearing officer at least three (3) days before the scheduled remote hearing. The original hearing packet will be in the possession of the PHA representative and retained by the PHA.

If the hearing is to be held in-person, the packet will be available at the front desk for the participant to pick up at least three (3) days before the scheduled hearing.

If the hearing is to be conducted remotely, the PHA will require the resident to provide any documents directly relevant to the hearing at least 24 hours before the scheduled hearing.

The PHA will scan and email copies of these documents to the hearing officer the same day they are received.

Documents will be shared electronically whenever possible.

#### **Ensuring Accessibility for Persons with Disabilities and LEP Individuals**

As with in-person informal hearings, the platform for conducting remote informal hearings must be accessible to persons with disabilities and the informal hearings must be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication

in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual. PHAs may never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote informal hearings.

PHAs are required to make reasonable accommodations in policies, practices, and procedures to ensure persons with disabilities have a full and equal opportunity to participate in and benefit from all aspects of the informal hearing process. See Chapter 2 for a more detailed discussion of reasonable accommodation requirements.

If no method of conducting a remote informal hearing is available that appropriately accommodates an individual's disability, the PHA may not hold against the individual their inability to participate in the remote informal hearing, and the PHA should consider whether postponing the remote hearing to a later date is appropriate or whether there is a suitable alternative.

Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation will depend on the specific circumstances and requirements.

As with in-person reviews, Limited English Proficiency (LEP) requirements also apply to remote informal hearings, including the use of interpretation services and document translation. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements, all of which apply in the context of remote informal hearings.



### Conducting Informal Hearings Remotely

The PHA must ensure that the lack of technology or inability to use technology for remote informal hearings does not pose a disadvantage to families that may not be apparent to the PHA. The PHA should determine through a survey or other means if these barriers exist prior to conducting the remote informal hearing and, if the family does not have the proper technology to fully participate, either postpone the informal hearing or provide an alternative means of access.

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As with in-person informal hearings, the PHA must provide all materials presented, whether paper or electronic, to the family prior to the remote informal hearing. The family must also be provided with an accessible means by which to transmit their own evidence.

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The PHA's essential responsibility is to ensure informal hearings meet the requirements of due process and comply with HUD regulations. Therefore, all PHA policies and processes for remote informal hearings will be conducted in accordance with due process requirements, and will be in compliance with HUD regulations at 24 CFR 982.555 and the guidance for conducting remote hearings specified in Notice PIH 2020-32.

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#### PHA Policy

The PHA will conduct remote informal hearings via a video conferencing platform, when available. If, after attempting to resolve any barriers, participants are unable to adequately access the video conferencing platform at any point, or upon request, the informal hearing will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in at any point, the remote informal hearing will be postponed, and an in-person alternative will be provided promptly within a reasonable time.

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At least five business days prior to scheduling the remote hearing, the PHA will provide the family with login information and/or conferencing call-in information and an electronic copy of all materials being presented via first class mail and/or email. The notice will advise the family of technological requirements for the hearing and request the family notify the PHA of any known barriers. The PHA will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person hearing.

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The PHA will follow up with a phone call and/or email to the family at least one business day prior to the remote informal hearing to ensure that the family received all information and is comfortable accessing the video conferencing or call-in platform.

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The PHA will ensure that all electronic information stored or transmitted with respect to the informal hearing is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP.

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### **Conducting Remote Informal Hearings [PIH Notice 2020-32]**

~~The PHA must ensure that the participant has the right to hear and be heard. The PHA shall ensure due process and that all parties are able to have full access to the hearing.~~

~~The PHA must ensure that the lack of technology or inability to use technology for remote informal hearings does not pose a disadvantage to families that may not be apparent to the PHA.~~

~~The PHA must ensure that the family has appropriate technological access in order to fully participate in the remote hearing.~~

~~The PHA should determine through a survey or other means (See PIH Notice 2020-32, Section 6) if these barriers exist prior to conducting the remote informal hearing and, if the family does not have the proper technology to fully participate, either postpone the informal hearing or provide an alternative means of access.~~

~~The PHA must provide all materials presented, whether paper or electronic, to the family prior to the remote informal hearing. The family must also be provided with an accessible means by which to transmit their own evidence.~~

~~All PHA policies and processes for remote informal hearings must be conducted in accordance with due process requirements and be in compliance with HUD regulations at 24 CFR §982.554 and guidance specified in PIH Notice 2020-32.~~

#### **PHA Policy**

~~The PHA will conduct remote formal hearings via videoconferencing or telephone conferencing. If the hearing will be conducted via videoconferencing, the PHA will ensure the following:~~

- ~~• All participants, participant's representatives, witnesses, PHA representatives, and the hearing officer can adequately access the platform (i.e., hear, be heard, see, and be seen).~~
  - ~~• At least 48 hours prior to date and time of the remote hearing, the PHA will provide the family with login information and/or conferencing call in information.~~
  - ~~• The notice will advise the family of technological requirements for the hearing and request the family notify the PHA immediately of any known barriers to accessing the remote hearing.~~
    - ~~• The PHA will resolve any barriers using the guidance in PIH Notice 2020-32, Section 6.~~
  - ~~• At least 48 hours prior to date and time of the remote hearing, the PHA will provide the family with login information and/or conferencing call in information.~~
- ~~• The notice will advise the family of technological requirements for the hearing and request the family notify the PHA immediately of any known barriers to accessing the remote hearing. All parties who must have necessary~~

documentation, whether paper or electronic, from the PHA has received it, and can access it.

- ~~PHA will send the documents to the family by US Mail to ensure delivery to the correct address.~~
- ~~At least 24 hours in advance of the hearing, the PHA will verify that all parties have received the documentation to be presented at the hearing, and can access it.~~
- ~~The family must also be provided with an accessible means by which to transmit their own evidence.~~
  - ~~Within 48 hours in advance of the hearing, the applicant has provided the PHA with any documents directly relevant to the hearing.~~
  - ~~The PHA will accept documentation by US Mail, email, or hand delivered to the housing office.~~
- ~~The PHA has tested their access with the participants to ensure on the day and time of the hearing, delays due to inability to access will be at a minimum.~~
  - ~~At least 24 hours in advance of the hearing, the PHA will verify that all parties have received information on how to access the video or telephone conference.~~
- ~~If any participant, participant's representative, PHA representative, or person conducting the informal hearing is unable to effectively utilize the videoconferencing platform, the informal hearing will be conducted allowing those participants to utilize telephone conferencing call in for those that cannot access video conferencing, or another means acceptable to the PHA and the Hearing Officer.~~
  - ~~Witness testimony may be accepted via telephone call in.~~
  - ~~If the family (or the family's witness(es) is/are unable to adequately access the optional telephone conferencing call in at any point, the remote informal hearing will be postponed, and an in-person alternative will be provided promptly for a date within a reasonable time.~~
- ~~If the participant does not have proper technology access and the remote hearing warrants postponement due to the lack of remote access, the PHA may not hold against the individual his or her inability to participate in the remote hearing.~~
- ~~Documents will be shared electronically whenever possible.~~
- ~~The PHA will ensure that all electronic information stored or transmitted with respect to the informal hearing is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP.~~

## Informal Hearing Procedures

### Notice to the Family [24 CFR §982.555(c)]

When the PHA makes a decision that is subject to informal hearing procedures, the PHA must inform the family of its right to an informal hearing at the same time that it informs the family of the decision.

For decisions related to the family's annual or adjusted income, the determination of the appropriate utility allowance, and the determination of the family unit size, the PHA must notify the family that they may ask for an explanation of the basis of the determination, and that if they do not agree with the decision, they may request an informal hearing on the decision.

For decisions related to the termination of the family's assistance, or the denial of a family's request for an exception to the PHA's subsidy standards, the notice must contain a brief statement of the reasons for the decision, a statement that if the family does not agree with the decision, the family may request an informal hearing on the decision, and a statement of the deadline for the family to request an informal hearing.

#### PHA Policy

~~As COCHRD will conduct informal hearings for participants remotely, at the time the notice is sent to the family informing them of the right to request an informal hearing, the family will be notified of the informal hearing process. The family will be informed of the steps involved in a remote informal hearing and that the PHA will provide technical assistance, if needed, before the informal hearing.~~

In cases where the PHA makes a decision for which an informal hearing must be offered, the notice to the family will include all of the following:

- The proposed action or decision of the PHA.
- A brief statement of the reasons for the decision including the regulatory reference.
- The date the proposed action will take place.
- A statement of the family's right to an explanation of the basis for the PHA's decision.
- A statement that if the family does not agree with the decision, the family may request an informal hearing of the decision.
- A deadline for the family to request the informal hearing.
- To whom the hearing request should be addressed.
- A copy of the PHA's hearing procedures.
- That the family may request a remote informal hearing.

### **Scheduling an Informal Hearing [24 CFR §982.555(d)]**

When an informal hearing is required, the PHA must proceed with the hearing in a reasonably expeditious manner upon the request of the family.

#### PHA Policy

A request for an informal hearing must be made in writing and delivered to the PHA either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of the PHA's decision or notice to terminate assistance.

The PHA must schedule and send written notice of the informal hearing to the family within 10 business days of the family's request.

If the PHA hearing will be conducted remotely, at the time the notice is sent to the family, the family will be notified:

- Regarding the processes involved in a remote informal hearing;
- That the PHA will provide technical assistance prior to and during the informal hearing, if needed; and
- That if the family or any individual witness has any technological, resource, or accessibility barriers, the family may inform the PHA and the PHA will assist the family in either resolving the issue or allow the family to participate in an in-person hearing, as appropriate.

The family may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict, which seriously affects the health, safety or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, the PHA may request documentation of the "good cause" prior to rescheduling the hearing.

If the family does not appear within 20 minutes of the scheduled time, and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact the PHA within 24 hours of the scheduled hearing date, excluding weekends and holidays. The PHA will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

If the family cannot show good cause for the failure to appear, or a rescheduling is not needed as a reasonable accommodation, the PHA's decision will stand.

### **Pre-Hearing Right to Discovery [24 CFR §982.555(e)]**

Participants and the PHA are permitted pre-hearing discovery rights.

The family must be given the opportunity to examine before the hearing any PHA documents that are directly relevant to the hearing. The family must be allowed to copy any such documents

at their own expense. If the PHA does not make the document available for examination on request of the family, the PHA may not rely on the document at the hearing.

For the purpose of informal hearings, *documents* include records and regulations.

#### PHA Policy

The family will be allowed to copy any documents related to the hearing at a cost of \$.25 per page. The family must request discovery of PHA documents no later than 12:00 p.m. on the business day prior to the scheduled hearing date.

The family will be allowed to have a copy of the informal hearing tape at a prepaid cost of \$5.00 per tape.

If the hearing will be conducted remotely, the PHA will compile a hearing packet, consisting of all documents the PHA intends to produce at the informal hearing.

The PHA will mail, email, or hand-deliver, copies of the hearing packet to the family, the family's representatives, if any, and the hearing officer at least three days before the scheduled remote informal hearing. The original hearing packet will be in the possession of the PHA representative and retained by the PHA.

Documents will be shared electronically whenever possible.

~~The PHA must be allowed to copy any such document at the PHA's expense. If the family does not make the document available for examination on request of the PHA, the family may not rely on the document at the hearing.~~

~~¶The PHA hearing procedures may provide that the PHA must be given the opportunity to examine at the PHA offices before the hearing any family documents that are directly relevant to the hearing. The PHA must be allowed to copy any such document at the PHA's expense. If the family does not make the document available for examination on request of the PHA, the family may not rely on the document at the hearing.~~

#### PHA Policy

For in-person hearings, the PHA will not require pre-hearing discovery by the PHA of family documents directly relevant to the hearing.

If the informal hearing is to be conducted remotely, the PHA will require the family to provide any documents directly relevant to the informal hearing at least 24 hours before the scheduled hearing through the mail, via email, or text. The PHA will scan and email copies of these documents to the hearing officer and the PHA representative the same day.

Documents will be shared electronically whenever possible.

### **Participant's Right to Bring Counsel [24 CFR §982.555(e)(3)]**

At its own expense, the family may be represented by a lawyer or other representative at the informal hearing.

### **Informal Hearing Officer [24 CFR 982.555(e)(4)]**

Informal hearings will be conducted by a person or persons approved by the PHA, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

#### PHA Policy

The PHA will contract a hearing officer.

### **Attendance at the Informal Hearing**

#### PHA Policy

Hearings may be attended by a hearing officer and the following applicable persons:

- A PHA representative and any witnesses for the PHA
- The participant and any witnesses for the participant
- The participant's counsel or other representative
- Any other person approved by the PHA as a reasonable accommodation for a person with a disability

### **Conduct at Hearings**

The person who conducts the hearing may regulate the conduct of the hearing in accordance with the PHA's hearing procedures [24 CFR 982.555(4)(ii)].

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#### PHA Policy

The hearing officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures established by the hearing officer and guidelines for conduct. Any person demonstrating disruptive, abusive or otherwise inappropriate behavior will be excused from the hearing at the discretion of the hearing officer.

All hearings will be recorded.

### **Evidence [24 CFR §982.555(e)(5)]**

The PHA and the family must be given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at an informal hearing. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

#### PHA Policy

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

- (1) **Oral evidence:** the testimony of witnesses
- (2) **Documentary evidence:** a writing that is relevant to the case, for example, a letter written to the PHA. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols, or combinations thereof:
  - **Police Reports are documentary evidence and will take the place of an officer's presence at the informal hearing.**
- (3) **Demonstrative evidence:** Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.
- (4) **Real evidence:** A tangible item relating directly to the case.

*Hearsay Evidence* ~~Hearsay Evidence~~ is evidence based not on a witness' personal knowledge. In and of itself, hearsay evidence carries no weight when making a finding of fact. The hearing officer may include hearsay evidence when considering their decision if it is corroborated by other evidence. Even though hearsay evidence is generally admissible in a hearing, the hearing officer will not base a hearing decision on hearsay alone unless there is clear probative value and credibility of the evidence, and the party seeking the change has met the burden of proof..

If either the PHA ~~(or the family, if required in a remote hearing) or the family~~ fail to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence.

Other than the failure of a party to comply with discovery, the hearing officer has the authority to overrule any objections to evidence.

#### **Procedures for Rehearing or Further Hearing**

##### PHA Policy

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of the PHA will take effect and another hearing will not be granted.

#### **Hearing Officer's Decision [24 CFR §982.555(e)(6)]**

The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing.

##### PHA Policy

In rendering a decision, the hearing officer will consider the following matters:

- **PHA Notice to the Family:** The hearing officer will determine if the reasons for the PHA's decision are factually stated in the Notice.



- **Discovery:** The hearing officer will determine if the PHA and the family were given the opportunity to examine any relevant documents in accordance with PHA policy.
- **PHA Evidence to Support the PHA Decision:** The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support the PHA's conclusion.
- **Validity of Grounds for Termination of Assistance (when applicable):** The hearing officer will determine if the termination of assistance is for one of the grounds specified in the HUD regulations and PHA policies. If the grounds for termination are not specified in the regulations or in compliance with PHA policies, then the decision of the PHA will be overturned.

The hearing officer will issue a written decision to the family and the PHA no later than 10 business days after the hearing. The report will contain the following information:

**Hearing information:**

- Name of the participant
- Date, time and place of the hearing
- Name of the hearing officer
- Name of the PHA representative, and
- Name of family representative (if any).

**Background:** A brief, impartial statement of the reason for the hearing.

**Summary of the Evidence:** The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of their testimony and that are admitted into evidence.

**Findings of Fact:** The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which 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.

**Conclusions:** The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the PHA's decision.

**Order:** The hearing report will include a statement of whether the PHA's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the PHA to change the decision in accordance with the hearing officer's determination. In the case of termination of assistance, the hearing officer will instruct the PHA to restore the participant's program status.

#### **Issuance of Decision [24 CFR §982.555(e)(6)]**

A copy of the hearing must be furnished promptly to the family.

##### PHA Policy

The hearing officer will mail a “Notice of Hearing Decision” to the PHA and to the participant on the same day.

~~The PHA will ensure the family receives the hearing officer’s decision.~~ This notice will be sent by first-class mail. The participant will be mailed the original “Notice of Hearing Decision” and a copy of the proof of mailing. A copy of the “Notice of Hearing Decision” will be maintained in the PHA’s file.

#### **Effect of Final Decision [24 CFR §982.555(f)]**

The PHA is not bound by the decision of the hearing officer for matters in which the PHA is not required to provide an opportunity for a hearing, decisions that exceed the authority of the hearing officer, decisions that conflict with or contradict HUD regulations, requirements, or are otherwise contrary to federal, state, or local laws.

If the PHA determines it is not bound by the hearing officer’s decision in accordance with HUD regulations, the PHA must promptly notify the family of the determination and the reason for the determination.

##### PHA Policy

The Executive Director has the authority to determine that the PHA is not bound by the decision of the hearing officer because the PHA was not required to provide a hearing, the decision exceeded the authority of the hearing officer, the decision conflicted with or contradicted HUD regulations, requirements, or the decision was otherwise contrary to federal, state, or local laws.

In such a case, the PHA will mail a “Notice of Final Decision” to the PHA and the participant on the same day. The “Notice of Final Decision” will be sent by first-class mail. A copy of this notice will be maintained in the PHA’s file.

#### **16-III.D. HEARING AND APPEAL PROVISIONS FOR NON-CITIZENS [24 CFR §5.514]**

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. Applicants who are denied assistance due to immigration status are entitled to an informal hearing, not an informal review.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process.

Assistance to a family may not be terminated or denied while the PHA hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the PHA informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

#### **Notice of Denial or Termination of Assistance [24 CFR §5.514(d)]**

The notice of denial or termination of assistance for noncitizens must advise the family:

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a participant, the criteria and procedures for obtaining relief fund the provisions for preservation of families [24 CFR §5.514 and §5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

#### **USCIS Appeal Process [24 CFR §5.514(e)]**

When the PHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the PHA must notify the family of the results of the USCIS verification.

The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide the PHA with a copy of the written request for appeal and the proof of mailing.

##### PHA Policy

The PHA will notify the family in writing of the results of the USCIS secondary verification within 10 business days of receiving the results.

The family must provide the PHA with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.

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The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to the PHA, of its decision. When the USCIS notifies the PHA of the decision, the PHA must notify the family of its right to request an informal hearing.

#### PHA Policy

The PHA will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision regarding the family's immigration status.

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### **Informal Hearing Procedures for Applicants [24 CFR §5.514(f)]**

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA notice of denial or termination, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

#### **Informal Hearing Officer**

The PHA must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision. See Section 16-III.C. for a listing of positions that serve as informal hearing officers.

#### **Evidence**

The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of the PHA pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

#### PHA Policy

The family will be allowed to copy any documents related to the hearing at a cost of \$.~~23~~5 per page copy. The family must request discovery of PHA documents no later than 12:00 p.m. on the business day prior to the hearing.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by the PHA, and to confront and cross-examine all witnesses on whose testimony or information the PHA relies.

#### **Representation and Interpretive Services**

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to request an interpreter. Upon request, the PHA will provide competent interpretation services, free of charge.

### **Recording of the Hearing**

The family is entitled to have the hearing recorded by audiotape. The PHA may, but is not required to provide a transcript of the hearing.

#### PHA Policy

If the family requests a copy of the audiotape of the hearing, the PHA will provide a transcript of an audiotaped hearing at a cost of \$5.00. The cost of the audiotape must be pre-paid before the tape is copied.

### **Hearing Decision**

The PHA must provide the family with a written final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The decision must state the basis for the decision.

### **Informal Hearing Procedures for Residents [24 CFR §5.514(f)]**

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA notice of termination, or within 30 days of receipt of the USCIS appeal decision.

For the informal hearing procedures that apply to participant families whose assistance is being terminated based on immigration status, see Section 16-III.C.

### **Retention of Documents [24 CFR §5.514(h)]**

The PHA must retain for a minimum of 5 years the following documents that may have been submitted to the PHA by the family, or provided to the PHA as part of the USCIS appeal or the PHA informal hearing process:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for an USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision



## **PART IV: OWNER OR FAMILY DEBTS TO THE PHA**

### **16-IV.A. OVERVIEW**

PHAs are required to include in the administrative plan, policies concerning repayment by a family of amounts owed to the PHA [24 CFR 982.54].

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, 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 by a PHA. The PHA may prescribe the terms of the agreement [24 CFR 982.552(c)(1)(vii)].

This part describes the PHA's policies for recovery of monies owed to the PHA by families or owners.

#### **PHA Policy**

When an action or inaction of an owner or participant results in the overpayment of housing assistance, the PHA holds the owner or participant liable to return any overpayments to the PHA.

The PHA will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments.

### **16-IV.B. REPAYMENT POLICY**

#### **Owner Debts to the PHA**

#### **PHA Policy**

Any amount due to the PHA by an owner must be repaid by the owner within 30 days of the PHA determination of the debt.

If the owner fails to repay the debt within the required time frame and is entitled to future HAP payments, the PHA will reduce the future HAP payments by the amount owed until the debt is paid in full.

If the owner is not entitled to future HAP payments the PHA may, in its sole discretion, offer to enter into a repayment agreement on terms prescribed by the PHA.

If the owner refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the PHA will ban the owner from future participation in the program and pursue other modes of collection.

When an owner refuses to repay monies owed to the PHA, the PHA will utilize other available collection alternatives including, but not limited to, the following:

~~, including, but not limited to, the following:~~

Collection agencies

Small claims court  
Civil lawsuit  
State income tax set-off program

### **Family Debts to the PHA**

Families are required to reimburse the PHA if they were charged less rent than required because the family either underreported or failed to report income. PHAs are required to determine retroactive rent amounts as far back as the PHA has documentation of family unreported income [Notice PIH 2018-18, ~~Seet 16~~]. ~~HUD does not authorize any PHA sponsored amnesty or debt forgiveness programs.~~

#### PHA Policy

Any amount owed to the PHA by an HCV family must be repaid by the family. If the family is unable to repay the debt within 30 days, the PHA will offer to enter into a repayment agreement in accordance with the policies below.

~~If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the PHA must terminate assistance in accordance Notice PIH 2018-18, and pursue other modes of collection, including, but not limited to, the following:~~

- ~~• Collection agencies~~
- ~~• Small claims court~~
- ~~• Civil lawsuit~~
- ~~• State income tax set-off program~~

### **Refusal to Enter into an Agreement**

~~If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the PHA must terminate assistance [Notice PIH 2018-18].~~

#### PHA Policy

~~When a family refuses to repay monies owed to the PHA, in addition to termination of program assistance, the PHA will utilize other available collection alternatives including, but not limited to, the following:~~

Collection agencies  
Small claims court  
Civil lawsuit  
State income tax set-off program

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## Repayment Agreement [24 CFR §792.103]

The term *repayment agreement* refers to a formal document signed by a tenant or owner and provided to the PHA in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

### General Repayment Agreement Guidelines for Families

#### Down Payment Requirement

##### PHA Policy

Before executing a repayment agreement with a family, the PHA will generally require a down payment of 10 percent of the total amount owed. If the family can provide evidence satisfactory to the PHA that a down payment of 10 percent would impose an undue hardship, the PHA may, in its sole discretion, require a lesser percentage or waive the requirement.

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### Payment Thresholds

PIH Notice 2018-18 recommends that the total amount that a family must pay each month—the family’s monthly share of rent plus the monthly debt repayment amount—should not exceed 40 percent of the family’s monthly-adjusted income. However, a family may already be paying 40 percent or more of its monthly-adjusted income in rent. Moreover, PIH Notice 2018-18 acknowledges that PHAs have the discretion to establish “thresholds and policies” for repayment agreements with families [24 CFR §982.552(c)(1)(vii)].

#### PHA Policy

The PHA has established the following thresholds for repayment of debts:

- Amounts between \$3,000 and more must be repaid within 18-36 months.
- Amounts between \$1,000 and \$2,999 must be repaid within 12-18 months.
- Amounts between \$501 and \$999 must be repaid within 6-10 months.
- Amounts under \$500 must be repaid within 3-6 months.

If a family can provide evidence satisfactory to the PHA that the threshold applicable to the family’s debt would impose an undue hardship, the PHA may, in its sole discretion, determine that a lower monthly payment amount is reasonable. In making its determination, the PHA will consider all relevant information, including the following:

- The amount owed by the family to the PHA
- The reason for the debt, including whether the debt was the result of family action/inaction or circumstances beyond the family’s control
- The family’s current and potential income and expenses
- The family’s current family share, as calculated under 24 CFR 982.515
- The family’s history of meeting its financial responsibilities

The minimum monthly amount of monthly payment for any payment agreement is \$50. Any payment agreement in excess of 36 months requires the approval from the Housing Manager.

### Execution of the Agreement

All repayment agreements must be in writing, dated, and signed by both the family and the PHA [Notice PIH 2018-18].

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#### PHA Policy

Any repayment agreement between the PHA and a family must be signed and dated by the PHA and by the head of household and spouse/cohead (if applicable). ~~[Notice PIH 2018-18]~~

### Due Dates

#### PHA Policy

All payments are due by the close of business on the 15<sup>th</sup> day of the month. If the 15<sup>th</sup> does not fall on a business day, the due date is the close of business on the first business day after the 15<sup>th</sup>.

### Late or Missed Payments

#### PHA Policy

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by the PHA, the PHA will send the family a delinquency notice giving the family 10 business days to make the late payment.

If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and the PHA will terminate assistance in accordance with the policies in Chapter 12.

If a family receives three delinquency notices for unexcused late payments in a 12-month period, the repayment agreement will be considered in default, and the PHA will terminate assistance in accordance with the policies in Chapter 12.

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### No Offer of Repayment Agreement

The PHA will not enter into a repayment agreement with a family if there is already a repayment agreement in place with the family or if the amounts owed by the family exceeds the federal or state threshold for criminal prosecution.

### Repayment Agreements Terms

All repayment agreements must be in writing, dated, signed by both the family and the PHA, include the total retroactive rent amount owed, any amount of lump sum payment made at time of execution, if applicable, and the monthly repayment amount. PIH Notice 2018-18 requires

certain provisions, at a minimum, to be included in any repayment agreement involving amounts owed by a family because it underreported or failed to report income:

- A reference to the items in the family briefing packet that state the family's obligation to provide true and complete information at every reexamination and the grounds on which the PHA may terminate assistance because of a family's action or failure to act
- A statement clarifying that each month the family not only must pay to the PHA the monthly payment amount specified in the agreement but must also pay to the owner the family's monthly share of the rent to owner
- A statement that the terms of the repayment agreement may be renegotiated if the family's income decreases or increases
- A statement that late or missed payments constitute default of the repayment agreement and may result in termination of assistance

## **PART V: SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP)**

### **16-V.A. OVERVIEW**

The Section 8 Management Assessment Program (SEMAP) is a tool that allows HUD to measure PHA performance in key areas to ensure program integrity and accountability. SEMAP scores translate into a rating for each PHA as high performing, standard, or troubled. Scores on individual SEMAP indicators, as well as overall SEMAP ratings, can affect the PHA in several ways.

- High-performing PHAs can be given a competitive advantage under notices of funding availability [24 CFR §985.103].
- PHAs with deficiencies on one or more indicators are required to correct the deficiencies and report to HUD [24 CFR §985.106].
- PHAs with an overall rating of “troubled” are subject to additional HUD oversight, including on-site reviews by HUD staff, a requirement to develop a corrective action plan, and monitoring to ensure the successful implementation of the corrective action plan. In addition, PHAs that are designated “troubled” may not use any part of the administrative fee reserve for other housing purposes [24 CFR §985.107].
- HUD may determine that a PHA's failure to correct identified SEMAP deficiencies or to prepare and implement a corrective action plan required by HUD constitutes a default under the ACC [24 CFR §985.109].

### **16-V.B. SEMAP CERTIFICATION [24 CFR §985.101]**

PHAs must submit the HUD-required SEMAP certification form within 60 calendar days after the end of its fiscal year. The certification must be approved by PHA board resolution and signed by the PHA housing manager. If the PHA is a unit of local government or a state, a resolution approving the certification is not required, and the certification must be executed by the Section 8 program director.

PHAs with less than 250 voucher units are only required to be assessed every other PHA fiscal year. HUD will assess such PHAs annually if the PHA elects to have its performance assessed on an annual basis; or is designated as “troubled” [24 CFR §985.105].

Failure of a PHA to submit its SEMAP certification within the required time frame will result in an overall performance rating of “troubled.”

A PHA's SEMAP certification is subject to HUD verification by an on-site confirmatory review at any time.

Upon receipt of the PHA's SEMAP certification, HUD will rate the PHA's performance under each SEMAP indicator in accordance with program requirements.

## HUD Verification Method

Several of the SEMAP indicators are scored based on a review of a quality control sample selected for this purpose. The PHA or the Independent Auditor must select an unbiased sample that provides an adequate representation of the types of information to be assessed, in accordance with SEMAP requirements [24 CFR §985.2].

If the HUD verification method for the indicator relies on data in the Form-50058 module (formerly known as MTCS) in the PIH Information Center (PIC), and HUD determines that those data are insufficient to verify the PHA's certification on the indicator due to the PHA's failure to adequately report family data, HUD will assign a zero rating for the indicator [24 CFR §985.3].

### **16-V.C. SEMAP INDICATORS [24 CFR §985.3; FORM HUD-52648]**

The table below lists each of the SEMAP indicators, contains a description of each indicator, and explains the basis for points awarded under each indicator.

A PHA that expends less than \$300,000 in Federal awards and whose Section 8 programs are not audited by an independent auditor, is not be rated under SEMAP indicators 1-7.

All SEMAP inspection requirements will be conducted in alignment with HUD's NSPIRE Protocol.

<b>SEMAP Indicators</b>
<b>Indicator 1: Selection from the waiting list</b> <b>Maximum Score: 15</b> <ul style="list-style-type: none"><li>• This indicator shows whether the PHA has written policies in its administrative plan for selecting applicants from the waiting list and whether the PHA follows these policies when selecting applicants from the waiting list.</li><li>• Points are based on the percent of families that are selected from the waiting list in accordance with the PHA's written policies, according to the PHA's quality control sample.</li></ul>
<b>Indicator 2: Rent reasonableness</b> <b>Maximum Score: 20</b> <ul style="list-style-type: none"><li>• This indicator shows whether the PHA has and implements a reasonable written method to determine and document for each unit leased that the rent to owner is reasonable based on current rents for comparable unassisted units at the required times.</li><li>• Points are based on the percent of units for which the PHA follows its written method to determine reasonable rent and has documented its determination that the rent to owner is reasonable, according to the PHA's quality control sample.</li></ul>
<b>Indicator 3: Determination of adjusted income</b> <b>Maximum Score: 20</b>

<ul style="list-style-type: none"> <li>• This indicator measures whether the PHA verifies and correctly determines adjusted income for each assisted family, and where applicable, uses the appropriate utility allowances for the unit leased in determining the gross rent.</li> <li>• Points are based on the percent of files that are calculated and verified correctly, according to the PHA's quality control sample.</li> </ul>
<b>Indicator 4: Utility allowance schedule</b> <b>Maximum Score: 5</b> <ul style="list-style-type: none"> <li>• This indicator shows whether the PHA maintains an up-to-date utility allowance schedule.</li> <li>• Points are based on whether the PHA has reviewed the utility allowance schedule and adjusted it when required, according to the PHA's certification.</li> </ul>
<b>Indicator 5: HQS quality control inspections</b> <b>Maximum Score: 5</b> <ul style="list-style-type: none"> <li>• This indicator shows whether a PHA supervisor reinspects a sample of units under contract during the PHA fiscal year, which meets the minimum sample size requirements for quality control of HQS inspections.</li> <li>• Points are based on whether the required quality control reinspections were completed, according to the PHA's certification.</li> </ul>
<b>Indicator 6: HQS enforcement</b> <b>Maximum Score: 10</b> <ul style="list-style-type: none"> <li>• This indicator shows whether, following each HQS inspection of a unit under contract where the unit fails to meet HQS, any cited life-threatening deficiencies are corrected within 24 hours from the inspection and all other deficiencies are corrected within no more than 30 calendar days from the inspection or any PHA-approved extension.</li> <li>• Points are based on whether the PHA corrects all HQS deficiencies in accordance with required time frames, according to the PHA's certification.</li> </ul>
<b>Indicator 7: Expanding housing opportunities</b> <b>Maximum Points: 5</b> <ul style="list-style-type: none"> <li>• Only applies to PHAs with jurisdiction in metropolitan FMR areas.</li> <li>• This indicator shows whether the PHA has adopted and implemented a written policy to encourage participation by owners of units located outside areas of poverty or minority concentration; informs voucher holders of the full range of areas where they may lease units both inside and outside the PHA's jurisdiction; and supplies a list of landlords or other parties who are willing to lease units or help families find units, including units outside areas of poverty or minority concentration.</li> <li>• Points are based on whether the PHA has adopted and implemented written policies in accordance with SEMAP requirements, according to the PHA's certification.</li> </ul>
<b>Indicator 8: FMR limit and payment standards</b> <b>Maximum Points: 5 points</b> <ul style="list-style-type: none"> <li>• This indicator shows whether the PHA has adopted a payment standard schedule that establishes payment standard amounts by unit size for each FMR area in the PHA's jurisdiction, that are within the basic range of 90 to 110 percent of the published FMR.</li> </ul>

<ul style="list-style-type: none"> <li>Points are based on whether the PHA has appropriately adopted a payment standard schedule(s), according to the PHA's certification.</li> </ul>
<b>Indicator 9: Annual reexaminations</b> <b>Maximum Points: 10</b> <ul style="list-style-type: none"> <li>This indicator shows whether the PHA completes a reexamination for each participating family at least every 12 months.</li> <li>Points are based on the percent of reexaminations that are less than 2 months overdue, according to data from PIC.</li> </ul>
<b>Indicator 10: Correct tenant rent calculations</b> <b>Maximum Points: 5</b> <ul style="list-style-type: none"> <li>This indicator shows whether the PHA correctly calculates the family's share of the rent to owner.</li> <li>Points are based on the percent of correct calculations of family share of the rent according to data from PIC.</li> </ul>
<b>Indicator 11: Pre-contract HQS inspections</b> <b>Maximum Points: 5</b> <ul style="list-style-type: none"> <li>This indicator shows whether newly leased units pass HQS inspection on or before the effective date of the assisted lease and HAP contract.</li> <li>Points are based on the percent of newly leased units that passed HQS inspection on or before the effective date of the lease and HAP contract, according to data from PIC.</li> </ul>
<b>Indicator 12: Annual HQS inspections</b> <b>Maximum Points: 10</b> <ul style="list-style-type: none"> <li>This indicator shows whether the PHA inspects each unit under contract at least annually.</li> <li>Points are based on the percent of annual HQS inspections of units under contract that are more than 2 months overdue, according to data from PIC.</li> </ul>
<b>Indicator 13: Lease-up</b> <b>Maximum Points: 20 points</b> <ul style="list-style-type: none"> <li>This indicator shows whether the PHA enters HAP contracts for at least 98 percent of the number of the PHA's baseline voucher units in the ACC for the calendar year ending on or before the PHA's fiscal year, or whether the PHA has expended at least 98 percent of its allocated budget authority for the same calendar year. The PHA can receive 15 points if 95 to 97 percent of vouchers are leased or budget authority is utilized.</li> <li>Points are based on utilization of vouchers and HAP expenditures as reported in the voucher management system (VMS) for the most recently completed calendar year.</li> </ul>
<b>Success Rate of Voucher Holders</b> <b>Maximum Points: 5</b> <ul style="list-style-type: none"> <li>Only applies to PHAs that have received approval to establish success rate payment standard amounts, and isn't effective until the second full PHA fiscal year following the date of HUD approval of success rate payment standard amounts.</li> </ul>

- This indicator shows whether voucher holders were successful in leasing units with voucher assistance.
- Points are based on the percent of families that were issued vouchers, and that became participants in the voucher program.

**Deconcentration Bonus Indicator****Maximum Points: 5**

- Submission of data for this indicator is mandatory for a PHA using one or more payment standard amount(s) that exceed(s) 100 percent of the published FMR set at the 50<sup>th</sup> percentile rent, starting with the second full PHA fiscal year following initial use of payment standard amounts based on the FMRs set at the 50<sup>th</sup> percentile.
- Additional points are available to PHAs that have jurisdiction in metropolitan FMR areas and that choose to submit the required data.
- Points are based on whether the data that is submitted meets the requirements for bonus points.



## **PART VI: RECORD KEEPING**

### **16-VI.A. OVERVIEW**

The PHA must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, the PHA must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

### **16-VI.B. RECORD RETENTION [24 CFR §982.158; 24 CFR §908.101]**

During the term of each assisted lease, and for at least three years thereafter, the PHA must keep:

- A copy of the executed lease;
- The HAP contract; and
- The application from the family.

In addition, the PHA must keep the following records for at least three years:

- Records that provide income, racial, ethnic, gender, and disability status data on program applicants and participants;
- An application from each ineligible family and notice that the applicant is not eligible;
- HUD-required reports;
- Unit inspection reports;
- Lead-based paint records as required by 24 CFR 35, Subpart B.
- Accounts and other records supporting PHA budget and financial statements for the program;
- Records to document the basis for PHA determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract); and
- Other records specified by HUD.
- ~~Records associated with applicants dropped for non-response to include returned envelopes, unopened, for at least three years or until the next occupancy audit.~~

The PHA must keep the last three years of the Form HUD-50058 and supporting documentation during the term of each assisted lease, and for a period of at least three years from the end of participation (EOP) date [24 CFR 908.101].

The PHA must maintain Enterprise Income Verification (EIV) system Income Reports in the tenant file for the duration of the tenancy but for a period not to exceed three years from the EOP date [Notice PIH 2018-18].

PIH Notice 2014-20 requires PHAs to keep records of all complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act or the equal access final rule.

PHA Policy

The PHA will keep for at least three years records of all complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act, the equal access final rule, or VAWA.

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The PHA must keep confidential records of all emergency transfer requested by victims of domestic violence, dating violence, sexual assault, ~~and~~ stalking, and human trafficking under the PHA's Emergency Transfer Plan, as well as the outcomes of such requests, and retain the records for a period of three years [see 24 CFR §5.2002(e)(12)].

PHA Policy

All documents related to a family's tenancy, and termination will be kept at least for three ~~five~~ years.

If an informal hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 16-III.D., Retention of Documents.

**16-VI.C. RECORDS MANAGEMENT AND SAFEGUARDING SENSITIVE PERSONALLY IDENTIFIABLE INFORMATION (PIH NOTICE 2014-10)**

PHAs must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

PHAs are responsible for safeguarding personally identifiable information required by HUD and preventing potential breaches of this sensitive data. Personally Identifiable Information (PII) is defined in OMB M-07-16 as "... information which can be used to distinguish or trace an individual's identity, such as their name, social security number, biometric records, etc. alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as a date and place of birth, mother's maiden name, etc."

Examples of sensitive personal identifiable information includes social security or driver's license numbers, medical records, and financial account numbers such as credit or debit card numbers.

PHA Policy

All applicant and participant information will be kept in a secure location and access will be limited to authorized PHA staff.

PHA staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

When discussing sensitive PII on the telephone, PHA staff will confirm that they are speaking to the right person before discussing the information and inform him/her that the discussion will include sensitive information. PHA staff will not leave messages containing sensitive PII on voicemail.

PHA staff will avoid discussing sensitive PII if there are unauthorized personnel, contractors, or guests in the adjacent cubicles, rooms, or hallways who may overhear their conversation.

When faxing sensitive PII, PHA staff will use the date stamp function, confirm the fax number, verify that the intended recipient is available, and confirm that he/she has received the fax. Before faxing sensitive PII, PHA staff will coordinate with the recipient so that the information is not left unattended on the receiving end.

PHA Policy

PHA staff will request a written statement from the receiving PHA documenting that the intended recipient is available to receive the fax and they understand the information will not be left unattended on the receiving end.

PHA staff will not transmit sensitive PII via an unsecured information system (e.g., electronic mail, internet, or electronic bulletin board) without first encrypting the information.

PHA Policy

The City of Chandler does not have encrypting capabilities for information systems; therefore, PHA staff will not use information systems (e.g., electronic mail, internet, or electronic bulletin board) to transmit sensitive PII.

**Privacy Act Requirements [24 CFR §5.212; Form HUD 9886]**

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form - form HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or the PHA may release the information collected.

**Upfront Income Verification (UIV) Records**

PHAs that access UIV data through HUD's Enterprise Income Verification (EIV) system are required to adopt and follow specific security procedures to ensure that all ~~EIV~~ data is

protected in accordance with federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD-issued document, ~~Upfront Enterprise Income Verification (EIV/UV) System, PHA Security Procedures for Upfront Income Verification data, Version 1.1, issued April 4, 2004.~~

#### PHA Policy

The City of Chandler Housing and Redevelopment Division will adopt and implement HUD's Enterprise Income Verification (EIV) system security procedures required by HUD as set forth in Version 1.4, November 2005.

#### **Criminal Records**

The PHA may only disclose the criminal conviction records which the PHA receives from a law enforcement agency to officers or employees of the PHA, or to authorized representatives of the PHA who have a job-related need to have access to the information [24 CFR §5.903(e)].

The PHA must establish and implement a system of records management that ensures that any criminal record received by the PHA from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation [24 CFR §5.903(g)].

The PHA must establish and implement a system of records management that ensures that any sex offender registration information received by the PHA from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation. However, a record of the screening, including the type of screening and the date performed must be retained [PIH Notice 2012-28].

This requirement does not apply to information that is public information, or is obtained by a PHA other than under 24 CFR §5.905.

#### **Medical/Disability Records**

PHAs are not permitted to inquire about the nature or extent of a person's disability. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA should not place this information in the tenant file. The PHA should destroy the document.

#### **Documentation of Domestic Violence, Dating Violence, Sexual Assault, ~~or Stalking~~, or Human Trafficking**

For requirements and PHA policies related to management of documentation obtained from victims of domestic violence, dating violence, sexual assault, ~~or stalking~~, or human trafficking see Section 16-IX.E.



## **PART VII: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL**

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### **16-VII.A. OVERVIEW**

The PHA has certain responsibilities relative to children with elevated blood lead levels that are receiving HCV assistance. The notification, verification, and hazard reduction requirements are discussed in Chapter 8. This part deals with the reporting requirements, and data collection and record keeping responsibilities to which the PHA is subject.

### **16-VII.B. REPORTING REQUIREMENT [24 CFR §35.1225(E); PIH NOTICE 2017-13]**

The owner must report the name and address of a child identified as having an elevated blood lead level to the public health department within 5 business days of being so notified by any other medical health care professional. The owner must also notify the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes (OLHCHH) of the child's address within five business days.

The PHA may collaborate with the owner on the notification process, such as by agreeing with the owner to provide the required notifications on the owner's behalf.

#### **PHA Policy**

Upon notification by the owner, the PHA will provide the public health department written notice of the name and address of any child identified as having an elevated blood lead level within five business days.

Upon notification by the owner, the PHA will notify the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes (OLHCHH) of the child's address within five business days.

### **16-VII.C. DATA COLLECTION AND RECORD KEEPING [24 CFR §35.1225(F)]**

At least quarterly, the PHA must attempt to obtain from the public health department(s) with a similar area of jurisdiction, the names and/or addresses of children less than 6 years old with an elevated blood lead level.

If the PHA obtains names and addresses of elevated blood lead level children from the public health department(s), the PHA must match this information with the names and addresses of families receiving HCV assistance, unless the public health department performs such a procedure. If a match occurs, the PHA must carry out the notification, verification, and hazard reduction requirements discussed in Chapter 8, and the reporting requirement discussed above.

At least quarterly, the PHA must also report an updated list of the addresses of units receiving assistance under the HCV program to the same public health department(s), unless the public health department(s) states that it does not wish to receive such a report.

PHA Policy

The public health department(s) has stated they **do not** wish to receive a report of an updated list of the addresses of units receiving assistance under the HCV program, on a quarterly basis. Therefore, the PHA is not providing such a report.

## **PART VIII: DETERMINATION OF INSUFFICIENT FUNDING**

### **16-VIII.A. OVERVIEW**

The HCV regulations allow PHAs to deny families permission to move and to terminate Housing Assistance Payments (HAP) contracts if funding under the consolidated ACC is insufficient to support continued assistance [24 CFR §982.354(e)(1) and §982.454].

If a PHA denies a family a portability move based on insufficient funding, the PHA is required to notify the local HUD office within 10 business days [24 CFR §982.354]. Insufficient funding may also impact the PHA's ability to issue vouchers to families on the waiting list. This part discusses the methodology the PHA will use to determine whether or not the PHA has sufficient funding to issue vouchers, approve moves, and to continue subsidizing all families currently under a HAP contract.

### **16-VIII.B. METHODOLOGY**

#### **PHA Policy**

The PHA will determine whether there is adequate funding to issue vouchers, approve moves to higher cost units and areas, and continue subsidizing all current participants by comparing the PHA's annual budget authority to the annual total HAP needs on a monthly basis.

The total HAP needs for the calendar or fiscal year will be projected by establishing the actual HAP costs year to date. To that figure, the PHA will add anticipated HAP expenditures for the remainder of the calendar year.

Projected HAP expenditures will be calculated by multiplying the projected number of units leased per remaining months by the most current month's average HAP. The projected number of units leased per month will take into account the average monthly turnover of participant families.

If the total annual HAP needs equal or exceed the annual budget authority and funding reserves, or if the PHA cannot support the cost of the proposed subsidy commitment, (voucher issuance or move) based on the funding analysis, the PHA will be considered to have insufficient funding.

At the discretion of the PHA or upon guidance from HUD, the PHA may modify or add to the methodology of determining insufficient funding as it becomes appropriate or necessary.



## **PART IX: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, CONFIDENTIALITY**

### **16-IX.A. OVERVIEW**

The Violence against Women Reauthorization Act ~~of 2013~~ (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault, ~~and~~ stalking, and human trafficking who are applying for or receiving assistance under the housing choice voucher (HCV) program. If your state or local laws provide greater protection for such victims, those laws apply in conjunction with VAWA.

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

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and PHA policies in three areas:

- Notification, documentation, and confidentiality. Specific VAWA requirements and PHA policies are located primarily in the following sections: 3- I.C, "Family Breakup and Remaining Member of Tenant Family"; 3-III.G, "Prohibition against Denial of Assistance to Victims of Domestic Violence, Dating Violence, ~~and~~ Stalking and Human Trafficking"; 10-I.A, "Allowable Moves"; 10-I.B, "Restrictions on Moves"; 12-II.E, "Terminations Related to Domestic Violence, Dating Violence, Sexual Assault, ~~or~~ Stalking, or Human Trafficking"; and 12-II.F, "Termination Notice."

### **16-IX.B. DEFINITIONS [24 CFR 5.2003; 42 USC 13925]**

As used in VAWA:

- The term *affiliated individual* means, with respect to a person:
  - A spouse, parent, brother or sister, or child of that individual, or an individual to whom that individual stands in the position or place of a parent; or
  - Any other individual, tenant, or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.

- The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - The length of the relationship
  - The type of relationship
  - The frequency of interaction between the persons involved in the relationship
- The term *domestic violence* includes felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding, and in the case of victim services, includes the user or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who is:
  - The current or former spouse or intimate partner of the victim, or person similarly situated to a spouse or intimate partner of the victim
  - A person who is cohabitating or has cohabitated with the victim as a spouse or intimate partner
  - A person with whom the victim shares a child in common
  - A person who commits acts against an youth or adult victim who is protected from those acts under the domestic or family violence laws of the jurisdiction
- The term *economic abuse* means behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitle, including using coercion, fraud, and manipulation to:
  - Restrict a person's access to money, assets, credit, or financial information
  - Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage
  - Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or to whom one has a fiduciary duty

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- ~~of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.~~

- ~~The term *affiliated individual* means, with respect to a person:~~

- ~~— A spouse, parent, brother or sister, or child of that individual, or an individual to whom that individual stands in the position or place of a parent; or~~

- ~~— Any other individual, tenant, or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.~~

- The term *sexual assault* means:

- Any nonconsensual sexual act prescribed by Federal, tribal, or State law, including when the victim lacks the capacity to consent

- The term *stalking* means:

- To engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or others, ~~or~~ suffer substantial emotional distress.

- The term *technological abuse* means an act or pattern of behavior that occurs within domestic violence, dating violence, sexual assault, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor another person, except as otherwise permitted by law, that occurs using any form of technology, including but not limited to:

- Internet enabled devices

- Online spaces and platforms

- Computers

- Mobile devices

- Cameras and imaging programs

- Apps

- Location tracking devices

- Communication technologies

- Any other emergency technologies

#### **16-IX.C. NOTIFICATION [24 CFR §5.2005(A)]**

##### **Notification to Public**

The PHA adopts the following policy to help ensure that all actual and potential beneficiaries of its HCV program are aware of their rights under VAWA.

##### **PHA Policy**

The PHA will post the following information regarding VAWA in its offices and on its website. It will also make the information readily available to anyone who requests it:

- A copy of the notice of occupancy rights under VAWA to housing choice voucher program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking Form HUD-5380, see Exhibit 16-1)
- A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, or Stalking and Alternate Documentation (see Exhibit 16-2)
- A copy of the PHA's emergency transfer plan (Exhibit 16-3)
- A copy of HUD's Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5383 (Exhibit 16-4)
- The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in Exhibits 16-1 and 16-2)

Contact information for local victim advocacy groups or service providers

#### **NOTIFICATION TO PROGRAM APPLICANTS AND PARTICIPANTS [24 CFR §5.2005(A)(1)]**

PHAs are required to inform program applicants and participants of their rights under VAWA, including their right to confidentiality and the limits thereof, when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing benefits.

~~VAWA 2013 expands the notification requirements (currently at 24 CFR §5.2005(a)(1)) to require that PHAs provide the notice when a person is denied assistance, when a person is admitted, and when a tenant is notified of eviction or termination of housing benefit, and to require that the notice be provided together with form HUD-5382.~~

##### **PHA Policy**

The PHA will provide all applicants with information about VAWA at the time they request an application for housing assistance, as part of the written briefing packet, and at

the time the family is admitted to the program. The PHA will also include information about VAWA in all notices of denial of assistance (see Section 3-III.G).

The PHA will provide all participants with information about VAWA at the time of admission (see section 5-I.B) and at annual reexamination. The PHA will also include information about VAWA in notices of termination of assistance, as provided in section 12- II.F.

The VAWA information provided to applicants and participants will consist of the notices in Exhibits 16-1 and 16-2.

The PHA is not limited to providing VAWA information at the times specified in the above policy. If the PHA decides to provide VAWA information to a participant following an incident of domestic violence, PIH Notice 2017-08 cautions against sending the information by mail, since the abuser may be monitoring the mail. The notice recommends that in such cases the PHA make alternative delivery arrangements that will not put the victim at risk.

#### PHA Policy

Whenever the PHA has reason to suspect that providing information about VAWA to a participant might place a victim of domestic violence at risk, it will attempt to deliver the information by hand directly to the victim or by having the victim come to an office or other space that may be safer for the individual, making reasonable accommodations as necessary.

For example, the PHA may decide not to send mail regarding VAWA protections to the victim's unit if the PHA believes the perpetrator may have access to the victim's mail, unless requested by the victim.

When discussing VAWA with the victim, the PHA will take reasonable precautions to ensure that no one can overhear the conversation, such as having conversations in a private room.

The victim may, but is not required to, designate an attorney, advocate, or other secure contact for communications regarding VAWA protections.

#### **Notification to Owners and Managers**

While PHAs are no longer required by regulation to notify owners and managers participating in the HCV program of their rights and obligations under VAWA, the PHA may still choose to inform them.

#### PHA Policy

The PHA will provide owners and managers with information about their rights and obligations under VAWA when they begin their participation in the program and at least annually thereafter.

The VAWA information provided to owners will consist of the notice in Exhibit 16-5 and a copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, and Stalking and Alternate Documentation.

#### **16-IX.D. DOCUMENTATION [24 CFR §5.2007]**

A PHA presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, sexual assault, stalking, [human trafficking](#), or criminal activity related to any of these forms of abuse may—but is not required to—request that the individual making the claim document the abuse. Any request for documentation must be in writing, and the individual must be allowed at least 14 business days after receipt of the request to submit the documentation. The PHA may extend this time period at its discretion. [24 CFR §5.2007(a)]

The individual may satisfy the PHA’s request by providing any one of the following three forms of documentation [24 CFR §5.2007(b)]:

- (1) A completed and signed HUD-approved certification form (form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), which must include the name of the perpetrator only if the name of the perpetrator is safe to provide and is known to the victim. The form may be filled out and submitted on behalf of the victim.
- (2) A federal, state, tribal, territorial, or local police report or court record, or an administrative record
- (3) Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault, ~~or~~stalking, [human trafficking](#) or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider, an attorney; a mental health professional; or a medical professional. The person signing the documentation must attest under penalty of perjury to the person’s belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

The PHA may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under “Conflicting Documentation,” nor may it require certification in addition to third-party documentation [~~VAWA final rule~~[FR Notice 11/1616](#)].

##### **PHA Policy**

Any request for documentation of domestic violence, dating violence, sexual assault, ~~or~~stalking, [or human trafficking](#):

- will be in writing,
- will specify a deadline of 14 business days following receipt of the request,
- will describe the three forms of acceptable documentation,
- will provide explicit instructions on where and to whom the documentation must be submitted, and
- will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

The PHA may, in its discretion, extend the deadline for 10 business days.

In determining whether to extend the deadline, the PHA will consider factors that may contribute to the victim's inability to provide documentation in a timely manner, including cognitive limitations, disabilities, limited English proficiency, absence from the unit, administrative delays, the danger of further violence, and the victim's need to address health or safety issues. Any extension granted by the PHA will be in writing.

Once the victim provides documentation, the PHA will acknowledge receipt of the documentation within 10 business days.

#### **Conflicting Documentation [24 CFR §5.2007(e)]**

In cases where the PHA receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, the PHA may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3).

The PHA may also request third-party documentation when submitted documentation contains information that conflicts with existing information already available to the PHA. Individuals have 30 calendar days to return third-party verification to the PHA. If the PHA does not receive third-party documentation, and the PHA will deny or terminate assistance as a result, the PHA must hold separate hearings for the tenants [PIH Notice 2017-08].

The PHA must honor any court orders issued to protect the victim or to address the distribution of property.

#### **PHA Policy**

If presented with conflicting certification documents from members of the same household, the PHA will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR §5.2007(e) and by following any HUD guidance on how such determinations should be made.

When requesting third-party documents, the PHA will provide contact information for local domestic violence and legal aid offices. In such cases, applicants or tenants will be given 30 calendar days from the date of the request to provide such documentation.

If the PHA does not receive third-party documentation within the required timeframe (and any extensions) the PHA will deny VAWA protections and will notify the applicant or tenant in writing of the denial. If, as a result, the applicant or tenant is denied or terminated from the program, the PHA will hold separate hearings for the applicants or tenants.

#### **Discretion to Require No Formal Documentation [24 CFR §5.2007(d)]**

The PHA has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence—i.e., without requiring formal documentation of abuse in accordance with 24 CFR §5.2007(b). HUD recommends documentation in a confidential manner when a verbal statement or other evidence is accepted.

#### **PHA Policy**

If the PHA accepts an individual's statement or other corroborating evidence (as determined by the victim) of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking, the PHA will document acceptance of the statement or evidence in the individual's file.

#### **Failure to Provide Documentation [24 CFR §5.2007(c)]**

In order to deny relief for protection under VAWA, a PHA must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within 14 business days from the date of receipt, or such longer time as the PHA may allow, the PHA may deny relief for protection under VAWA.

#### **~~Immigration Status/Self-Petitioner (PIH Notice 2017-02)~~**

~~A "Self-Petitioner" is a category of battered noncitizens seeking legal permanent resident status without the cooperation or knowledge of their abusive relative. A "VAWA Self-Petitioner" is a category of battered noncitizens seeking VAWA-related relief and other VAWA-related petitions or applications for lawful permanent resident status.~~

~~PIH Notice 2017-02 explains the procedures that COCHRD must follow when an applicant or resident/tenant requests admission or continued residency as a result of being a VAWA self-petitioner.~~

- ~~A. In accordance with Section 214 of the Housing and Community Development Act of 1980, HUD may not allow financial assistance to ineligible non-citizens, but assistance must not be denied while verifying immigration status or appeal of a determination as to satisfactory immigration status is pending.~~
- ~~B. HUD has determined that self-petitioners can indicate that they are in "satisfactory immigration status" when applying for assistance or continued assistance from Section 214 covered housing providers. "Satisfactory immigration status" means an immigration status which does not make the individual ineligible for financial assistance. After verifying such immigration status in the Department of Homeland Security (DHS) Systematic Alien Verification for Entitlements (SAVE) System, the COCHRD will make a final determination as to the self-petitioner's eligibility for assistance.~~
- ~~C. COCHRD will not deny, reduce, or terminate the assistance of a VAWA Self-Petitioner who claims "satisfactory immigration status". COCHRD will verify that the applicant or participant is a self-petitioner by utilizing the SAVE system to verify immigration status.~~
- ~~D. All protections afforded under VAWA apply to the self-petitioner throughout the verification process.~~
- ~~E. Not every noncitizen victim who has been subjected to battery or extreme cruelty will qualify under these procedures. In order to qualify, the noncitizen victim must have been battered or subjected to extreme cruelty by their spouse or parent, who is a U.S. citizen or Lawful Permanent Residents (LPR). COCHRD may receive a petition at any time, but submissions will most likely be related to a request for VAWA protections pursuant to 24 CFR Part 5 Subpart L (e.g. with a request for an emergency transfer or family breakup resulting from domestic violence, dating violence, sexual assault, or stalking.~~
- ~~F. COCHRD will follow the steps outlined in PIH Notice 2017-02 to complete verification.~~



**16-IX.E. CONFIDENTIALITY [24 CFR §5.2007(B)(4)]**

All information provided to the PHA regarding domestic violence, dating violence, sexual assault, ~~or~~ stalking, and human trafficking, including the fact that an individual is a victim ~~of such violence or stalking~~, must be retained in confidence. This means that the PHA (1) may not enter the information into any shared database, (2) may not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work, and (3) may not provide the information to any other entity or individual, except to the extent that the disclosure is (a) requested or consented to by the individual in writing, (b) required for use in an eviction proceeding, or (c) otherwise required by applicable law.

**PHA Policy**

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the PHA will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

**Exhibit 16-1: Notice of Occupancy Rights Under the Violence  
Against Women Act, form HUD 5380**

**City of Chandler Housing and Redevelopment Division  
Notice of Occupancy Rights under the Violence Against Women Act <sup>1</sup>(VAWA)**

**To all Tenants and Applicants**

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women, but are available equally to all individuals regardless of sex, gender identity, or sexual orientation.<sup>2</sup> The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees that public housing and housing choice voucher is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA.”

**Protections for Applicants**

If you otherwise qualify for assistance under public housing or housing choice voucher, you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

**Protections for Tenants**

If you are receiving assistance under public housing or housing choice voucher, you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights under the housing choice voucher program solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

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<sup>1</sup> Despite the name of this law, VAWA protection is available regardless of sex, gender identity, or sexual orientation.

<sup>2</sup> Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

### **Removing the Abuser or Perpetrator from the Household**

The City of Chandler Housing and Redevelopment Division (COCHRD) may divide (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 domestic violence, dating violence, sexual assault, or stalking.

If the COCHRD chooses to remove the abuser or perpetrator, COCHRD may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, COCHRD must allow the tenant who is or has been a victim and other household members to remain in the unit for a period of time, in order to establish eligibility under the program or under another HUD housing program covered by VAWA, or, find alternative housing.

In removing the abuser or perpetrator from the household, COCHRD must follow Federal, State, and local eviction procedures. In order to divide a lease, COCHRD may, but is not required to, ask you for documentation or certification of the incidences of domestic violence, dating violence, sexual assault, or stalking.

### **Moving to Another Unit**

Upon your request, COCHRD may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, COCHRD may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking. If the request is a request for emergency transfer, the housing provider may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA. The criteria are:

- (1) **You are a victim of domestic violence, dating violence, sexual assault, or stalking.** If COCHRD does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, COCHRD may ask you for such documentation, as described in the documentation section below.
- (2) **You expressly request the emergency transfer.** COCHRD may choose to require that you submit a form, or may accept another written or oral request.
- (3) **You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

**OR**

**You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from

which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you expressly request the transfer.

COCHRD will keep confidential requests for emergency transfers by victims of domestic violence, dating violence, sexual assault, or stalking, and the location of any move by such victims and their families.

COCHRD's emergency transfer plan provides further information on emergency transfers, and COCHRD must make a copy of its emergency transfer plan available to you if you ask to see it.

**Documenting You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking**

COCHRD can, but is not required to, ask you to provide documentation to "certify" that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Such request from COCHRD must be in writing, and COCHRD must give you at least 14 business days (Saturdays, Sundays, and Federal holidays do not count) from the day you receive the request to provide the documentation. COCHRD may, but does not have to, extend the deadline for the submission of documentation upon your request.

You can provide one of the following to COCHRD as documentation. It is your choice which of the following to submit if the COCHRD asks you to provide documentation that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

- A complete HUD-approved certification form given to you by COCHRD with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. The form will ask for your name, the date, time, and location of the incident of domestic violence, dating violence, sexual assault, or stalking, and a description of the incident. The certification form provides for including the name of the abuser or perpetrator if the name of the abuser or perpetrator is known and is safe to provide.
- A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others.
- A statement, which you must sign, along with the signature of an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional (collectively, "professional") from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that he or she believes that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.
- Any other statement or evidence that the COCHRD has agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, the COCHRD does not have to provide you with the protections contained in this notice.

If the COCHRD receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser or perpetrator), COCHRD has the right to request that you provide third-party documentation within thirty 30 calendar days in order to resolve the conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, COCHRD does not have to provide you with the protections contained in this notice.

### **Confidentiality**

COCHRD must keep confidential any information you provide related to the exercise of your rights under VAWA, including the fact that you are exercising your rights under VAWA.

COCHRD must not allow any individual administering assistance or other services on behalf of COCHRD (for example, employees and contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information for applicable Federal, State, or local law.

COCHRD must not enter your information into any shared database or disclose your information to any other entity or individual. COCHRD, however, may disclose the information provided if:

- You give written permission to the PHA to release the information on a time-limited basis.
- The PHA needs to use the information in an eviction or termination proceeding, such as to evict your abuser or perpetrator or terminate your abuser or perpetrator from assistance under this program.
- A law requires the PHA or your landlord to release the information.

VAWA does not limit the PHA's duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

### **Reasons a Tenant Eligible for Occupancy Rights under VAWA May Be Evicted or Assistance May Be Terminated**

You can be evicted and your assistance can be terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking committed against you. However, COCHRD cannot hold tenants who have been victims of domestic violence, dating violence, sexual assault, or stalking to a more demanding set of rules than it applies to tenants who have not been victims of domestic violence, dating violence, sexual assault, or stalking.

The protections described in this notice might not apply, and you could be evicted and your assistance terminated, if the PHA can demonstrate that not evicting you or terminating your assistance would present a real physical danger that:

- (1) Would occur within an immediate time frame, and
- (2) Could result in death or serious bodily harm to other tenants or those who work on the property.

If COCHRD can demonstrate the above, COCHRD should only terminate your assistance or evict you if there are no other actions that could be taken to reduce or eliminate the threat.

#### **Other Laws**

VAWA does not replace any Federal, State, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

#### **Non-Compliance with The Requirements of This Notice**

You may report a covered COCHRD's violations of these rights and seek additional assistance, if needed, by contacting or filing a complaint with Amy Jacobson, Housing and Redevelopment Manager or HUD's Phoenix field office.

#### **For Additional Information**

You may view a copy of HUD's final VAWA rule at <https://www.gpo.gov/fdsys/pkg/FR-2016-11-16/pdf/2016-25888.pdf>.

Additionally, COCHRD must make a copy of HUD's VAWA regulations available to you if you ask to see them.

For questions regarding VAWA, please contact your housing specialist.

For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY). You may also contact 2-1-1 within Arizona or at <https://211arizona.org/domestic-violence/>

For tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

For help regarding sexual assault, you may contact 2-1-1 within Arizona or at <https://211arizona.org/domestic-violence/>.

Victims of stalking seeking help may contact 2-1-1 within Arizona or at <https://211arizona.org/domestic-violence/>

**Attachment:** Certification form HUD-5382

**Exhibit 16-2: Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and  
Alternate Documentation, Form HUD-5382**

**CERTIFICATION OF  
DOMESTIC VIOLENCE,  
DATING VIOLENCE,  
SEXUAL ASSAULT, OR STALKING,  
AND ALTERNATE DOCUMENTATION**

**U.S. Department of Housing  
and Urban Development**

OMB Approval No. 2577-0286  
Exp. 06/30/2017

**Purpose of Form:** The Violence Against Women Act (“VAWA”) protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

**Use of This Optional Form:** If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:

- (1) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, “professional”) from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of “domestic violence,” “dating violence,” “sexual assault,” or “stalking” in HUD’s regulations at 24 CFR 5.2003.
- (2) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
- (3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

**Submission of Documentation:** The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation, if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

**Confidentiality:** All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-

limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.



**TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE,  
DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

1. Date the written request is received by victim: \_\_\_\_\_
2. Name of victim: \_\_\_\_\_
3. Your name (if different from victim's): \_\_\_\_\_
4. Name(s) of other family member(s) listed on the lease: \_\_\_\_\_
5. Residence of victim: \_\_\_\_\_
6. Name of the accused perpetrator (if known and can be safely disclosed): \_\_\_\_\_  
\_\_\_\_\_
7. Relationship of the accused perpetrator to the victim: \_\_\_\_\_
8. Date(s) and times(s) of incident(s) (if known): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
9. Location of incident(s): \_\_\_\_\_

**In your own words, describe the incident(s):**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature \_\_\_\_\_ Date Signed \_\_\_\_\_

**Public Reporting Burden:** The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this

information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

**EXHIBIT 16-3: EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING (HCV VERSION)**

**Attachment: Certification form HUD-5382**

**City of Chandler Housing and Redevelopment Division  
Emergency Transfer Plan for Victims of Domestic Violence,  
Dating Violence, Sexual Assault, or Stalking  
Housing Choice Voucher Program**

**Emergency Transfers**

The PHA is concerned about the safety of its tenants, and such concern extends to tenants who are victims of domestic violence, dating violence, sexual assault, or stalking. In accordance with the Violence Against Women Act (VAWA),<sup>5</sup> the PHA allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's current unit to another unit. The ability to request a transfer is available regardless of sex, gender identity, or sexual orientation.<sup>6</sup> The ability of the PHA to honor such request for tenants currently receiving assistance, however, may depend upon a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether the PHA has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

This plan identifies tenants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance to tenants on safety and security. This plan is based on a model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD), the federal agency that oversees that the **public housing and housing choice voucher (HCV) programs** are in compliance with VAWA.

**Eligibility for Emergency Transfers**

A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD's regulations at 24 CFR Part 5, subpart L, is eligible for an emergency transfer if the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit. If the tenant is a victim of sexual assault, the tenant may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar day period preceding a request for an emergency transfer.

A tenant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan.

Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

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<sup>5</sup> Despite the name of this law, VAWA protection is available to all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

<sup>6</sup> Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

### **Emergency Transfer Request Documentation**

To request an emergency transfer, the tenant shall notify the PHA's management office and submit a written request for a transfer **to any PHA office**. The PHA will provide reasonable accommodations to this policy for individuals with disabilities. The tenant's written request for an emergency transfer should include either:

1. A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under the PHA's program; OR
2. A statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant's request for an emergency transfer.

### **Confidentiality**

The PHA will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives the PHA written permission to release the information on a time-limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person or persons that committed an act of domestic violence, dating violence, sexual assault, or stalking against the tenant. See the Notice of Occupancy Rights under the Violence against Women Act for All Tenants for more information about the PHA's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

### **Emergency Transfer Timing and Availability**

The PHA cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. The PHA will, however, act as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit. If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred. The PHA may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

If the PHA has no safe and available units for which a tenant who needs an emergency transfer is eligible, the PHA will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move. At the tenant's request, the PHA will also assist tenants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

### **Emergency Transfers: Housing Choice Voucher (HCV) Program**

**Tenant-based assistance:** If you are a participant in the tenant-based HCV program and request an emergency transfer as described in this plan, the PHA will assist you to move to a safe unit quickly using your existing voucher assistance. The PHA will make exceptions to program regulations restricting moves as required.

At your request, the PHA will refer you to organizations that may be able to further assist you.

**Project-based assistance:** If you are assisted under the project-based voucher (PBV) program, you may request an emergency transfer under the following programs for which you are not required to apply:

- Tenant-based voucher, if available
- Project-based assistance in the same project (if a vacant unit is available and you determine that the vacant unit is safe)
- Project-based assistance in another development owned by the PHA

Emergency transfers under VAWA will take priority over waiting list admissions for these types of assistance.

You may also request an emergency transfer under the following programs for which you are required to apply:

- Public housing program
- PBV assistance in another development not owned by the PHA
- **Other programs administered by the PHA**

Emergency transfers will not take priority over waiting list admissions for these programs. At your request, the PHA will refer you to organizations that may be able to further assist you.

### **Safety and Security of Tenants**

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe.

Tenants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

Tenants who have been victims of sexual assault may call the Rape, Abuse, and Incest National Network's National Sexual Assault Hotline at 1-800-656-HOPE, or visit the online hotline at: <https://ohl.rainn.org/online/>

Tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at: <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

**Attachment:** Local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking.

**EXHIBIT 16-4: EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF  
DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING,  
FORM HUD-5383**

**EMERGENCY TRANSFER  
REQUEST FOR CERTAIN  
VICTIMS OF DOMESTIC  
VIOLENCE, DATING VIOLENCE,  
SEXUAL ASSAULT, OR STALKING**

**U.S. Department of Housing  
and Urban Development**

OMB Approval No. 2577-0286  
Exp. 06/30/2017

**Purpose of Form:** If you are a victim of domestic violence, dating violence, sexual assault, or stalking, and you are seeking an emergency transfer, you may use this form to request an emergency transfer and certify that you meet the requirements of eligibility for an emergency transfer under the Violence Against Women Act (VAWA). Although the statutory name references women, VAWA rights and protections apply to all victims of domestic violence, dating violence, sexual assault or stalking. Using this form does not necessarily mean that you will receive an emergency transfer. See your housing provider's emergency transfer plan for more information about the availability of emergency transfers

**The requirements you must meet are:**

**(1) You are a victim of domestic violence, dating violence, sexual assault, or stalking.** If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation. In response, you may submit Form HUD-5382, or any one of the other types of documentation listed on that Form.

**(2) You expressly request the emergency transfer.** Submission of this form confirms that you have expressly requested a transfer. Your housing provider may choose to require that you submit this form, or may accept another written or oral request. Please see your housing provider's emergency transfer plan for more details.

**(3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

**OR**

**You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you submit this form or otherwise expressly request the transfer.

**Submission of Documentation:** If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you should submit that documentation to your housing provider if it is safe for you to do so. Examples of third party documentation include, but are not limited to: a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom you have sought

assistance; a current restraining order; a recent court order or other court records; a law enforcement report or records; communication records from the perpetrator of the violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts.

**Confidentiality:** All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking, and concerning your request for an emergency transfer shall be kept confidential. Such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections or an emergency transfer to you. Such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

**TO BE COMPLETED BY OR ON BEHALF OF THE PERSON REQUESTING A TRANSFER**

1. Name of victim requesting an emergency transfer: \_\_\_\_\_

2. Your name (if different from victim's): \_\_\_\_\_

3. Name(s) of other family member(s) listed on the lease: \_\_\_\_\_

\_\_\_\_\_

4. Name(s) of other family member(s) who would transfer with the victim: \_\_\_\_\_

\_\_\_\_\_

5. Address of location from which the victim seeks to transfer: \_\_\_\_\_

6. Address or phone number for contacting the victim: \_\_\_\_\_

7. Name of the accused perpetrator (if known and can be safely disclosed): \_\_\_\_\_

8. Relationship of the accused perpetrator to the victim: \_\_\_\_\_

9. Date(s), Time(s) and location(s) of incident(s): \_\_\_\_\_

\_\_\_\_\_

10. Is the person requesting the transfer a victim of a sexual assault that occurred in the past 90 days on the premises of the property from which the victim is seeking a transfer? \_\_\_\_\_

**If yes, skip question 11. If no, fill out question 11.**

11. Describe why the victim believes they are threatened with imminent harm from further violence if they remain in their current unit. \_\_\_\_\_

\_\_\_\_\_

12. If voluntarily provided, list any third-party documentation you are providing along with this notice:

\_\_\_\_\_

\_\_\_\_\_

This is to certify that the information provided on this form is true and correct to the best of my knowledge, and that the individual named above in Item 1 meets the requirement laid out on this form for an emergency transfer. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature \_\_\_\_\_ Signed on (Date) \_\_\_\_\_



## **EXHIBIT 16-5: MODEL OWNER NOTIFICATION OF RIGHTS AND OBLIGATIONS**

### **City of Chandler Housing and Redevelopment Division**

#### **NOTIFICATION OF YOUR RIGHTS AND OBLIGATIONS UNDER THE VIOLENCE AGAINST WOMEN ACT (VAWA)**

VAWA provides protections for Section 8 Housing Choice Voucher (HCV) and PBV applicants, tenants, and participants from being denied assistance on the basis or as a direct result of being a victim of domestic violence, dating violence, sexual assault, ~~and~~ stalking and human trafficking.

#### **Purpose**

Many of VAWA's protections to victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking ~~and stalking~~ involve action by the public housing agency (PHA), but some situations involve action by owners of assisted housing. The purpose of this notice (herein called "Notice") is to explain your rights and obligations under VAWA, as an owner of housing assisted through COCHRD's HCV program. Each component of this Notice also provides citations to HUD's applicable regulations.

#### **Denial of Tenancy**

*Protections for applicants:* Owners cannot deny tenancy based on the applicant having been or currently being a victim of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking. However, the applicant must be otherwise eligible for tenancy. (See 24 Code of Federal Regulations (CFR) §982.452(b)(1).)

#### **Eviction**

*Protections for HCV participants:* Incidents or threats of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking will not be considered a serious or repeated lease violation by the victim, or good cause to terminate the tenancy of the victim (see 24 CFR §5.2005(c)). Protection also applies to criminal activity related directly to domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking conducted by a member of a tenant's household or any guest or other person under the tenant's control, if the tenant or an affiliated individual of the tenant is the victim or threatened victim of such domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking (24 CFR §5.2005(b)(2)).

#### *Limitations of VAWA protections:*

- a. Nothing in ~~the VAWA~~ **Final Rule** limits the authority of an owner, when notified of a court order, to comply with a court order with respect to (24 CFR §5.2005(d)(1)):
  - 1) The rights of access or control of property, including civil protection orders issued to protect a victim of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking; or
  - 2) The distribution or possession of property among members of a household in a case.

- b. Nothing in ~~the VAWA Final Rule~~ limits an owner from evicting a victim of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking for a lease violation that is not premised on an act of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking, as long as the owner does not subject the victim to more demanding standards than other tenants when deciding whether to evict. (See 24 CFR §5.2005(d)(2).)
- c. Nothing in ~~the VAWA Final Rule~~ VAWA limits an owner from evicting a tenant (including the victim of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking) if the owner can demonstrate an actual and imminent threat to other tenants or those employed at or providing services to the HCV property would be present if the tenant or lawful occupant is not evicted. (See 24 CFR §5.2005(d)(3).)
  - i. In this context, words, gestures, actions, or other indicators will be considered an “actual and imminent threat” if they meet the following standards: An actual and imminent threat consists of 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. (See 24 CFR §5.2003.)
  - ii. Any eviction due to “actual and imminent threat” should be utilized by an owner only when there are no other actions that could be taken to reduce or eliminate the threat, including, but not limited to, transferring the victim to a different unit, barring the perpetrator from the property, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat. Restrictions predicated on public safety cannot be based on stereotypes, but must be tailored to particularized concerns about individual residents. (See 24 CFR §5.2005(d)(4).)

**Documentation of Domestic Violence, Dating Violence, Sexual Assault, ~~or~~ Stalking, or Human Trafficking**

If an applicant or tenant requests VAWA protection based on status as a victim of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking, the owner has the option to request that the victim document or provide written evidence to demonstrate that the violence occurred. However, nothing in HUD’s regulation requires a covered housing provider to request this documentation. (See 24 CFR §5.2007(b)(3).)

If the owner chooses to request this documentation, the owner must make such request in writing. The individual may satisfy this request by providing any one document type listed under 24 CFR §5.2007(b)(1):

- a. Form HUD-55383 (Self-Certification Form); or
- b. 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 human trafficking 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, or human trafficking that is the ground for protection and remedies under 24 CFR part 5, subpart L, and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault, ~~or~~stalking, or human trafficking under 24 CFR §5.2003; or
- c. A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
- d. At the discretion of a covered housing provider, a statement or other evidence provided by the applicant or tenant.

The owner must accept any of the above items (a – c). The owner has discretion to accept a statement or other evidence (d).

The owner is prohibited from requiring third-party documentation of the domestic violence, dating violence, sexual assault, ~~or~~stalking, or human trafficking, unless the submitted documentation contains conflicting information.

If the owner makes a written request for documentation, the owner may require submission of that documentation within 14 business days after the date that the individual received the written request for documentation. (24 CFR §5.2007(a)(2)). The owner may extend this time period at its discretion. During the 14-business day period and any granted extensions of that time, no adverse actions, such as evictions or terminations, can be taken against the individual requesting VAWA protection.

Once a victim provides documentation of domestic violence, dating violence, sexual assault, ~~or~~stalking, or human trafficking, the owner is encouraged to acknowledge receipt of the documentation in a timely manner.

If the applicant or tenant fails to provide documentation that meets the criteria in 24 CFR §5.2007 within 14 business days after receiving the written request for that documentation or within the designated extension period, nothing in VAWA ~~Final Rule~~ may be construed to limit the authority of the covered housing provider to:

- a. Deny admission by the applicant or tenant to the housing or program;
- b. Deny assistance under the covered housing program to the applicant or tenant;
- c. Terminate the participation of the tenant in the covered housing program; or
- d. Evict the tenant, or a lawful occupant that commits a violation of a lease.

An individual's failure to timely provide documentation of domestic violence, dating violence, sexual assault, ~~or~~stalking, or human trafficking does not result in a waiver of the individual's right to challenge the denial of assistance or termination, nor does it preclude the individual's ability to raise an incident of domestic violence, dating violence, sexual assault, ~~or~~stalking, or human trafficking at eviction or termination proceedings.

Owners may not coerce, intimidate, threaten, interfere with, or retaliate against any person who exercises or assists or encourages a person to exercise any rights or protections under VAWAs (See FR Notice 1/4/23.)

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## Moves

A victim of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking may move in violation of their lease if the move is required to protect their safety. If a move results in the termination of the Housing Assistance Payment Contract, the lease is automatically terminated.

## Lease Bifurcation

Owners may choose to bifurcate a lease, or remove a household member from a lease in order to evict, remove, terminate occupancy rights, or terminate assistance to such member who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking against an affiliated individual or other individual. (See 24 CFR §5.2009(a).) If an owner chooses to bifurcate the lease, the owner must comply with the reasonable time to establish eligibility under the covered housing program or find alternative housing following lease bifurcation provision in 24 CFR §5.2009(b). VAWA protections, including bifurcation, do not apply to guests or unreported members of a household or anyone else residing in a household who is not a tenant.

Eviction, removal, termination of occupancy rights, or termination of assistance must be effected in accordance with the procedures prescribed by federal, state, or local law for termination of leases.

To avoid unnecessary delay in the bifurcation process, HUD recommends that owners seek court-ordered eviction of the perpetrator pursuant to applicable laws. This process results in the underlying lease becoming null and void once the owner regains possession of the unit. The owner would then execute a new lease with the victim.

## Evictions Due to “Actual and Imminent Threat” or Violations Not Premised on Abuse

~~The VAWA Final Rule~~ generally prohibits eviction on the basis or as a direct result of the fact that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking, if the applicant or tenant otherwise qualifies for assistance, participation or occupancy. (See 24 CFR §5.2005.) However, ~~the VAWA Final Rule~~ does not prohibit an owner from evicting a tenant for any violation not premised on an act of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking that is in question against the tenant or an affiliated individual of the tenant. Nor does ~~the VAWA Final Rule~~ prohibit an owner from evicting a tenant if the owner can demonstrate an actual and imminent threat to other tenants or those employed at or providing services to property of the owner would be present if that tenant or lawful occupant is not evicted or terminated from assistance. (See §5.2005(d)(2) and (3).)

In order to demonstrate an actual and imminent threat to other tenants or employees at the property, the covered housing provider must have objective evidence of words, gestures, actions, or other indicators that meet the standards in the following definition:

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.

(See 24 CFR 5.2003 and 5.2005(d)(2))

### **Confidentiality**

Any information submitted to a covered housing provider under 24 CFR §5.2007, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, ~~or~~stalking, or human trafficking must be maintained in strict confidence by the covered housing provider. (See 24 CFR §5.2007(c).)

Employees of the owner (or those within their employ, e.g., contractors) must not have access to the information unless explicitly authorized by the owner for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law (e.g., the information is needed by an employee to provide the VAWA protections to the victim).

The owner must not enter this information into any shared database, or disclose this information to any other entity or individual, except to the extent that disclosure is:

- a. Requested or consented to in writing by the individual (victim) in a time-limited release;
- b. Required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program; or
- c. Otherwise required by applicable law.

When communicating with the victim, owners must take precautions to ensure compliance with these confidentiality requirements.

### **Service Providers**

[insert name of housing provider] has extensive relationships with local service providers. [insert name of housing provider] staff are available to provide referrals to shelters, counselors, and advocates. These resources are also provided in [insert name of housing provider] Annual and 5-Year Plan, Administrative Plan, VAWA Notice of Occupancy Rights, and Emergency Transfer Plan. A list of local service providers is attached to this Notice.

### **Definitions**

**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.

**Affiliated individual**, with respect to an individual, means:

- (1) 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 custody, or control care, of that individual); or
- (2) Any individual, tenant, or lawful occupant living in the household of that individual.

**Bifurcate** means 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.

**Dating violence** means violence committed by a person:

- (1) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- (2) Where the existence of such a relationship shall be determined based on a consideration of the following factors
  - i. The length of the relationship;
  - ii. The type of relationship; and
  - iii. The frequency of interaction between the persons involved in the relationship.

**Domestic violence** includes felony or misdemeanor crimes of ~~violence~~ committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding, and in the case of victim services, includes the user or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who is:

- The current or former spouse or intimate partner of the victim, or person similarly situated to a spouse or intimate partner of the victim
- A person who is cohabitating or has cohabitated with the victim as a spouse or intimate partner
- A person with whom the victim shares a child in common
- A person who commits acts against an youth or adult victim who is protected from those acts under the domestic or family violence laws of the jurisdiction

~~current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult~~

~~or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. The term "spouse or intimate partner of the victim" includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.~~

**Sexual assault** means any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

**Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- (1) Fear for the person's individual safety or the safety of others; or
- (2) Suffer substantial emotional distress.

**VAWA** means the Violence Against Women Act of 1994, as amended (42 U.S.C. 13925 and 42 U.S.C. 14043e et seq.).

**Attached:**

Legal services and the domestic violence resources for the Metro area

Form HUD-5382 Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

[insert name of housing provider]

City of Chandler Housing and Redevelopment Division VAWA Notice of Occupancy Rights

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## **ADDENDUM TO HCV ADMINISTRATIVE PLAN STATEMENT**

### **AFFIRMATIVELY FURTHERING FAIR HOUSING**

#### **Addendum to the HCV Administrative Plan Statement Regarding the Steps the PHA will take to Affirmatively Further Fair Housing.**

The City of Chandler Housing and Redevelopment Division has completed an Analysis of Impediments to Fair Housing, detailing the existing conditions affecting housing opportunities and defines strategies to create greater choices to all protected classes. The review has indicated the greatest impediments to Fair Housing are lack of adequate income, which is closely correlated with education and job opportunities, and the availability of affordable housing stock. Through the resources available from HOME and CDBG funds and the on-going activities within the City, the impediments can be analyzed and handled appropriately to further fair housing and to comply with the Annual Action Plan and Consolidated Plan performance goals.

The City of Chandler has strong ties with conventional assisted housing and directly supports the administration of the Section 8 Existing program practicing fair housing and equal opportunity in finding units for HUD eligible applicants. The City has also implemented the Section 504 accessibility requirements to ensure City facilities are accessible and that administrative practice does not have the unintentional effect of discriminating.

The Housing and Redevelopment office conducts activities to further the spirit of Fair Housing Equal Opportunity (FHEO) by receiving and handling all calls where there is a potential risk of a civil rights complaint. Information and assistance is provided to any caller who believes they have a valid FHEO complaint. The office provides the necessary forms and information on how to best locally resolve their complaint.

The Housing and Redevelopment office and the Neighborhood Resources Division will continue to receive all potential civil rights complaints through our Fair Housing Hotline that is regularly published in the City newsletter that is distributed through the water bill. Fair Housing posters are displayed in English and Spanish in the Housing and Redevelopment office to ensure participants know their rights. All CDBG recipients are required to display and provide Fair Housing Information in their offices. The fair housing toll-free number (1-800-669-9777) for the Housing Discrimination Hotline is listed in the HUD publications and is provided to callers on the City's Fair Housing Hotline. This includes the provision of access number via TTY through the federal information relay service at (1-800-887-8339) for persons with hearing or speech impairments.

The City encourages minority and women owned businesses to bid on upcoming projects, and the Housing and Redevelopment office will provide technical assistance in getting through the bid process to any minority or women owned business that competes for federally funded projects.

The City also provides for non-discrimination in regular hiring practices. The City seeks to hire minorities and women for any position for which an applicant is qualified and advertises widely when recruiting for vacancies.

Fair Housing outreach by the City of Chandler is an on-going responsibility of the Housing and Redevelopment activities. Each April, the Mayor will formally recognize Fair Housing Month



Initiatives through Council Resolution. A copy of the proclamation is posted and mailed to over 200 landlords, management companies, rental companies and media outlets. A Fair Housing booklet has also been developed in English and Spanish and has been distributed to, The Housing Division through the Housing Choice Voucher Program briefing packet, The Chandler Chamber of Commerce, Chandler Public Library and the City Manager's Office. The City also offered a fair housing workshop and invited all area landlords to attend. This workshop was free of charge.

The City will utilize key meeting areas such as the Housing and Redevelopment office to distribute information on fair housing and keep the public informed of the active program Chandler is conducting. The City has become fully aware of the existence, nature, extent and causes of all Fair Housing problems and continues to develop the resources available to solve them. In conjunction with outreach and education, the City of Chandler can continue to analyze and eliminate housing discrimination, promote housing that is physically accessible, and overall to promote fair housing choice for all persons.

With regard to specifics of the Housing Choice Voucher Program:

- The FSS program is marketed to all eligible Housing Choice Voucher (HCV) participants when applicants are deemed eligible for the HCV program. The Division administering the HCV program markets the FSS program to all eligible HCV participants regardless of disability or proficiency in the English language. The current coordinator is bilingual and is charged with making services available to individuals and families with special needs or to aide in overcoming language barriers.
- The buildings that house the HCV program and associate activities are ADA compliant either through handicapped modifications or construction type.
- Communications that facilitate HCV applications and service delivery are accessible and available in multiple formats, communication styles, and through individual translation. Assistive services are available for persons with disabilities or special needs.
- As mentioned in our HCV administrative plan, the Housing Division recruits new landlords in areas that offers choices to HCV participants and encourages HCV holder to pursue landlords that met their needs regardless of whether the landlord has participated in the HCV program before or not. Housing staff is always willing to speak with a new landlord or meet with a landlord to provide information about FSS, HCV and sell our service programs.
- The Housing Division has a web site that provides fair housing information containing video clips, Resources for education and training about our affordable housing programs and services. This resource makes it easier for information to be distributed to landlords, HCV applicants and participants alike. This service has significantly expanded our ability to communicate and reach more applicants, participants and landlords with information and services about all of our programs. There is a menu of language translations built into the site that makes translation of service information understandable.

Record-keeping for the Housing Division's and related HCV programs track information that is related to race, ethnicity, familial status, and to the extent allowed by law, disability status or program participants.

## **SPECIAL PROGRAMS**

**As of July 1, 2023, the Emergency Housing Voucher (EHV) Chapter 18 will now be changed to “Chapter 18, Special Programs” to reflect inclusion of Veteran’s Affairs Supportive Housing (VASH) and Emergency Housing Voucher (EHV) policies.**

COCHRD is or will be funded in separate appropriations from regular HCV and Public Housing programs in order to target specific populations. Special programs include the following programs:

- Part I: Emergency Housing Voucher (EHV)
- Part II: Project Based Voucher (PBV)

### **PHA Policy**

COCHRD will administer the following types of special purpose vouchers: Emergency Housing Vouchers (EHV) and Veterans Affairs Supportive Housing (VASH)

This chapter describes HUD regulations and PHA policies for administering special programs.

## **Part I**

### **EMERGENCY HOUSING VOUCHERS**

EHV is a temporary policy within Special Programs and has an expiration date of 9/2023 for voucher issuance and a maximum of 10 years for program participation.

### **Introduction**

On March 11, 2021, President Biden signed the American Rescue Plan Act of 2021 (ARP) (P.L. 117-2). Section 3202 of the ARP appropriated \$5 billion for the creation, administration, and renewal of new incremental emergency housing vouchers (EHVs) and other eligible expenses related to COVID-19.

On May 5, 2021, HUD issued Notice PIH 2021-15, which described HUD’s process for allocating approximately 70,000 EHVs to eligible PHAs and set forth the operating requirements for PHAs who administer them. Based on criteria outlined in the notice, HUD notified eligible PHAs of the number of EHVs allocated to their agency, and PHAs were able to accept or decline the invitation to participate in the program.

PHAs may not project-base EHVs; EHVs are exclusively tenant-based assistance.

All applicable nondiscrimination and equal opportunity requirements apply to the EHV program, including requirements that the PHA grant reasonable accommodations to persons with disabilities, effectively communicate with persons with disabilities, and ensure meaningful access for persons with limited English proficiency (LEP).

This chapter describes HUD regulations and PHA policies for administering EHV. The policies outlined in this chapter are organized into seven sections, as follows:

- **Funding**
- **Partnering Agencies**
- **Waiting List Management**
- **Family Eligibility**
- **Housing Search and Leasing**
- **Use of Funds, Reporting, and Financial Records**

**EXCEPT AS ADDRESSED BY THIS CHAPTER AND AS REQUIRED UNDER FEDERAL STATUTE AND HUD REQUIREMENTS, THE GENERAL REQUIREMENTS OF THE HCV PROGRAM APPLY TO EHV PROGRAM PARTICIPANTS.**

## **FUNDING**

### **18-1.A. FUNDING OVERVIEW**

The American Rescue Plan Act of 2021 (ARP) provides administrative fees and funding for the costs of administering emergency housing vouchers (EHVs) and other eligible expenses defined in Notice PIH 2021-15. These fees may only be used for EHV administration and other eligible expenses and must not be used for or applied to other PHA programs or vouchers. The PHA must maintain separate financial records from its regular HCV funding for all EHV funding.

#### **Housing Assistance Payments (HAP) Funding**

ARP funding obligated to the PHA as housing assistance payments (HAP) funding may only be used for eligible EHV HAP expenses (i.e., rental assistance payments). EHV HAP funding may not be used for EHV administrative expenses or for the eligible uses under the EHV services fee.

The initial funding term will expire December 31, 2022. HUD will provide renewal funding to the PHA for the EHV on a calendar year (CY) basis commencing with CY 2023. The renewal funding allocation will be based on the PHA's actual EHV HAP costs in leasing, similar to the renewal process for the regular HCV program. EHV renewal funding is not part of the annual HCV renewal funding formula; EHV are renewed separately from the regular HCV program. All renewal funding for the duration of the EHV program has been appropriated as part of the ARP funding.

#### **Administrative Fee and Funding**

The following four types of fees and funding are allocated as part of the EHV program:

- **Preliminary fees** support immediate start-up costs that the PHA will incur in implementing alternative requirements under EHV, such as outreach and coordination with partnering agencies:
  - \$400 per EHV allocated to the PHA, once the consolidated annual contributions contract (CACC) is amended.
  - This fee may be used for any eligible administrative expenses related to EHV.
- The fee may also be used to pay for any eligible activities under EHV service fees (TPS-I.B). **Placement fees/expedited issuance reporting fees** will support initial lease-up costs and the added cost and effort required to expedite leasing of EHV:

- \$100 for each EHV initially leased, if the PHA reports the voucher issuance date in Public Housing Information Center–Next Generation (PIC–NG) system within 14 days of voucher issuance or the date the system becomes available for reporting.
- Placement fees:
  - o \$500 for each EHV family placed under a HAP contract effective within four months of the effective date of the ACC funding increment; or
  - o \$250 for each EHV family placed under a HAP contract effective after four months but less than six months after the effective date of the ACC funding increment.
  - o HUD will determine placement fees in the event of multiple EHV allocations and funding increment effective dates.
- Placement/expedited issuance fees only apply to the initial leasing of the voucher; they are not paid for family moves or to turnover vouchers.
- **Ongoing administrative fees**, which are calculated in the same way as the standard HCV program:
  - PHAs are allocated administrative fees using the full column A administrative fee amount for each EHV under contract as of the first day of each month.
  - Ongoing EHV administrative fees may be subject to proration in future years, based on available EHV funding.
- **Services fees**, which are a one-time fee to support PHAs' efforts to implement and operate an effective EHV services program in its jurisdiction (TPS-I.B):
  - The fee is allocated once the PHA's CACC is amended to reflect EHV funding.
  - The amount allocated is \$3,500 for each EHV allocated.

## **18-I.B. SERVICE FEES**

Services fee funding must be initially used for defined eligible uses and not for other administrative expenses of operating the EHV program. Service fees fall into four categories:

- Housing search assistance
- Security deposit/utility deposit/rental application/holding fee uses
- Owner-related uses
- Other eligible uses such as moving expenses or tenant-readiness services

The PHA must establish the eligible uses and the parameters and requirements for service fees in the PHA's administrative plan.

### **PHA Policy**

The eligible uses for service fees include with prior approval of PHA:

**Housing search assistance**, which may include activities such as, but not limited to, helping a family identify and visit potentially available units during their housing search, helping to find a unit that meets the household's disability-related needs, providing transportation and directions, assisting with the completion of rental applications and PHA forms, and helping to expedite the EHV leasing process for the family.

**Application fees/non-refundable administrative or processing fees/refundable application deposit assistance.** The PHA may assist the family through a request for assistance with these expenses, which include no more than three application fees, non-refundable administrative and processing fees, and

refundable application deposit assistance.

**Holding fees** are fees an owner requests that are rolled into the security deposit after an application is accepted but before a lease is signed. The PHA may cover part or all 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 to the PHA. In general, owners need to accept responsibility for making needed repairs to a unit required by the initial housing inspections and can only keep the holding fee if the client is at fault for not entering into a lease.

**Security deposit assistance.** The amount of the security deposit assistance may not exceed one and a half months' (1-1/2 months') of total rent to owner (including all taxes and fees), which is the maximum security deposit allowed under applicable state law. The PHA may pay the security deposit assistance directly to the owner and will require a reconciliation of the security deposit once the family vacates the unit. A move-out inspection may also be scheduled at that time to assist with determination of damages.

**Utility deposit assistance/utility arrears.** The PHA may provide utility deposit assistance for all of the family's utility deposit expenses. Assistance can be provided for deposits (including same day connection fees) required for the utilities to be supplied by the tenant under the lease. The PHA may pay the utility deposit assistance directly to the utility company. The PHA will require 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). In addition, some families may have large balances with gas, electric, water, sewer, or trash companies that will make it difficult, if not impossible, to establish services for tenant-supplied utilities. The PHA may also provide the family with assistance to help address these utility arrears to facilitate leasing. Utility deposit assistance returned to the PHA will be used for either services fee eligible uses or other EHV administrative costs, as required by HUD.

**Owner recruitment and outreach for EHV's.** The PHA may use the service fee funding to conduct owner recruitment and outreach specifically for EHV's. In addition to traditional owner recruitment and outreach, activities may include conducting pre-inspections or otherwise expediting the inspection process, providing enhanced customer service, and offering owner incentive and/or retention payments.

**Owner incentive and/or retention payments.** The PHA may make incentive or retention payments to owners that agree to initially lease their unit to an EHV family and/or renew the EHV family's tenancy with a year lease or an agreement that extends the last full lease already in place.

Payments will be made as a single payment at the beginning of the assisted lease term (or lease renewal if a retention payment). Owner incentive and retention payments are not housing assistance payments, are not part of the rent to owner, and are not taken into consideration when determining whether the rent for the unit is reasonable.

**Moving expenses (including move-in fees and deposits).** The PHA may aid with some or all the family's reasonable move-in expenses when they initially lease a unit with the EHV. The PHA will not provide move-in expenses assistance for subsequent moves unless the family is required to move for reasons other than something the family did or failed to do (e.g., the PHA is terminating the HAP contract because the owner did not fulfill the owner responsibilities under the HAP contract or the owner is refusing to offer the family the opportunity to continue the family's tenancy with either a new lease or a month-to-month agreement after the initial lease term, as opposed to the family choosing to terminate the tenancy in order to move to another unit), or a family has to move due to domestic violence, dating violence, sexual assault, or stalking.

**Tenant-readiness services.** The PHA may use fees to help create a customized plan to address or mitigate barriers that individual families may face in renting a unit with an EHV, such as negative credit, lack of credit, negative rental or utility history, or to connect the family to other community resources (including COVID-related resources) that can assist with rental arrears.

**Essential household items.** The PHA may use services fee funding to assist the family with some or all the costs of acquiring essential household items such as tableware, cooking equipment, beds or bedding,

and essential sanitary products such as soap and toiletries.

**Renter's insurance if required by the lease.** The PHA may choose to assist the family with some or all this cost.

Any services fee assistance that is returned to the PHA after its initial or subsequent use may only be applied to the eligible services fee uses defined in Notice PIH 2021-15 (or subsequent notice) or other EHV administrative costs. Any amounts not expended for these eligible uses when the PHA's EHV program ends must be remitted to HUD.

## **PARTNERING AGENCIES**

### **18-I.C. CONTINUUM OF CARE (COC)**

PHAs that accept an allocation of EHV's are required to enter a Memorandum of Understanding (MOU) with the Continuum of Care (CoC) to establish a partnership for the administration of EHV's.

#### PHA Policy

The PHA has entered into an MOU with *Phoenix/Mesa Maricopa County Continuum of Care ("CoC")*. See Exhibit TPS-1 for a copy of the MOU.

### **18-I.D. OTHER PARTNERING ORGANIZATIONS**

The PHA may, but is not required to, partner with other organizations trusted by persons experiencing homelessness, such as victim services providers (VSPs) and other community partners. If the PHA chooses to partner with such agencies, the PHA must either enter into an MOU with the partnering agency or the partnering agency may be added to the MOU between the PHA and CoC.

#### PHA Policy

The PHA works with local organization that assist those experiencing homelessness as detailed in the MOU between the PHA and CoC. See Exhibit TPS-1 for a copy of the MOU.

### **18-I.E. REFERRALS**

#### **CoC and Partnering Agency Referrals**

The primary responsibility of the CoC under the MOU with the PHA is to make direct referrals of qualifying individuals and families to the PHA. The PHA must generally refer a family that is seeking EHV assistance directly from the PHA to the CoC or other referring agency for initial intake, assessment, and possible referral for EHV assistance. Partner CoCs are responsible for determining whether the family qualifies under one of the four eligibility categories for EHV's. The CoC or other direct referral partner must provide supporting documentation to the PHA of the referring agency's verification that the family meets one of the four eligible categories for EHV assistance.

#### PHA Policy

The CoC or partnering agency must establish and implement a system to identify EHV-eligible individuals and families within the agency's caseload and make referrals to the PHA. The CoC or other partnering agency must certify that the EHV applicants they refer to the PHA meet at least one of the four EHV eligibility criteria. The PHA will maintain a copy of the referral or certification form from the CoC or other partnering agency in the participant's file along with other eligibility paperwork. Homeless

service providers may, but are not required to, use the certification form found in Exhibit TPS-2 of this chapter. Victim services providers may, but are not required to, use the certification form found in Exhibit TPS-3 of this chapter when identifying eligible families who qualify as victims of human trafficking.

As part of the MOU, the PHA and CoC or other partnering agency will identify staff positions to serve as lead EHV liaisons. These positions will be responsible for transmission and acceptance of referrals. The CoC or partnering agency must commit sufficient staff and resources to ensure eligible individuals and families are identified and determined eligible in a timely manner.

The PHA liaison responsible for acceptance of referrals will contact the CoC or partnering agency liaison via email indicating the number of vouchers available and requesting an appropriate number of referrals. No more than five business days from the date the CoC or partnering agency receives this notification, the CoC or partnering agency liaison will provide the PHA with a list of eligible referrals including the name, address, and contact phone number for each adult individual who is being referred; a completed release form for each adult family member; and a written certification for each referral indicating they are EHV-eligible.

#### **Offers of Assistance with CoC Referral**

The PHA may make an EHV available without a referral from the CoC or other partnering organization in order to facilitate an emergency transfer under VAWA in accordance with the PHA's Emergency Transfer Plan (ETP) in Chapter 16 (Program Administration, Exhibit 16-3).

The PHA must also take direct referrals from outside the CoC if:

- The CoC does not have a sufficient number of eligible families to refer to the PHA; or
- The CoC does not identify families that may be eligible for EHV assistance because they are fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking or human trafficking.

If at any time the PHA is not receiving enough referrals or is not receiving referrals in a timely manner from the CoC or other partner referral agencies (or the PHA and CoC cannot identify any such alternative referral partner agencies), HUD may permit the PHA on a temporary or permanent basis to take EHV applications directly from applicants and admit eligible families to the EHV program in lieu of or in addition to direct referrals in those circumstances.

## **WAITING LIST MANAGEMENT**

### **18-I.F. HCV WAITING LIST**

The regulation that requires the PHA to admit applicants as waiting list admissions or special admissions in accordance with admission policies in Chapter 4 (Applications, Waiting List, and Tenant Selection) does not apply to PHAs operating the EHV program. Direct referrals are not added to the PHA's HCV waiting list.

The PHA must inform families on the HCV waiting list of the availability of EHV by, at a minimum, either by posting the information to their website or providing public notice in their respective communities in accordance with the requirements listed in Notice PIH 2021-15.

#### **PHA Policy**

The PHA will post information about the EHV program for families on the PHA's HCV waiting list on their website. The notice will:

Describe the eligible populations to which EHV is limited: Homeless; at risk of homelessness; fleeing or attempting to flee, domestic violence, dating violence, stalking, or human trafficking; or recently homeless and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing instability.

Clearly state that the availability of these EHV is managed through a direct referral process:

Eligible Referrals. In general, EHV-qualified individuals or families may be eligible for EHV if they are:

1. Directly referred to the PHA from the CES based on confirmed availability of number of referrals needed by PHA.
2. Directly referred to CES from local providers, homeless programs, temporary housing programs, street outreach teams and other referring agencies and Other
3. Service Providers by completing a referral in the form mutually agreed upon by PHA and CoC, attached hereto as Exhibit “B” (“Referral Form and Eligibility Certificate”) PHA and the CoC may agree, from time to time, to revise the form.
4. Move on strategy from Tenant Based Rental Assistance (“TBRA”), Rapid Rehousing (“RRH”) and Permanent Supportive Housing (“PSH”) with PHA providing a list of individuals to CES through the Referral Form and Eligibility Certificate .
5. RRH initially referred through CES and Domestic, Dating, Sexual, Stalking or Trafficking, Violent Crime victims, providers will not have to go through CES, these providers can make direct referrals to PHA.

#### **Emergency Transfers.**

The PHA may also make an EHV voucher available to facilitate an emergency transfer in accordance with the Violence Against Women Act (“VAWA”) as outlined in the PHA’s HCV Administrative Plan. If a family believes they may be eligible for EHV assistance, the referral will come from the Family Housing HUB Coordinated Entry System (CES), and the Single’s Individual Coordinated Entry System, and other domestic violence agencies.

The PHA will ensure effective communication with persons with disabilities, including those with vision, hearing, and other communication-related disabilities in accordance with Chapter 2 (Fair Housing and Equal Opportunity). The PHA will also take reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP) in accordance with Chapter 2 (Fair Housing and Equal Opportunity).

### **18-I.G. EHV WAITING LIST**

The HCV regulations requiring the PHA to operate a single waiting list for admission to the HCV program do not apply to PHAs operating the EHV program. Instead, when the number of applicants referred by the CoC or partnering agency exceeds the EHV available, the PHA must maintain a separate waiting list for EHV referrals, both at initial leasing and for any turnover vouchers that may be issued prior to September 30, 2023.

Further, the EHV waiting list is not subject to PHA policies in Chapter 4 (Applications, Waiting List, and Tenant Selection) regarding opening and closing the HCV waiting list. The PHA will work directly with its CoC and other referral agency partners to manage the number of referrals and the size of the EHV waiting list.

### **18-I.H. PREFERENCES**

#### **HCV Waiting List Preferences**

If local preferences are established by the PHA for HCV, they do not apply to EHV. However, if the PHA has a homeless preference or a VAWA preference for the HCV waiting list, the PHA must adopt additional policies related to EHV in accordance with Notice PIH 2021-15.

#### PHA Policy

The PHA does not offer either a homeless or a VAWA preference for the HCV waiting list.



### **EHV Waiting List Preferences**

With the exception of a residency preference, the PHA may choose, in coordination with the CoC and other referral partners, to establish separate local preferences for EHV. The PHA may, however, choose to not establish any local preferences for the EHV waiting list.

#### PHA Policy

No local preferences have been established for the EHV waiting list. The PHA will attempt to process referrals in the order they are received with date/time being the determining factor for initial referrals from CoC.

If the PHA encounters a backlog of referrals, the PHA will establish an EHV waiting list in accordance with EHV program requirements and described in the PHA Administrative Plan.

## **FAMILY ELIGIBILITY**

### **18-I.I. OVERVIEW**

The CoC or referring agency determines whether the individual or family meets any one of the four eligibility criteria described in Notice PIH 2021-15 and then refers the family to the PHA. The PHA determines that the family meets other eligibility criteria for the HCV program, as modified for the EHV program and outlined below.

### **18-I.J. REFERRING AGENCY DETERMINATION OF ELIGIBILITY**

In order to be eligible for an EHV, an individual or family must meet one of four eligibility criteria:

- Homeless as defined in 24 CFR 578.3;
- At risk of homelessness as defined in 24 CFR 578.3;
- Fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking (as defined in Notice PIH 2021-15), or human trafficking (as defined in the 22 U.S.C. Section 7102); or
- Recently homeless and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing instability as determined by the CoC or its designee in accordance with the definition in Notice PIH 2021-15.

As applicable, the CoC or referring agency must provide documentation to the PHA of the referring agency's verification that the family meets one of the four eligible categories for EHV assistance. The PHA must retain this documentation as part of the family's file.

### **18-I.K. PHA SCREENING**

#### **OVERVIEW**

HUD waived 24 CFR 982.552 and 982.553 in part for the EHV applicants and established alternative requirement for mandatory and permissive prohibitions of admissions. Except where applicable, PHA policies regarding denials in Chapter 3 (Eligibility) of this policy do not apply to screening individuals and families for eligibility for an EHV. Instead, the EHV alternative requirement listed in this section will apply to all EHV applicants.

The mandatory and permissive prohibitions listed in Notice PIH 2021-15 and in this chapter, however, apply

only when screening the individual or family for eligibility for an EHV. When adding a family member after the family has been placed under a HAP contract with EHV assistance, the regulations at 24 CFR 982.551(h)(2) apply. Other than the birth, adoption, or court-awarded custody of a child, the PHA must approve additional family members and may apply its regular HCV screening criteria in Chapter 3 (Eligibility) in doing so.

### **Mandatory Denials**

Under alternative requirements for the EHV program, mandatory denials for EHV applicants include:

- 24 CFR 982.553(a)(1)(ii)(C), which prohibits admission 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.
- 24 CFR 982.553(a)(2)(i), which prohibits admission to the program if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program.

The PHA must deny admission to the program if any member of the family fails to sign and submit consent forms for obtaining information as required by 24 CFR 982.552(b)(3) but should notify the family of the limited EHV grounds for denial of admission first.

#### PHA Policy

While the PHA will deny admission to the program if any adult member (or head of household or spouse, regardless of age) fails to sign and submit consent forms, the PHA will first notify the family of the limited EHV grounds for denial of admission as part of the notice of denial that will be mailed and/or emailed to the family. The denial letter may also be provided to case management or navigation, if available.

### **Permissive Denial**

Notice PIH 2021-15 lists permissive prohibitions for which the PHA may, but is not required to, deny admission to EHV families. The notice also lists prohibitions that, while allowable under the HCV program, may not be used to deny assistance for EHV families.

If the PHA intends to establish permissive prohibition policies for EHV applicants, the PHA must first consult with its CoC partner to understand the impact that the proposed prohibitions may have on referrals and must take the CoC's recommendations into consideration.

#### PHA Policy

In consultation with the CoC, the PHA will apply permissive prohibition to the screening of EHV applicants. Determinations using permissive prohibitions will be made based on an individualized assessment of relevant mitigating information in accordance with policies in Section 3-III.E.

The PHA will establish the following permissive prohibitions:

If the PHA determines that any household member is currently engaged in, or has engaged in within the previous 12 months:

Violent criminal activity

Other criminal activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity

If any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program within the previous 12 months.

If the family engaged in or threatened abusive or violent behavior toward PHA personnel within the previous 12 months.

The PHA will also deny assistance to household members already receiving assistance from another program in accordance with Section 9.h. of Notice PIH 2021-15.

Prohibitions based on criminal activity for the eligible EHV populations regarding drug possession will be considered apart from criminal activity against persons (i.e., violent criminal activity).

In compliance with PIH 2021-15, the PHA **will not** deny an EHV applicant admission regardless of whether:

Any member of the family has been evicted from federally assisted housing in the last five years;

A PHA has ever terminated assistance under the program for any member of the family;

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;

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;

The family breached an agreement with the PHA to pay amounts owed to a PHA, or amounts paid to an owner by a PHA;

The family would otherwise be prohibited admission under alcohol abuse standards established by the PHA in accordance with 24 CFR 982.553(a)(3);

The PHA determines that any household member is currently engaged in or has engaged in during a reasonable time before the admission at least six months, drug-related criminal activity.

## **18-I.L. INCOME VERIFICATION AT ADMISSION**

### **Self-Certification at Admission**

The requirement to obtain third-party verification of income in accordance with Notice PIH 2018-18 does not apply to the EHV program applicants at admission, and alternatively, PHAs may consider self-certification the highest form of income verification at admission. As such, PHA policies related to the verification of income in Section 7-I.B. do not apply to EHV families at admission. Instead, applicants must submit an affidavit attesting to their reported income, assets, expenses, and other factors that would affect an income eligibility determination.

Additionally, applicants may provide third-party documentation that represents the applicant's income within the 60-day period prior to admission or voucher issuance but is not dated within 60 days of the PHA's request.

#### **PHA Policy**

Any documents used for verification must be the original (not photocopies) and dated within the 60-day period prior to admission. The documents must not be damaged, altered, or in any way illegible.

Printouts from webpages are considered original documents.

Any family self-certifications must be made in a format acceptable to the PHA and must be signed by the family member whose information or status is being verified.

The PHA will incorporate additional procedures to remind families of the obligation to provide true and complete information in accordance with Chapter 14 (Program Integrity). The PHA will address any material discrepancies (i.e., unreported income or a substantial difference in reported income) that may arise later. The PHA may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16 (Program Administration). If the family fails to repay the excess subsidy, the PHA will terminate the family's assistance in accordance with the policies in Chapter 12 (Termination of Assistance and Tenancy).

### **Recently Conducted Income Determinations**

PHAs may accept income calculations and verifications from third-party providers or from an examination that the PHA conducted on behalf of the family for another subsidized housing program in lieu of conducting an initial

examination of income as long as:

- The income was calculated in accordance with rules outlined at 24 CFR Part 5 and within the last six months; and
  - The family certifies there has been no change in income or family composition in the interim.

#### PHA Policy

The PHA will accept income calculations and verifications from third-party providers provided they meet the criteria outlined above.

The family certification must be made in a format acceptable to the PHA and must be signed by all adult family members whose information or status is being verified.

At the time of the family's annual reexamination, the PHA must conduct the annual reexamination of income as outlined at 24 CFR 982.516 and PHA policies in Chapter 11 (Reexaminations).

#### **EIV Income Validation**

Once HUD makes the EIV data available to PHAs under this waiver and alternative requirement, the PHA must:

- Review the EIV Income and Income Validation Tool (IVT) reports to confirm and validate family-reported income within 90 days of the PIC submission date;
- Print and maintain copies of the EIV Income and IVT Reports in the tenant file; and
- Resolve any income discrepancy with the family within 60 days of the EIV Income or IVT Report dates.

Prior to admission, PHAs must continue to use HUD's EIV system to search for all household members using the Existing Tenant Search in accordance with PHA policies in Chapter 3 (Eligibility).

If a PHA later determines that an ineligible family received assistance, the PHA must take steps to terminate that family from the program in accordance with Chapter 12 (Termination of Assistance).

### **18-I.M. SOCIAL SECURITY NUMBER AND CITIZENSHIP STATUS VERIFICATION**

For the EHV program, the PHA is not required to obtain and verify SSN documentation and documentation evidencing eligible noncitizen status before admitting the family to the EHV program. Instead, PHAs may adopt policies to admit EHV applicants who are unable to provide the required SSN or citizenship documentation during the initial eligibility determination. As an alternative requirement, such individuals must provide the required documentation within 180 days of admission to be eligible for continued assistance, pending verification, unless the PHA provides an extension based on evidence from the family or confirmation from the CoC or other partnering agency that the family has made a good-faith effort to obtain the documentation.

If a PHA determines that an ineligible family received assistance, the PHA must take steps to terminate that family from the program.

#### PHA Policy

The PHA will admit EHV applicants who are unable to provide the required SSN or citizenship documentation during the initial eligibility determination. These individuals must provide the required documentation in accordance with policies in Chapter 7 (Verification) within 180 days of admission. The PHA may provide an additional 60-day extension based on evidence from the family or confirmation from the CoC or other partnering agency that the family has made a good-faith effort to obtain the documentation.

If the PHA determines that an ineligible family received assistance, the PHA will take steps to terminate that family from the program in accordance with policies in Chapter 12 (Termination of Assistance and Tenancy).

#### **18-I.N. AGE AND DISABILITY VERIFICATION**

PHAs may accept self-certification of date of birth and disability status if a higher level of verification is not immediately available. If self-certification is used, the PHA must obtain a higher level of verification within 90 days of admission or verify the information in EIV.

If a PHA determines that an ineligible family received assistance, the PHA must take steps to terminate that family from the program.

##### **PHA Policy**

The PHA will accept self-certification of date of birth and disability status if a higher form of verification is not immediately available. The certification must be made in a format acceptable to the PHA and must be signed by the family member whose information or status is being verified. If self-certification is accepted, within 90 days of admission, the PHA will verify the information in EIV or through other third-party verification if the information is not available in EIV. The PHA will note the family's file that self-certification was used as initial verification and include an EIV printout or other third-party verification confirming the applicant's date of birth and/or disability status.

If the PHA determines that an ineligible family received assistance, the PHA will take steps to terminate that family from the program in accordance with policies in Chapter 12 (Termination of Assistance and Tenancy).

#### **18-I.O. INCOME TARGETING**

The PHA must determine income eligibility for EHV families in accordance with 24 CFR 982.201 and PHA policy in Chapter 3 (Eligibility); however, income targeting requirements do not apply for EHV families. The PHA may still choose to include the admission of extremely low-income EHV families in its income targeting numbers for the fiscal year in which these families are admitted.

##### **PHA Policy**

The PHA will not include the admission of extremely low-income EHV families in its income targeting numbers for the fiscal year in which these families are admitted.

### **HOUSING SEARCH AND LEASING**

#### **18-I.P. INITIAL VOUCHER TERM**

Unlike the standard HCV program, which requires an initial voucher term of at least 60 days, EHV vouchers must have an initial search term of at least 120 days. PHA policies on extensions as outlined in Section 5-II.E. will apply.

##### **PHA Policy**

All EHV's will have an initial term of 120 calendar days.

The family must submit a Request for Tenancy Approval and proposed lease within the 120-day period unless the PHA grants an extension. Extensions will be granted in 30-day increments.

## **18-I.Q. HOUSING SEARCH ASSISTANCE**

The PHA must ensure housing search assistance is made available to EHV families during their initial housing search. The housing search assistance may be provided directly by the PHA or through the CoC or another partnering agency or entity.

At a minimum, housing search assistance must:

- Help individual families identify potentially available units during their housing search, including physically accessible units with features for family members with disabilities, as well as units in low-poverty neighborhoods;
- Provide transportation assistance and directions to potential units;
- Conduct owner outreach;
- Assist with the completion of rental applications and PHA forms; and
- Help expedite the EHV leasing process for the family.

### **PHA Policy**

As identified in the MOU between the PHA and CoC, the following housing search assistance will be provided to each EHV family:

The PHA will:

1. **PHA Required Services.** In accordance with PIH Notice 2021-15 (HA) Subsection 9.d. The PHA is required to provide the following services, at a minimum, in partnership with the CoC or Other Service Providers (if applicable), or by utilizing the Services Fee to obtain services.
2. **Housing Search Assistance.**
  - a. Help individual families identify potentially available units during their housing search, including physically accessible units with features for family members with disabilities, as well as units in low poverty neighborhoods;
  - b. Provide transportation assistance as needed and directions to potential units;
  - c. Conduct owner outreach;
  - d. Assist with the completion of rental applications and PHA forms;
  - e. Help expedite the EHV leasing process for the family.
3. **CoC Required Services.** The CoC in coordination with Other Services Providers as identified in Section 7 agrees to be responsible for providing the following services to offer or make connections to supportive services for families that are referred to the PHA. CoCs and PHAs seek a diverse range of supportive services by partnering with organizations trusted by people experiencing homelessness assess, arrange, coordinate, and monitor the delivery of individualized services to meet the needs of EHV participants throughout their participation in the program. The PHA agrees to collaborate with the service provider on the effective provision and delivery of these services.
4. **Application Assistance and Active Case Management.**
  - a. Conducting the initial evaluation, verifying and documenting EHV eligibility;
  - b. Supporting individuals and families in completing applications and obtaining necessary documentation.
  - c. Conducting an initial needs assessment to include an evaluation of other assistance the participant may need including, but not limited to, other Referral Services (see Subsection 21 below) and Optional Lease Up Services (see Subsection 22 below).

- d. Ensuring participants attend PHA appointments;
- e. Attending the family briefing appointment with the participant to assist the participant in understanding their responsibilities related to their lease;
- f. Counseling;
- g. Assisting participants in securing and coordinating other services or benefits from Federal, State, and local assistance programs;
- h. Monitoring and evaluating program participant progress;
- i. Providing the participant with information and referrals to other providers;
- j. Providing ongoing risk assessment and safety planning with victims of domestic violence, dating violence, sexual assault, and stalking; and
- k. Developing an individualized housing and service plan, including planning a path to permanent housing stability.

Conduct owner outreach in accordance with policies in Chapter 13 (Owners)

Provide directions to potential units as part of the EHV briefing packet

Expedite the EHV leasing process for the family to the extent practicable and in accordance with policies in this chapter

At least every 30 days, conduct proactive check-ins via email and telephone with families who are searching with an EHV and remind them of their voucher expiration date

Assign a dedicated landlord liaison for EHV voucher families

The CoC will:

Help families identify potentially available units during their housing search, including physically accessible units with features for family members with disabilities, as well as units in low-poverty neighborhoods

Provide transportation assistance to potential units

Assist the family with the completion of rental applications and PHA forms

### **18-I.R. HOUSING PRE-INSPECTIONS**

To expedite the leasing process, PHAs may pre-inspect available units that EHV families may be interested in leasing in order to maintain a pool of eligible units.

#### **PHA Policy**

City of Chandler participates in a HUD NSPIRE inspection demonstration.

To expedite the leasing process, the PHA may pre-inspect available units that EHV families may be interested in leasing to maintain a pool of eligible units. If an EHV family selects a unit that passed a housing pre-inspection (without intervening occupancy) within 45 days of the date of the Request for Tenancy Approval, the unit may be approved provided that it meets all other conditions under 24 CFR 982.305.

The family will be free to select his or her unit.

When a pre-inspected unit is not selected, the PHA will make every effort to fast-track the inspection process, including adjusting the normal inspection schedule for any required reinspections.

### **I.S. INITIAL LEASE TERM**

Unlike in the standard the HCV program, EHV voucher holders may enter into an initial lease that is for less than

12 months, regardless of the PHA policy in Section 9-I.E., Term of Assisted Tenancy.

### **Portability**

The normal HCV portability procedures and requirements outlined in Chapter 10 (Moving with Continued Assistance and Portability) generally apply to EHV. Exceptions are addressed below.

#### **Nonresident Applicants**

Under EHV, applicant families may move under portability even if the family did not have legal residency in the jurisdiction of the initial PHA when they applied, regardless of PHA policy in Section 10-II.B.

#### **Billing and Absorption**

A receiving PHA cannot refuse to assist an incoming EHV family, regardless of whether the PHA administers EHV under its own ACC.

- If the EHV family moves under portability to another PHA that administers EHV under its own ACC:
  - The receiving PHA may only absorb the incoming EHV family with an EHV (assuming it has an EHV voucher available to do so).
  - If the PHA does not have an EHV available to absorb the family, it must bill the initial PHA. The receiving PHA must allow the family to lease the unit with EHV assistance and may not absorb the family with a regular HCV when the family leases the unit.
  - Regardless of whether the receiving PHA absorbs or bills the initial PHA for the family's EHV assistance, the EHV administration of the voucher is in accordance with the receiving PHA's EHV policies.
- If the EHV family moves under portability to another PHA that does not administer EHV under its own ACC, the receiving PHA may absorb the family into its regular HCV program or may bill the initial PHA.

### **Family Briefing**

In addition to the applicable family briefing requirements at 24 CFR 982.301(a)(2) as to how portability works and how portability may affect the family's assistance, the initial PHA must inform the family how portability may impact the special EHV services and assistance that may be available to the family.

The initial PHA is required to help facilitate the family's portability move to the receiving PHA and inform the family of this requirement in writing, taking reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP).

#### PHA Policy

In addition to following PHA policy on briefings in Chapter 5 (Briefings and Voucher Issuance), as part of the briefing packet for EHV families, the PHA will include a written notice that the PHA will assist the family with moves under portability.

For limited English proficient (LEP) applicants, the PHA will provide interpretation services in accordance with the PHA's LEP plan (See Chapter 2, Fair Housing and Equal Opportunity).

### **Coordination of Services**

If the portability move is in connection with the EHV family's initial lease-up, the receiving PHA and the initial PHA must consult and coordinate on the EHV services and assistance that will be made available to the family.

#### PHA Policy

For EHV families who are exercising portability, when the PHA contacts the receiving PHA in accordance with Section 10-II.B. Preapproval Contact with Receiving PHA, the PHA will consult and coordinate with the receiving PHA to ensure there is no duplication of EHV services and assistance, and ensure the



receiving PHA is aware of the maximum amount of services fee funding that the initial PHA may provide to the receiving PHA on behalf of the family.

#### **Services Fee**

Standard portability billing arrangements apply for HAP and ongoing administrative fees for EHV families.

For service fees funding, the amount of the service fee provided by the initial PHA may not exceed the lesser of the actual cost of the services and assistance provided to the family by the receiving PHA or \$1,750, unless the initial PHA and receiving PHA mutually agree to change the \$1,750 cap. Service fees are paid as follows:

- If the receiving PHA, in consultation and coordination with the initial PHA, will provide eligible services or assistance to the incoming EHV family, the receiving PHA may be compensated for those costs by the initial PHA, regardless of whether the receiving PHA bills or absorbs.
- If the receiving PHA administers EHV, the receiving PHA may use its own services fee and may be reimbursed by the initial PHA, or the initial PHA may provide the services funding upfront to the receiving PHA for those fees and assistance.
- If the receiving PHA does not administer EHV, the initial PHA must provide the services funding upfront to the receiving PHA. Any amounts provided to the receiving PHA that are not used for services or assistance on behalf of the EHV family must promptly be returned by the receiving PHA to the initial PHA.

#### **Placement Fee/Issuance Reporting Fee**

If the portability lease-up qualifies for the placement fee/issuance reporting fee, the receiving PHA receives the full amount of the placement component of the placement fee/issuance reporting fee. The receiving PHA is eligible for the placement fee regardless of whether the receiving PHA bills the initial PHA or absorbs the family into its own program at initial lease-up. The initial PHA qualifies for the issuance reporting component of the placement fee/issuance reporting fee, as applicable.

### **18-I.T. PAYMENT STANDARDS**

#### **Payment Standard Schedule**

For the EHV program, HUD has waived the regulation requiring a single payment standard for each unit size. Instead, the PHA may, but is not required to, establish separate higher payment standards for EHV. Lower EHV payment standards are not permitted. If the PHA is increasing the regular HCV payment standard, the PHA must also increase the EHV payment standard if it would be otherwise lower than the new regular HCV payment standard. The separate EHV payment standard must comply with all other HCV requirements with the exception of the alternative requirements discussed below.

Further, if the PHA chooses to establish higher payments standards for EHV, HUD has provided other regulatory waivers:

- Defining the “basic range” for payment standards as between 90 and 120 percent of the published Fair Market Rent (FMR) for the unit size (rather than 90 to 110 percent).
- Allowing a PHA that is not in a designated Small Area FMR (SAFMR) area or has not opted to voluntarily implement SAFMRs to establish exception payment standards for a ZIP code area above the basic range for the metropolitan FMR based on the HUD published SAFMRs. The PHA may establish an exception payment standard up to 120 percent (as opposed to 110 percent) of the HUD published Small Area FMR for that ZIP code area. The exception payment standard must apply to the entire ZIP code area.
  - The PHA must notify HUD if it establishes an EHV exception payment standard based on the SAFMR.

#### **PHA Policy**

The PHA established a higher payment standard amount for EHV.

#### **Rent Reasonableness**

All rent reasonableness requirements apply to EHV units, regardless of whether the PHA has established an alternative or exception EHV payment standard.

#### **Increases in Payment Standards**

The requirement that the PHA apply increased payment standards at the family's first regular recertification on or after the effective date of the increase does not apply to EHV. The PHA may, but is not required to, establish an alternative policy on when to apply the increased payment standard, provided the increased payment standard is used to calculate the HAP no later than the effective date of the family's first regular reexamination following the change.

##### PHA Policy

The PHA will not establish an alternative policy for increases in the payment standard. PHA policy in Section 11-III.B. governing increases in payment standards will apply to EHV.

#### **18-I.U. TERMINATION OF VOUCHERS**

After September 30, 2023, a PHA may not reissue EHV when assistance for an EHV-assisted family ends. This means that when an EHV participant (a family that is receiving rental assistance under a HAP contract) leaves the program for any reason, the PHA may not reissue that EHV to another family unless it does so no later than September 30, 2023.

If an applicant family that was issued the EHV is unsuccessful in finding a unit and the EHV expires after September 30, 2023, the EHV may not be reissued to another family.

All EHV under lease on or after October 1, 2023, may not under any circumstances be reissued to another family when the participant leaves the program for any reason.

An EHV that has never been issued to a family may be initially issued and leased after September 30, 2023, since this prohibition only applies to EHV that are being reissued upon turnover after assistance to a family has ended. However, HUD may direct PHAs administering EHV to cease leasing any unleased EHV if such action is determined necessary by HUD to ensure there will be sufficient funding available to continue to cover the HAP needs of currently assisted EHV families.

#### **USE OF FUNDS, REPORTING, AND FINANCIAL RECORDS**

EHV funds allocated to the PHA for HAP (both funding for the initial allocation and HAP renewal funding) may only be used for eligible EHV HAP purposes. EHV HAP funding obligated to the PHA may not be used for EHV administrative expenses or the other EHV eligible expenses under this notice. Likewise, EHV administrative fees and funding obligated to the PHA are to be used for those purposes and must not be used for HAP.

The appropriated funds for EHV are separate from the regular HCV program and may not be used for the regular HCV program but may only be expended for EHV eligible purposes. EHV HAP funds may not roll into the regular HCV restricted net position (RNP) and must be tracked and accounted for separately as EHV RNP. EHV administrative fees and funding for other eligible expenses permitted by Notice PIH 2021-15 may only be used in support of the EHV and cannot be used for regular HCVs. EHV funding may not be used for the repayment of debts or any amounts owed to HUD by HUD program participants including, but not limited to, those resulting from Office of Inspector General (OIG), Quality Assurance Division (QAD), or other monitoring review findings.

The PHA must comply with EHV reporting requirements in the Voucher Management System (VMS) and Financial Data Schedule (FDS) as outlined in Notice PIH 2021-15.

The PHA must maintain complete and accurate accounts and other records for the program and provide HUD and the Comptroller General of the United States full and free access to all accounts and records that are pertinent the administration of the EHV in accordance with the HCV program requirements at 24 CFR 982.158.

**Exhibit TPS-1: MEMORANDUM OF UNDERSTANDING (MOU)**

**Attachment 2 of Notice PIH 2021-15 - Sample MOU Template**

**Memorandum of Understanding**

**[\*\* This sample document demonstrates the Memorandum of Understanding requirements for the administration Emergency Housing Voucher. Unless otherwise noted, all elements are required. \*\*]**

This Memorandum of Understanding (MOU) has been created and entered into on  
[\*\* **Insert execution date.** \*\*].

[PHA Name and Address]

[CoC Name and Address]

- I. Introduction and Goals (the following elements, listed in a. – c., are required elements of the MOU):
- a. PHA and CoC's commitment to administering the EHV's in accordance with all program requirements.
  - b. PHA goals and standards of success in administering the program.
  - c. Identification of staff position at the PHA and CoC who will serve as the lead EHV liaisons.  
Lead HCV Liaison:  
[Name and title of PHA staff position]  
Responsibilities of the PHA EHV liaison [\*\*Optional\*\*].  
[Name and title of CoC staff position]  
Responsibilities of the CoC EHV liaison [\*\*Optional\*\*].
- II. Define the populations eligible for EHV assistance to be referred by CoC.

### III. Services to be provided to eligible EHV families

1. List the services to be provided to assist individuals and families have success in the program and who will provide them.

[\*\*The following services are listed for example purposes. \*\*]

1. Partnering service providers will support individuals and families in completing applications and obtaining necessary supporting documentation to support referrals and applications for assistance; while aiding households in addressing barriers.
2. Partnering service providers will support PHAs in ensuring appointment notifications to eligible individuals and families and will assist eligible households in getting to meetings with the PHA.
3. PHAs will establish windows of time for EHV applicants to complete intake interviews for EHV.
4. Partnering service providers will provide housing search assistance for eligible individuals and families.
5. Partnering service providers will provide counseling on compliance with rental lease requirements.
6. Partnering service providers will assess individuals and families who may require referrals for assistance on security deposits, utility hook-up fees, and utility deposits.
7. Partnering service providers will assess and refer individuals and families to benefits and supportive services, where applicable.

### IV. PHA Roles and Responsibilities

[\*\*The following responsibilities are listed for example purposes. \*\*]

1. Coordinate and consult with the CoC in developing the services and assistance to be offered under the EHV services fee.
2. Accept direct referrals for eligible individuals and families through the CoC Coordinated Entry System.
3. Commit a sufficient number of staff and necessary resources to ensure that the application, certification, and voucher issuance processes are completed in a timely manner.
4. Commit a sufficient number of staff and resources to ensure that inspections of units are completed in a timely manner.
5. Designate a staff to serve as the lead EHV liaison.
6. Comply with the provisions of this MOU.

## V. CoC Roles and Responsibilities

[\*\*The following responsibilities are listed for example purposes. \*\*]

1. Designate and maintain a lead EHV liaison to communicate with the PHA.
2. Refer eligible individuals and families to PHA using the community's coordinated entry system.
3. Support eligible individuals and households in completing and applying for supportive documentation to accompany admissions application to the PHA (i.e. self-certifications, birth certificate, social security card, etc.).
4. Attend EHV participant briefings when needed.
5. Assess all households referred for EHV for mainstream benefits and supportive services available to support eligible individuals and families through their transition.
6. Identify and provide supportive services to EHV families. (While EHV participants are not required to participate in services, the CoC should assure that services are available and accessible.)
7. Comply with the provisions of this MOU.

## VI. Third Party Entity Roles Responsibilities

[\*\*The following responsibilities are listed for example purposes. \*\*]

1. Describe how the State, local, philanthropic, faith-based organizations, Victim Service Providers or CoC recipients it designates will fulfill each of the following responsibilities:
  - a. Outline resource and/or service being provided in support of the community's EHV Program. Commit a sufficient number of staff and necessary resources to ensure that the application, certification and voucher issuance processes are completed in a timely manner.
  - b. Comply with the provisions of this MOU. VII. Program Evaluation

The PHA, and CoC or designated CoC recipient agree to cooperate with HUD, provide requested data to HUD or HUD-approved contractor delegated the responsibility of program evaluation protocols established by HUD or HUD-approved contractor, including possible random assignment procedures.

[Signed and dated by the official representatives of the PHA, CoC, CoC Contractor organization (if applicable), and third-party entities (if applicable).]

Signed by

\_\_\_\_\_  
Executive Director, PHA

\_\_\_\_\_  
Date

\_\_\_\_\_  
CoC Executive Director

\_\_\_\_\_  
Date

**Exhibit TPS-2: HOMELESS PROVIDER'S CERTIFICATION**

**Attachment 3 of Notice PIH 2021-15 Example of a Homeless Provider's Certification**

**Emergency Housing Voucher (EHV)**

**HOMELESS CERTIFICATION**

EHV Applicant Name: \_\_\_\_\_

☐ Household without dependent children (complete one form for each adult in the household)

☐ Household with dependent children (complete one form for household)  
Number of persons in the household: \_\_\_\_\_

**This is to certify that the above named individual or household meets the following criteria based on the check mark, other indicated information, and signature indicating their current living situation-**

**Check only one box and complete only that section**

**Living Situation: place not meant for human habitation (e.g., cars, parks, abandoned buildings, streets/sidewalks)**

☐ The person(s) named above is/are currently living in (or, if currently in hospital or other institution, was living in immediately prior to hospital/institution admission) 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 station, airport, or camp ground.

Description of current living situation:

**Homeless Street Outreach Program**

Name: \_\_\_\_\_

*This certifying agency must be recognized by the local Continuum of Care (CoC) as an agency that has a program designed to serve persons living on the street or other places not meant for human habitation. Examples may be street outreach workers, day shelters, soup kitchens, Health Care for the Homeless sites, etc.*

Authorized Agency Representative Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Living Situation: Emergency Shelter**

☐ The person(s) named above is/are currently living in (or, if currently in hospital or other institution, was living in immediately prior to hospital/institution admission) a supervised publicly or privately operated shelter as follows:

Emergency Shelter Program Name: \_\_\_\_\_

*This emergency shelter must appear on the CoC's Housing Inventory Chart submitted as part of the most recent CoC Homeless Assistance application to HUD or otherwise be recognized by the CoC as part of the CoC inventory (e.g., newly established Emergency Shelter).*

Authorized Agency Representative Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Living Situation: Recently Homeless**

☐ The person(s) named above is/are currently receiving financial and supportive services for persons who are homeless. Loss of such assistance would result in a return to homelessness (ex. Households in Rapid Rehousing Programs, residents of Permanent Supportive Housing Programs participating in Moving On, etc.)

Authorized Agency Representative Signature: \_\_\_\_\_

*This referring agency must appear on the CoC's Housing Inventory Chart submitted as part of the most recent CoC Homeless Assistance application to HUD or otherwise be recognized by the CoC as part of the CoC inventory.*

Immediately prior to entering the household's current living situation, the person(s) named above was/were residing in:

☐ emergency shelter OR ☐ a place unfit for human habitation

Authorized Agency Representative Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Exhibit TPS-3: EXAMPLE OF A VICTIM SERVICES PROVIDER'S CERTIFICATION**

***Attachment 4 of Notice PIH 2021-15: Example of a Victim Services Provider's Certification***

**Emergency Housing Voucher (EHV)**

**SAMPLE HUMAN TRAFFICKING CERTIFICATION**

**Purpose of Form:**

The Victims of Trafficking and Violence Protection Act of 2000 provides assistance to victims of trafficking making housing, educational health care, job training and other Federally-funded social service programs available to assist victims in rebuilding their lives.

**Use of This Optional Form:**

In response to this request, the service provider may complete this form and submit it to the Public Housing Agency (PHA) to certify eligibility for EHV assistance.

**Confidentiality:** All information provided to the service provider concerning the incident(s) of human trafficking shall be kept confidential and such details shall not be entered into any shared database. Employees of the PHA will not have access to these details, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

**TO BE COMPLETED ON BEHALF OF HUMAN TRAFFICKING SURVIVOR**

EHV Applicant Name: \_\_\_\_\_

**This is to certify that the above named individual or household meets the definition for persons who are fleeing or attempting to flee human trafficking under section 107(b) of the Trafficking Victims Protection Act of 2000.**

Immediately prior to entering the household's current living situation, the person(s) named above was/were residing in:

\_\_\_\_\_  
This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual(s) named above is/has been a victim of human trafficking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

**Authorized Agency Representative Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_



## VETERANS AFFAIRS SUPPORTIVE HOUSING (VASH)

### PART II

#### Introduction

##### 18-II.A. Overview

Since 2008, HCV program funding has provided rental assistance under a supportive housing program for homeless veterans. The Veterans Affairs Supportive Housing (VASH) program combines HCV rental assistance with case management and clinical services provided by the Department of Veterans Affairs (VA) at VA medical centers (VAMCs) and Community-Based Outpatient Clinics (CBOCs). Eligible families are homeless veterans and their families that agree to participate in VA case management and are referred to the VAMC's partner PHA for HCV assistance. The VAMC or CBOC's responsibilities include:

- Screening homeless veterans to determine whether they meet VASH program participation criteria;
- Referring homeless veterans to the PHA;
  - The term *homeless veteran* means a veteran who is homeless (as that term is defined in subsection (a) or (b) of Section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302)). See 38 U.S.C. 2002.
- Providing appropriate treatment and supportive services to potential VASH participants, if needed, prior to PHA issuance of a voucher;
- Providing housing search assistance to VASH participants;
- Identifying the social service and medical needs of VASH participants, and providing or ensuring the provision of regular ongoing case management, outpatient health services, hospitalization, and other supportive services as needed throughout the veterans' participation period; and
- Maintaining records and providing information for evaluation purposes, as required by HUD and the VA.

VASH vouchers are awarded noncompetitively based on geographic need and PHA administrative performance. Eligible PHAs must be located within the jurisdiction of a VAMC and in an area of high need based on data compiled by HUD and the VA. When Congress funds a new allocation of VASH vouchers, HUD invites eligible PHAs to apply for a specified number of vouchers.

Generally, the HUD-VASH program is administered in accordance with regular HCV program requirements. However, HUD is authorized to waive or specify alternative requirements to allow PHAs to effectively deliver and administer VASH assistance. Alternative requirements are established in the HUD-VASH Operating Requirements, which were originally published in the Federal Register on May 6, 2008, and updated September 27, 2021.

Unless expressly waived by HUD, all regulatory requirements and HUD directives regarding the HCV program are applicable to VASH vouchers, including the use of all HUD-required contracts and other forms, and all civil rights and fair housing requirements. In addition, the PHA may request additional statutory or regulatory waivers that it determines are necessary for the effective delivery and administration of the program. (See Federal Register, 9/27/2021, Section 8 Housing Choice Vouchers: Revised Implementation of the HUD Veterans Affairs Supportive Housing

Program, pg. 53207, for waivers and details regarding regulations and program policy that does not apply to VASH.)

The VASH program is administered in accordance with applicable Fair Housing requirements since civil rights requirements cannot be waived under the program. These include applicable authorities under 24 CFR §5.105(a) and 24 CFR §982.53 including, but not limited to, the Fair Housing Act, Section 504 of the Rehabilitation Act of 1973, Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act, and the Age Discrimination Act and all PHA policies as outlined in Chapter 2 of this document. When HUD-VASH recipients include veterans with disabilities or family members with disabilities, reasonable accommodation requirements in Part II of Chapter 2 of this policy apply.

#### **18-II.B. Referrals [FR Notice 9/27/2021 and HUD-VASH Qs and As]**

AMC case managers will screen all families in accordance with VA screening criteria and refer eligible families to the PHA for determination of program eligibility and voucher issuance. The PHA has no role in determining or verifying the veteran's eligibility under VA screening criteria, including determining the veteran's homelessness status. The PHA must accept referrals from the partnering VAMC and must maintain written documentation of referrals in VASH tenant files. Upon turnover, VASH vouchers must be issued to eligible veteran families as identified by the VAMC.

#### **PHA POLICY**

In order to expedite the screening process, the PHA will provide all forms and a list of documents required for the VASH application to the VAMC.

Case managers will work with veterans to fill out the forms and compile all documents prior to meeting with the PHA and submitting an application. When feasible, the VAMC case manager should email or fax copies of all documents to the PHA prior to the meeting in order to allow the PHA time to review them and start a file for the veteran. After the VAMC has given the PHA a complete referral, the PHA will perform an eligibility screening within five (5) business days of receipt of a VAMC referral.

#### **18-II.C. HCV Program Eligibility [FR Notice 9/27/2021]**

Eligible participants are homeless veterans and their families who agree to participate in case management from the VAMC.

- A *VASH Veteran* or *veteran family* refers to either a single veteran or a veteran with a household composed of two or more related persons. It also includes one or more eligible persons living with the veteran who are determined to be important to the veteran's care or well-being.
- A veteran for the purpose of VASH is a person whose length of service meets statutory requirements, and who served in the active military, naval, or air service, was discharged or released under conditions other than dishonorable, and is eligible for VA health care.

Under VASH, PHAs do not have authority to determine family eligibility in accordance with HCV program rules and PHA policies. The only reasons for denial of assistance by the PHA are failure to meet the income eligibility requirements and/or that a family member is subject to a lifetime registration requirement under a state sex offender registration program. Under portability, the receiving PHA must also comply with these VASH screening requirements.

### **Social Security Numbers**

When verifying Social Security numbers (SSNs) for homeless veterans and their family members, an 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, is acceptable in accordance with Section 7-II.B. of this policy.

In the case of the homeless veteran, the PHA must accept the Certificate of Release or Discharge from Active Duty (DD-214) or the VA-verified Application for Health Benefits (10-10EZ) as verification of SSN and cannot require the veteran to provide a Social Security card. A VA-issued identification card may also be used to verify the SSN of a homeless veteran.

### **Proof of Age**

The DD-214 or 10-10EZ must be accepted as proof of age in lieu of birth certificates or other PHA required documentation as outlined in Section 7-II.C. of this policy. A VA-issued identification card may also be used to verify the age of a homeless veteran.

### **Photo Identification**

A VA-issued identification card must be accepted in lieu of another type of government-issued photo identification. Income Eligibility The PHA must determine income eligibility for VASH families in accordance with 24 CFR §982.201(b)(2) and policies in Section 3-II.A. If the family is over-income based on the most recently published income limits for the family size, the family will be ineligible for HCV assistance.

While income-targeting does not apply to VASH vouchers, the PHA may include the admission of extremely low-income VASH families in its income targeting numbers for the fiscal year in which these families are admitted.

### **PHA PLAN**

While income-targeting requirements will not be considered by the PHA when families are referred by the partnering VAMC, the PHA will include any extremely low-income VASH families that are admitted in its income targeting numbers for the fiscal year in which these families are admitted.

### **Screening**

The PHA may not screen any potentially eligible family members or deny assistance for any grounds permitted under 24 CFR §982.552 and §982.553 with one exception: the PHAs is still required to prohibit admission if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program. Accordingly, with the exception of denial for registration as a lifetime sex offender under state law and PHA policies on how sex offender screenings will be conducted, PHA policy in Sections 3-III.B. through 3-III.E. do not apply to VASH. The prohibition against screening families for anything other than lifetime sex offender status applies to all family members, not just the veteran.

#### **Denial of Assistance [Notice PIH 2008-37]**

Once a veteran is referred by the VAMC, the PHA must either issue a voucher or deny assistance. If the PHA denies assistance, it must provide the family with prompt notice of the decision and a brief statement of the reason for denial in accordance with Section 3-III.F. Like in the standard HCV program, the family must be provided with the opportunity for an informal review in accordance with policies in Section 3-III.F. In addition, a copy of the denial notice must be sent to the VAMC case manager.

#### **18-II.D. Changes in Family Composition Adding Family Members [FR Notice 9/27/2021]**

When adding a family member after the family has been admitted to the program, PHA policies in Section 3-II.B. apply. Other than the birth, adoption, or court-awarded custody of a child, the PHA must approve additional family members and will apply its regular screening criteria in doing so.

#### **Remaining Family Members [HUD-VASH Qs & As]**

If the homeless veteran dies while the family is being assisted, the voucher will remain with the remaining members of the tenant family. The PHA may use one of its own regular vouchers, if available, to continue assisting this family and free up a VASH voucher for another VASH-eligible family. If a regular voucher is not available, the family would continue utilizing the VASH voucher. Once the VASH voucher turns over, however, it must go to a homeless veteran family.

#### **PHA PLAN**

If the veteran dies while receiving assistance, the PHA will use a regular HCV voucher for the remaining family members to free up the VASH voucher for another veteran.

#### **Family Break Up [HUD-VASH Qs & As]**

In the case of divorce or separation, since the set-aside of VASH vouchers is for veterans, the voucher must remain with the veteran. This overrides the PHA's policies in Section 3-I.C. on how to determine who remains in the program if a family breaks up.

#### **18-II.E. Leasing [FR Notice 9/27/2021]**

### ***Waiting List***

The PHA does not have the authority to maintain a waiting list or apply local preferences for HUD–VASH vouchers. Policies in Chapter 4 relating to applicant selection from the waiting list, local preferences, special admissions, cross-listing, and opening and closing the waiting list do not apply to VASH vouchers.

### ***Voucher Issuance***

Unlike the standard HCV program, which requires an initial voucher term of at least 60 days, VASH vouchers must have an initial search term of at least 120 days. PHA policies on extensions as outlined in Section 5-II.E. will apply.

### **PHA PLAN**

All VASH vouchers will have an initial term of 120 calendar days. The family must submit a Request for Tenancy Approval and proposed lease within the 120- day period unless the PHA grants an extension. (See Section 5-II.E)

The PHA must track issuance of HCVs for families referred by the VAMC or CBOC in PIC as required in Notice PIH 2011-53.

### ***Initial Lease Term***

Unlike in the standard the HCV program, VASH voucher holders may enter into an initial lease that is for less than 12 months. Accordingly, PHA policy in Section 9-I.E., Term of Assisted Tenancy, does not apply.

### ***Ineligible Housing [FR Notice 6/18/14]***

Unlike in the standard HCV program, VASH families are permitted to live on the grounds of a VA facility in units developed to house homeless veterans. Therefore, 24 CFR §982.352(a)(5) and §983.53(a)(2), which prohibit units on the physical grounds of a medical, mental, or similar public or private institution, do not apply to VASH for this purpose only. Accordingly, PHA policy in 9-I.D., Ineligible Units, does not apply for this purpose only.

### ***HQS Pre-Inspections***

To expedite the leasing process, PHAs may pre-inspect available units that veterans may be interested in leasing in order to maintain a pool of eligible units. If a VASH family selects a unit that passed an HQS inspection (without intervening occupancy) within 45 days of the date of the Request for Tenancy Approval (Form HUD-52517), the unit may be approved if it meets all other conditions under 24 CFR §982.305. However, the veteran must be free to select his or her unit and cannot be steered to these units.

### **PHA PLAN**

### **PHA Policy**~~LAN~~

To expedite the leasing process, the PHA may pre-inspect available units that veterans may be interested in leasing to maintain a pool of eligible units.

If a VASH family selects a unit that passed a HQS pre-inspection (without intervening occupancy) within 45 days of the date of the RTA, the unit may be approved provided that it meets all other conditions under 24 CFR §982.305. The veteran will be free to select his or her unit.

When a pre-inspected unit is not selected, the PHA will make every effort to fast-track the inspection process, including adjusting the normal inspection schedule for both initial and any required reinspections.

### **18-II.F. Portability [FR Notice 9/27/2021 and Notice PIH 2011-53]**

#### ***General Requirements***

Portability policies under VASH depend on whether the family wants to move within or outside of the initial VA facility's catchment area (the area in which the VAMC or CBOC operates). In all cases, the initial VA facility must be consulted prior to the move and provide written confirmation that case management will continue to be provided in the family's new location.

Under VASH, applicant families may move under portability even if the family did not have legal residency in the jurisdiction of the initial PHA when they applied. As a result, PHA policies in Section 10-II.B. about nonresident applicants do not apply.

If the family no longer requires case management, there are no portability restrictions. Normal portability rules apply.

#### ***Portability within the Initial VAMC's Catchment Area***

A VASH family can move within the VAMC's catchment area as long as case management can still be provided, as determined by the VA. If the initial PHA's partnering VAMC will still provide the case management services, the receiving PHA must process the move in accordance with portability procedures:

- If the receiving PHA has been awarded VASH vouchers, it can choose to either bill the initial PHA or absorb the family if it has a VASH voucher available to do so.
  - If the PHA absorbs the family, the VAMC or CBOC providing the initial case management must agree to the absorption and the transfer of case management.
- If the receiving PHA does not administer a VASH program, it must always bill the initial PHA.

### ***Portability Outside of the Initial VAMC's Catchment Area***

If a family wants to move to another jurisdiction where it will not be possible for the initial PHA's partnering VAMC or CBOC to provide case management services, the initial VAMC must first confirm that the new VAMC has an available VASH case management slot and the new VAMC's partner PHA has an available VASH voucher.

After acceptance of the veteran by the new VAMC, the new VAMC will refer the veteran to its partner PHA. In these cases, the family must be absorbed by the receiving PHA either as a new admission or as a portability move-in, as applicable. Upon absorption, the initial PHA's VASH voucher will be available to lease to a new VASH-eligible family, and the absorbed family will count toward the number of VASH slots awarded to the receiving PHA.

### **Portability Outside of the Initial VAMC or DSP's Catchment Area under VAWA**

Veterans who request to port beyond the catchment area of the VAMC where they are receiving case management to protect the health or safety of a person who is or has been the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, and who reasonably believes they are threatened with imminent harm from further violence by remaining in the unit may port prior to receiving approval from the receiving VAMC. The initial PHA must follow its emergency transfer plan (see Exhibit 16-3). PHAs may require verbal self-certification or a written request from a participant seeking a move beyond the catchment area of the VAMC.

The verbal self-certification or written request must include either a statement expressing why the participant reasonably believes that there is a threat of imminent harm from further violence if they were to remain in the same unit or a statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-day period preceding the participants request for the move.

The participant must still port to a PHA that has a VASH program. If the receiving PHA does not have a VASH voucher available to lease, they may bill the initial PHA until a VASH voucher is available, at which point the porting veteran must be absorbed into the receiving PHA's program.

#### **18-II.G. Termination of Assistance [FR Notice 9/27/2021]**

With the exception of terminations for failure to receive case management, HUD has not established any alternative requirements for termination of assistance for VASH participants. However, prior to terminating VASH participants, HUD strongly encourages PHAs to exercise their discretion under 24 CFR §982.552(c)(2) as outlined in Section 12-II.D. of this policy and consider all relevant circumstances of the specific case. This includes granting reasonable accommodations for persons with disabilities, as well as considering the role of the case manager and the impact that ongoing case management services can have on mitigating the conditions that led to the potential termination.

VASH participant families may not be terminated after admission for a circumstance or activities that occurred prior to admission and were known to the PHA but could not be considered at the time of admission due to VASH program requirements. The PHA may terminate the family's assistance only for program violations that occur after the family's admission to the program.

#### ***Cessation of Case Management***

As a condition of receiving HCV rental assistance, a HUD-VASH-eligible family must receive case management services from the VAMC or CBOC. A VASH participant family's assistance must be terminated for failure to participate, without good cause, in case management as verified by the VAMC or CBOC.

However, a VAMC or CBOC determination that the participant family no longer requires case management is not grounds for termination of assistance and the family is still eligible for assistance under the HCV program. In such a case, at its option, the PHA may offer the family continued HCV assistance through one of its regular vouchers. If the PHA has no voucher to offer, the family will retain its VASH voucher until such time as the PHA has an available voucher for the family.

#### **VAWA [~~FR Notice 9/27/21~~HUD-VASH Q & A and Notice PIH 2017-08]**

When a veteran's family member is receiving protection under VAWA because the veteran is the perpetrator of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking, the victim must continue to be assisted. Upon termination of the perpetrator's VASH assistance, the victim should be given a regular HCV if one is available, and the perpetrator's VASH voucher should be used to serve another eligible veteran family. If a regular HCV is not available, the perpetrator must be terminated from assistance and the victim will continue to use the VASH voucher.

~~If a regular HCV is not available, the victim will continue to use the VASH voucher even after the perpetrator's assistance is terminated.~~

#### **18-II.H. Project-Basing VASH Vouchers**

**General Requirements [Notice PIH 2017-21 and FR Notice 9/27/21 ]**



PHAs are authorized to project-base their tenant-based VASH vouchers without additional HUD review or approval in accordance with Notice PIH 2017-21 and all PBV program requirements provided that the VAMC will continue to make supportive services available. In addition, since 2010, HUD has awarded VASH vouchers specifically for project-based assistance in the form of PBV HUD-VASH set-aside vouchers. While these vouchers are excluded from the PBV program cap as long as they remain under PBV HAP contract at the designated project, all other VASH vouchers are subject to the PBV program percentage limitation discussed in Section 17-I.A. Note that VASH supportive services only need to be provided to VASH families receiving PBV assistance in the project, not all families receiving PBV assistance in the project. If a VASH family does not require or no longer requires case management, the unit continues to count as an excepted PBV unit as long as the family resides in the unit.

If the PHA project-bases VASH vouchers, the PHA must consult with the partnering VAMC or DSP to ensure approval of the project or projects. PHAs may project-base VASH vouchers in projects alongside other PBV units and may execute a single HAP contract covering both the VASH PBVs and the other PBVs. The PHA must refer only VASH families to PBV units exclusively made available to VASH families and to PBV units funded through a HUD set-aside award.

If a VASH family is referred to the PHA and there is an available PBV unit that is not exclusively made available to VASH families, the PHA may offer to refer the family to the owner if allowable under the selection policy for that project, and the owner and PHA may amend the HAP contract to designate the PBV unit as a VASH PBV unit.

The PHA and owner may agree to amend a PBV HAP contract to redesignate a regular PBV unit as a unit specifically designated for VASH families so long as the PHA first consults with the VAMC or DSP. Additionally, the PHA and owner may agree to amend a PBV HAP contract to redesignate a unit specifically designated for VASH families as a regular PBV unit, so long as the unit is not funded through a VASH PBV set-aside award and is eligible for regular PBV (i.e., the unit is not on the grounds of a medical facility and the unit is eligible under the PHA's program and project caps).

Policies for VASH PBV units will generally follow PHA policies for the standard PBV program as listed in Chapter 17, with the exception of the policies listed below.

The PHA may administer project-based VASH vouchers under two circumstances. First, PHAs are authorized to project base their tenant-based VASH vouchers without additional HUD review or approval in accordance with Notice PIH 2017-21 and all PBV program requirements provided that the VAMC will continue to make supportive services available. Second, since 2010, HUD has awarded VASH vouchers specifically for project-based assistance in the form of PBV HUD-VASH set-aside vouchers. While these vouchers are excluded from the PBV program cap as long as they remain under PBV HAP contract at the designated project, all other VASH vouchers are subject to the PBV program percentage limitation discussed in Section 17-I.A.

If the PHA project-bases VASH vouchers, the PHA must retain documentation of the partnering VAMC's support. Policies for VASH PBV units will generally follow PHA policies for the standard PBV program as listed in Chapter 17, with the exception of the moves policy listed below.

#### **Failure to Participate in Case Management [FR Notice 9/27/21]**

Upon notification by the VAMC or DSP of the family's failure to participate, without good cause, in case management, the PHA must provide the family a reasonable time period to vacate the unit. The

PHA must terminate assistance to the family at the earlier of either the time the family vacates or the expiration of the reasonable time period given to vacate.

#### PHA Policy

Upon notification by the VAMC or DSP that a VASH PBV family has failed to participate in case management without good cause, the PHA will provide written notice of termination of assistance to the family and the owner within 10 business days. The family will be given 60 days from the date of the notice to move out of the unit.

The PHA may make exceptions to this 60-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

If the family fails to vacate the unit within the established time, the owner may evict the family. If the owner does not evict the family, the PHA must remove the unit from the HAP contract or amend the HAP contract to substitute a different unit in the project if the project is partially assisted. The PHA may add the removed unit to the HAP contract after the ineligible family vacates the property.

#### ***Moves [HUD-VASH Qs & As, FR Notice 9/27/21]***

When a VASH PBV family is eligible to move from its PBV unit in accordance with Section 17-VIII.C. of this policy, but there is no other comparable tenant-based rental assistance, the following procedures must be implemented:

- If a VASH tenant-based voucher is not available at the time the family wants (and is eligible) to move, the PHA may require ~~the~~ family who still requires case management to wait for a VASH tenant-based voucher for a period not to exceed 180 days;
- If a VASH tenant-based voucher is still not available after that period, the family must be allowed to move with its VASH voucher. Alternatively, the PHA may allow the family to move with its VASH voucher without having to meet this 180-day period. In either case, the PHA is required to replace the assistance in the PBV unit with one of its regular vouchers, unless the PHA and owner agree to temporarily remove the unit from the HAP contract; and
- , and the PHA is required to replace the assistance in the PBV unit with one of its regular vouchers, unless the PHA and owner agree to remove the unit from the HAP contract; and
- If a VASH veteran is determined to no longer require case management, the PHA must allow the family to move with the first available tenant-based voucher if not VASH voucher is immediately available and cannot require the family to wait for a VASH voucher to become available.

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- If after 180 days, a VASH tenant based voucher does not become available and the PHA does not have sufficient available funding in its HCV program to attach assistance to the PBV unit, the family may be required to remain in its PBV unit until such funding becomes available. In determining if funding is insufficient, the PHA must take into consideration its available budget authority, which also includes unspent prior year HAP funds in the PHA's Net Restricted Assets account.

## PROJECT-BASED VOUCHERS

### INTRODUCTION

This chapter describes HUD regulations and PHA policies related to the project-based voucher (PBV) program in nine parts:

**Part I: General Requirements.** This part describes general provisions of the PBV program including maximum budget authority requirements, relocation requirements, and equal opportunity requirements.

**Part II: PBV Owner Proposals.** This part includes policies related to the submission and selection of owner proposals for PBV assistance. It describes the factors the PHA will consider when selecting proposals, the type of housing that is eligible to receive PBV assistance, the cap on assistance at projects receiving PBV assistance, subsidy layering requirements, site selection standards, and environmental review requirements.

**Part III: Dwelling Units.** This part describes requirements related to housing quality standards, the type and frequency of inspections, and housing accessibility for persons with disabilities.

**Part IV: Rehabilitated and Newly Constructed Units.** This part describes requirements and policies related to the development and completion of rehabilitated and newly constructed housing units that will be receiving PBV assistance.

**Part V: Housing Assistance Payments Contract.** This part discusses HAP contract requirements and policies including the execution, term, and termination of the HAP contract. In addition, it describes how the HAP contract may be amended and identifies provisions that may be added to the HAP contract at the PHA's discretion.

**Part VI: Selection of PBV Program Participants.** This part describes the requirements and policies governing how the PHA and the owner will select a family to receive PBV assistance.

**Part VII: Occupancy.** This part discusses occupancy requirements related to the lease and describes under what conditions families are allowed or required to move. In addition, exceptions to the occupancy cap (which limits PBV assistance to 25 percent of the units in any project) are also discussed.

**Part VIII: Determining Rent to Owner.** This part describes how the initial rent to owner is determined, and how rent will be redetermined throughout the life of the HAP contract. Rent reasonableness requirements are also discussed.

**Part IX: Payments to Owner.** This part describes the types of payments owners may receive under this program.

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## **PART I: GENERAL REQUIREMENTS**

### **19-1.A. OVERVIEW [24 CFR 983.5; FR Notice 1/18/17; Notice PIH 2017-21]**

The project-based voucher (PBV) program allows PHAs that already administer a tenant-based voucher program under an annual contributions contract (ACC) with HUD to take up to 20 percent of its authorized units and attach the funding to specific units rather than using it for tenant-based assistance [24 CFR 983.6]. PHAs may only operate a PBV program if doing so is consistent with the PHA's Annual Plan, and the goal of deconcentrating poverty and expanding housing and economic opportunities [42 U.S.C. 1437f(o)(13)].

#### **PHA Policy**

The PHA will operate a project-based voucher program using up to 20 percent of its authorized units for project-based assistance.

See Exhibit 19-1 for information on projects to which the PHA has attached PBV assistance.

PBV assistance may be attached to existing housing or newly constructed or rehabilitated housing [24 CFR 983.52]. If PBV units are already selected for project-based assistance either under an agreement to enter into HAP Contract (Agreement) or a HAP contract, the PHA is not required to reduce the number of these units if the number of authorized units is subsequently reduced. However, the PHA is responsible for determining the amount of budget authority that is available for project-based vouchers and ensuring that the amount of assistance that is attached to units is within the amounts available under the ACC, regardless of whether the PHA has vouchers available for project-basing [FR Notice 1/18/17].

### **Additional Project-Based Units [FR Notice 1/18/17; Notice PIH 2017-21; FR Notice 1/24/22]**

The PHA may project-base an additional 10 percent of its units above the 20 percent program limit. The units may be distributed among one, all, or a combination of the categories as long as the total number of units does not exceed the 10 percent cap.

For units under a HAP contract that was first executed on or after April 18, 2017, units qualify under this exception if the units:

- Are specifically made available to house individuals and families that meet the definition of homeless under section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302) and contained in the Continuum of Care Interim Rule at 24 CFR 578.3.
- Are specifically made available to house families that are comprised of or include a veteran.
  - *Veteran* means an individual who has served in the United States Armed Forces.
- Provide supportive housing to persons with disabilities or elderly persons as defined in 24 CFR 5.403.
- Are located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year Estimates.

PBV units that house eligible youth receiving FUPY/FYI assistance are also covered by this 10 percent exception authority if the units are under a HAP contract that became effective after December 27, 2020, and if the unit is occupied by an eligible youth receiving FUPY/FYI assistance. FYI TPVs that were awarded under Notice PIH 2019-20 are not part of this exception since PHAs are prohibited from project-basing FYI TPVs. Units added after December 27, 2020, through an amendment of a HAP contract that became effective after December 27, 2020, are eligible for this 10 percent exception authority. In contrast, units added after December 27, 2020, through an amendment of a HAP contract that became effective on or prior to December 27, 2020, are not eligible for this 10 percent exception authority [FR Notice 1/24/22]. See Chapter 19 for policies specific to project-basing FUPY vouchers.

#### PHA Policy

The PHA may project-base up to an additional 10 percent of its authorized units, up to 30 percent, in accordance with HUD regulations and requirements.

#### **Units Not Subject to the PBV Program Limitation [FR Notice 1/18/17]**

PBV units under the RAD program and HUD-VASH PBV set-aside vouchers do not count toward the 20 percent limitation when PBV assistance is attached to them.

In addition, units that were previously subject to certain federal rent restrictions or were receiving another type of long-term housing subsidy provided by HUD are not subject to the cap. The unit must be covered under a PBV HAP contract that first became effective on or after April 18, 2017.

#### PHA Policy

The PHA may project-base units not subject to the 20 percent cap in accordance with HUD regulations and requirements.

#### **19-I.B. TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE [24 CFR 983.2]**

Much of the tenant-based voucher program regulations also apply to the PBV program. Consequently, many of the PHA policies related to tenant-based assistance also apply to PBV assistance. The provisions of the tenant-based voucher regulations that do not apply to the PBV program are listed at 24 CFR 983.2.

#### PHA Policy

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, the PHA policies for the tenant-based voucher program contained in this administrative plan also apply to the PBV program and its participants.

#### **19-I.C. RELOCATION REQUIREMENTS [24 CFR 983.7]**

Any persons displaced as a result of implementation of the PBV program must be provided relocation assistance in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA)[42 U.S.C. 4201-4655] and implementing regulations at 49 CFR part 24.

The cost of required relocation assistance may be paid with funds provided by the owner, local public funds, or funds available from other sources. PHAs may not use voucher program funds to cover relocation costs, except that PHAs may use their administrative fee reserve to pay for relocation expenses after all other program administrative expenses are satisfied, and provided that payment of the relocation benefits is consistent with state and local law. Use of the administrative fee for these purposes must also be consistent with other legal and regulatory requirements, including the requirement in 24 CFR 982.155 and other official HUD issuances.

The acquisition of real property for a PBV project is subject to the URA and 49 CFR part 24, subpart B. It is the responsibility of the PHA to ensure the owner complies with these requirements.

#### **19-I.D. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8]**

The PHA must comply with all equal opportunity requirements under federal law and regulations in its implementation of the PBV program. This includes the requirements and authorities cited at 24 CFR 5.105(a). In addition, the PHA must comply with the PHA Plan certification on civil rights and affirmatively furthering fair housing, submitted in accordance with 24 CFR 903.7(o).

## **PART II: PBV OWNER PROPOSALS**

### **19-II.A. OVERVIEW**

With certain exceptions, the PHA must describe the procedures for owner submission of PBV proposals and for PHA selection of PBV proposals [24 CFR 983.51]. Before selecting a PBV proposal, the PHA must determine that the PBV proposal complies with HUD program regulations and requirements, including a determination that the property is eligible housing [24 CFR 983.53 and 983.54], complies with the cap on the number of PBV units per project [24 CFR 983.56], and meets the site selection standards [24 CFR 983.57]. The PHA may not commit PBVs until or unless it has followed the proposal selection requirements defined in 24 CFR 983.51 [Notice PIH 2011-54].

### **19-II.B. OWNER PROPOSAL SELECTION PROCEDURES [24 CFR 983.51(b)]**

The PHA must select PBV proposals in accordance with the selection procedures in the PHA administrative plan. The PHA must select PBV proposals by either of the following two methods.

- PHA request for PBV Proposals. The PHA may solicit proposals by using a request for proposals to select proposals on a competitive basis in response to the PHA request. The PHA may not limit proposals to a single site or impose restrictions that explicitly or practically preclude owner submission of proposals for PBV housing on different sites.
- The PHA may select proposal that were previously selected based on a competition. This may include selection of a proposal for housing assisted under a federal, state, or local government housing assistance program that was subject to a competition in accordance with the requirements of the applicable program, community development program, or supportive services program that requires competitive selection of proposals (e.g., HOME, and units for which competitively awarded LIHTCs have been provided), where the proposal has been selected in accordance with such program's competitive selection requirements within three years of the PBV proposal selection date, and the earlier competitive selection proposal did not involve any consideration that the project would receive PBV assistance. The PHA need not conduct another competition.

#### **Units Selected Non-Competitively [FR Notice 1/18/17; Notice PIH 2017-21; 24 CFR 983.51(b)]**

For certain public housing projects where the PHA has an ownership interest or control, the PHA may attach PBV assistance non-competitively without following one of the two processes above.

This exception applies when the PHA is engaged in an initiative to improve, develop, or replace a public housing property or site. The public housing units may either currently be in the public housing inventory or may have been removed from the public housing inventory within five years of the date on which the PHA entered into the AHAP or HAP.

If the PHA is planning rehabilitation or new construction on the project, a minimum threshold of \$25,000 per unit in hard costs must be expended.



If the PHA plans to replace public housing by attaching PBV assistance to existing housing in which the PHA has an ownership interest or control, then the \$25,000 per unit minimum threshold does not apply as long as the existing housing substantially complies with HQS.

The PHA must include in the administrative plan what work it plans to do on the property or site and how many PBV units will be added to the site.

#### PHA Policy

The PHA may attach up to 25 PBVs to projects owned by the PHA as described above.

#### **Solicitation and Selection of PBV Proposals [24 CFR 983.51(c)]**

PHA procedures for selecting PBV proposals must be designed and actually operated to provide broad public notice of the opportunity to offer PBV proposals for consideration by the PHA. The public notice procedures may include publication of the public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice. The public notice of the PHA request for PBV proposals must specify the submission deadline. Detailed application and selection information must be provided at the request of interested parties.

#### PHA Policy

#### PHA Request for Proposals for Rehabilitated and Newly Constructed Units

The PHA will advertise its request for proposals (RFP) for rehabilitated and newly constructed housing in suitable media outlets that may include, but not limited to: ChanWeb, Channel 11 Public Service City Scope, Local Social Service Agencies (Arizona), East Valley Tribute, La Voz, Arizona Republic, and/or Arizona Business Journal.

The advertisement will state the number of vouchers available to be project-based, the type of units that will be considered, the submission deadline, and will note how to obtain the full RFP with information on the application and selection process. Advertisements will also contain a statement that participation in the PBV program requires compliance with Fair Housing and Equal Opportunity (FHEO) requirements.

In addition, the PHA will post the RFP and proposal submission and rating and ranking procedures on its website.

The PHA will publish its advertisement in the newspapers and trade journals mentioned above for at least one day per week. The advertisement will specify the number of units the PHA estimates that it will be able to assist under the funding the PHA is making available. Proposals will be due in the PHA office by close of business 30 calendar days from the date of the last publication.

In order for the proposal to be considered, the owner must submit the proposal to the PHA by the published deadline date, and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will not be reviewed.

The PHA will rate and rank proposals for rehabilitated and newly constructed housing using the following criteria:

Owner experience and capability to build or rehabilitate housing as identified in the RFP;

Extent to which the project furthers the PHA goal of deconcentrating poverty and expanding housing and economic opportunities;

If applicable, the extent to which services for special populations are provided on site or in the immediate area for occupants of the property; and

In order to promote partially assisted projects, projects where less than 25 percent of the units will be assisted will be rated higher than projects where 25 percent or more of the units will be assisted. In the case of projects for occupancy by the elderly, persons with disabilities or families needing other services, the PHA will rate partially assisted projects on the percentage of units assisted. Projects with the lowest percentage of assisted units will receive the highest score.

#### PHA Requests for Proposals for Existing Housing Units

The PHA will advertise its request for proposals (RFP) for existing housing in suitable media outlets that may include, but not limited to: ChanWeb, Channel 11 Public Service City Scope, Local Social Service Agencies (Arizona), East Valley Tribute, La Voz, Arizona Republic, or Arizona Business Journal.

The advertisement will state the number of vouchers available to be project-based, the type of units that will be considered, the submission deadline, and will note how to obtain the full RFP with information on the application and selection process. Advertisements will also contain a statement that participation in the PBV program requires compliance with Fair Housing and Equal Opportunity (FHEO) requirements.

In addition, the PHA will post the notice inviting such proposal submission and the rating and ranking procedures on its website.

The PHA will periodically publish its advertisement in the newspapers and trade journals mentioned above for at least one day per week. The advertisement will specify the number of units the PHA estimates that it will be able to assist under the funding the PHA is making available. Owner proposals will be accepted on a first-come first-served basis and will be evaluated using the following criteria:

Experience as an owner in the tenant-based voucher program and owner compliance with the owner's obligations under the tenant-based program;

Extent to which the project furthers the PHA goal of deconcentrating poverty and expanding housing and economic opportunities;

If applicable, extent to which services for special populations are provided on site or in the immediate area for occupants of the property; and

Extent to which units are occupied by families that are eligible to participate in the PBV program.

PHA Selection of Proposals Subject to a Previous Competition under a Federal, State, or Local Housing Assistance Program

The PHA will accept proposals for PBV assistance from owners that were competitively selected under another federal, state or local housing assistance program, including projects that were competitively awarded Low-Income Housing Tax Credits on an ongoing basis.

The PHA may periodically advertise that it is accepting proposals, in suitable media outlets that may include, but not limited to: ChanWeb, Channel 11 Public Service City Scope, Local Social Service Agencies (Arizona), East Valley Tribute, La Voz, Arizona Republic, and/or Arizona Business Journal.

The advertisement will state the number of vouchers available to be project-based, the type of units that will be considered, the submission deadline, and will note how to obtain the full RFP with information on the application and selection process. Advertisements will also contain a statement that participation in the PBV program requires compliance with Fair Housing and Equal Opportunity (FHEO) requirements.

In addition to, or in place of advertising, the PHA may also directly contact specific owners that have already been selected for Federal, state, or local housing assistance based on a previously held competition, to inform them of available PBV assistance.

Proposals will be reviewed on a first-come first-served basis. The PHA will evaluate each proposal on its merits using the following factors:

Extent to which the project furthers the PHA goal of deconcentrating poverty and expanding housing and economic opportunities; and

Extent to which the proposal complements other local activities such as the redevelopment of a public housing site under the HOPE VI program, the HOME program, CDBG activities, other development activities in a HUD-designated Enterprise Zone, Economic Community, Choice Neighborhood, or Renewal Community.

#### **PHA-Owned Units [24 CFR 983.51(e), 983.59, FR Notice 1/18/17, and Notice PIH 2017-21]**

A PHA-owned unit may be assisted under the PBV program only if the HUD field office or HUD-approved independent entity reviews the selection process and determines that the PHA-owned units were appropriately selected based on the selection procedures specified in the PHA administrative plan. This also applies to noncompetitive selections. If the PHA selects a proposal for housing that is owned or controlled by the PHA, the PHA must identify the entity that will review the PHA proposal selection process and perform specific functions with respect to rent determinations, the term of the HAP contract, and inspections.

In the case of PHA-owned units, the term of the HAP contract and any HAP contract renewal must be agreed upon by the PHA and a HUD-approved independent entity. In addition, an independent entity must determine the initial rent to owner, the redetermined rent to owner, and reasonable rent. Housing quality standards inspections must also be conducted by an independent entity.

The independent entity that performs these program services 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 another HUD-approved public or private independent entity.

##### PHA Policy

The PHA may submit a proposal for project-based housing that is owned or controlled by the PHA. If the proposal for PHA-owned housing is selected, the PHA will use a company to be determined to review the PHA selection process. The PHA will obtain HUD approval of a company to be determined prior to selecting the proposal for PHA-owned housing.

The PHA may only compensate the independent entity from PHA ongoing administrative fee income (including amounts credited to the administrative fee reserve). The PHA may not use other program receipts to compensate the independent entity for its services. The PHA and independent entity may not charge the family any fee for the appraisal or the services provided by the independent entity.

#### **PHA Notice of Owner Selection [24 CFR 983.51(d)]**

The PHA must give prompt written notice to the party that submitted a selected proposal and must also give prompt public notice of such selection. Public notice procedures may include publication of public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice.

##### PHA Policy

Within 10 business days of the PHA making the selection, the PHA will notify the selected owner in writing of the owner's selection for the PBV program. The PHA will also notify in writing all owners that submitted proposals that were not selected and advise such owners of the name of the selected owner.

In addition, the PHA will publish its notice for selection of PBV proposals for two consecutive days in the same newspapers and trade journals the PHA used to solicit the proposals. The announcement will include the name of the owner that was selected for the PBV program. The PHA will also post the notice of owner selection on its electronic web site.

The PHA will make available to any interested party its rating and ranking sheets and documents that identify the PHA basis for selecting the proposal. These documents will be available for review by the public and other interested parties for one month after publication of the notice of owner selection. The PHA will not make available sensitive owner information that is privileged, such as financial statements and similar information about the owner.

The PHA will make these documents available for review at the PHA during normal business hours. The cost for reproduction of allowable documents will be \$.25 per page.

#### **19-II.C. HOUSING TYPE [24 CFR 983.52]**

The PHA may attach PBV assistance for units in existing housing or for newly constructed or rehabilitated housing developed under and in accordance with an agreement to enter into a housing assistance payments contract that was executed prior to the start of construction. A housing unit is considered an existing unit for purposes of the PBV program, if, at the time of notice of PHA selection, the units substantially comply with HQS. Units for which new construction or rehabilitation began after the owner's proposal submission but prior to the execution of the HAP do not subsequently qualify as existing housing. Units that were newly constructed or rehabilitated in violation of program requirements also do not qualify as existing housing.

The PHA must decide what housing type, new construction, rehabilitation, or existing housing, will be used to develop project-based housing. The PHA choice of housing type must be reflected in its solicitation for proposals.

#### **19-II.D. PROHIBITION OF ASSISTANCE FOR CERTAIN UNITS**

##### **Ineligible Housing Types [24 CFR 983.53]**

The PHA may not attach or pay PBV assistance to shared housing units; units on the grounds of a penal reformatory, medical, mental, or similar public or private institution; nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care, or intermediate care (except that assistance may be provided in assisted living facilities); units that are owned or controlled by an educational institution or its affiliate and are designated for occupancy by students; manufactured homes; and transitional housing. In addition, the PHA may not attach or pay PBV assistance for a unit occupied by an owner and the PHA may not select or enter into an agreement to enter into a HAP contract or HAP contract for a unit occupied by a family ineligible for participation in the PBV program. A member of a cooperative who owns shares in the project assisted under the PBV program is not considered an owner for purposes of participation in the PBV program. Finally, PBV assistance may not be attached to units for which construction or rehabilitation has started after the proposal submission and prior to the execution of an AHAP.

##### **Subsidized Housing [24 CFR 983.54]**

A PHA may not attach or pay PBV assistance to units in any of the following types of subsidized housing:

- A public housing unit;
- A unit subsidized with any other form of Section 8 assistance;
- A unit subsidized with any governmental rent subsidy;
- A unit subsidized with any governmental subsidy that covers all or any part of the operating costs of the housing;
- A unit subsidized with Section 236 rental assistance payments (except that a PHA may attach assistance to a unit subsidized with Section 236 interest reduction payments);
- A Section 202 project for non-elderly with disabilities;
- Section 811 project-based supportive housing for persons with disabilities;
- Section 202 supportive housing for the elderly;
- A Section 101 rent supplement project;
- A unit subsidized with any form of tenant-based rental assistance;
- A unit with any other duplicative federal, state, or local housing subsidy, as determined by HUD or the PHA in accordance with HUD requirements.

**19-ILE. SUBSIDY LAYERING REQUIREMENTS [24 CFR 983.55, Notice PIH 2013-11, and FR Notice 3/13/23~~2/28/20~~]**

The subsidy layering review is intended to prevent excessive public assistance by combining (layering) housing assistance payment subsidy under the PBV program with other governmental housing assistance from federal, state, or local agencies, including assistance such as tax concessions or tax credits.

HUD requires new construction and rehabilitation housing that will include forms of governmental assistance other than PBVs to undergo a subsidy layering review (SLR) prior to entering into an Agreement to Enter into Housing Assistance Payments Contract (AHAP). Subsidy layering requirements do not apply to existing housing, when PBV is the only governmental assistance, or for projects already subject to a PBV HAP contract, even if the project is recapitalized with outside sources of funding.

When a PHA selects a new construction or rehabilitation project, the PHA must require information regarding all HUD and/or other federal, state, or local governmental assistance to be disclosed by the project owner using Form HUD-2880. Appendix A of FR Notice 2/28/20~~3/23/23~~ contains a list of all required documentation.

Either HUD or a HUD-approved housing credit agency (HCA) in the PHA's jurisdiction performs the subsidy layering review. The PHA must request an SLR through their local HUD Field Office or, if eligible, through a participating HCA.

If the SLR request is submitted to an approved HCA, and the proposed project-based voucher assistance meets HUD subsidy layering requirements, the HCA must submit a certification to HUD

and notify the PHA. The PHA may proceed to execute an AHAP at that time if the environmental approval is received.

The HAP contract must contain the owner's certification that the project has not received and will not receive (before or during the term of the HAP contract) any public assistance for acquisition, development, or operation of the housing other than assistance disclosed in the subsidy layering review in accordance with HUD requirements.

#### **19-ILF. CAP ON NUMBER OF PBV UNITS IN EACH PROJECT**

##### **25 Percent per Project Cap [24 CFR 983.56, FR Notice 1/18/17, and Notice PIH 2017-21]**

In general, the PHA may not select a proposal to provide PBV assistance for units in a project or enter into an agreement to enter into a HAP or a HAP contract to provide PBV assistance for units in a project, if the total number of dwelling units in the project that will receive PBV assistance during the term of the PBV HAP contract is more than the greater of 25 units or 25 percent of the number of dwelling units (assisted or unassisted) in the project.

##### **Exceptions to 25 Percent per Project Cap [FR Notice 1/18/17; Notice PIH 2017-21; FR Notice 1/24/22]**

As of April 18, 2017, units are not counted against the 25 percent or 25-unit per project cap if:

- The units are exclusively for elderly families
- The units are for households eligible for supportive services available to all families receiving PBV assistance in the project
  - If the project is located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year estimates, the project cap is the greater of 25 units or 40 percent (instead of 25 percent) of the units in the project [FR Notice 7/14/17].

The Housing Opportunity Through Modernization Act of 2016 (HOTMA) eliminated the project cap exemption for projects that serve disabled families and modified the exception for supportive services.

Under the Fostering Stable Housing Opportunities (FSHO) amendments, units exclusively made available to youth receiving FUPY/FYI assistance may be excepted from the project cap for HAP contracts first effective after December 27, 2020. For more information on excepted units for FUPY, see Chapter 19.

Projects where these caps were implemented prior to HOTMA (HAP contracts executed prior to April 18, 2017) or FSHO (contract in effect on or prior to December 27, 2020) may continue to use the former exceptions and may renew their HAP contracts under the old requirements, unless the PHA and owner agree to change the conditions of the HAP contract. However, this change may not be made if it would jeopardize an assisted family's eligibility for continued assistance in the project.

### ***Supportive Services***

PHAs must include in the PHA administrative plan the type of services offered to families for a project to qualify for the exception and the extent to which such services will be provided. As of April 18, 2017, the project must make supportive services available to all families receiving PBV assistance in the project, but the family does not actually have to accept and receive supportive services for the exception to apply to the unit, although the family must be eligible to receive the supportive services. It is not necessary that the services be provided at or by the project but must be reasonably available to families receiving PBV assistance at the project and designed to help families in the project achieve self-sufficiency or live in the community as independently as possible. A PHA may not require participation in the supportive service as a condition of living in the excepted unit, although such services may be offered.

#### **PHA Policy**

Excepted units will be limited to units for elderly families.

### **Projects not Subject to a Project Cap [FR Notice 1/18/17; Notice PIH 2017-21]**

PBV units that were previously subject to certain federal rent restrictions or receiving another type of long-term housing subsidy provided by HUD are exempt from the project cap. In other words, 100 percent of the units in these projects may receive PBV assistance.

#### **PHA Policy**

The PHA does not have any PBV units that are subject to the per project cap exception.

### **Promoting Partially Assisted Projects [24 CFR 983.56(c)]**

A PHA may establish local requirements designed to promote PBV assistance in partially assisted projects. A *partially assisted project* is a project in which there are fewer units covered by a HAP contract than residential units [24 CFR 983.3].

A PHA may establish a per-project cap on the number of units that will receive PBV assistance or other project-based assistance in a multifamily project containing excepted units or in a single-family building. A PHA may also determine not to provide PBV assistance for excepted units, or the PHA may establish a per-project cap of less than 25 units or 25 percent of units.

#### **PHA Policy:**

Excepted units will be limited to units for elderly families.

Beyond that, the PHA will not impose any further cap on the number of PBV units assisted per project.



## **19-II.G. SITE SELECTION STANDARDS**

### **Compliance with PBV Goals, Civil Rights Requirements, and HQS Site Standards [24 CFR 983.57(b)]**

The PHA may not select a proposal for existing, newly constructed, or rehabilitated PBV housing on a site or enter into an agreement to enter into a HAP contract or HAP contract for units on the site, unless the PHA has determined that PBV assistance for housing at the selected site is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities. The standard for deconcentrating poverty and expanding housing and economic opportunities must be consistent with the PHA Plan under 24 CFR 903 and the PHA administrative plan.

In addition, prior to selecting a proposal, the PHA must determine that the site is suitable from the standpoint of facilitating and furthering full compliance with the applicable Civil Rights Laws, regulations, and Executive Orders, and that the site meets the HQS site and neighborhood standards at 24 CFR 982.401(l).

#### PHA Policy

It is the PHA goal to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. In complying with this goal the PHA will limit approval of sites for PBV housing in census tracts that have poverty concentrations of 20 percent or less.

However, the PHA will grant exceptions to the 20 percent standard where the PHA determines that the PBV assistance will complement other local redevelopment activities designed to deconcentrate poverty and expand housing and economic opportunities in census tracts with poverty concentrations greater than 20 percent, such as sites in:

- A census tract in which the proposed PBV development will be located in a HUD-designated Enterprise Zone, Economic Community, Choice Neighborhood, or Renewal Community;

- A census tract where the concentration of assisted units will be or has decreased as a result of public housing demolition and HOPE VI redevelopment;

- A census tract in which the proposed PBV development will be located is undergoing significant revitalization as a result of state, local, or federal dollars invested in the area;

- A census tract where new market rate units are being developed where such market rate units will positively impact the poverty rate in the area;

- A census tract where there has been an overall decline in the poverty rate within the past five years; or

- A census tract where there are meaningful opportunities for educational and economic advancement.

#### **Existing and Rehabilitated Housing Site and Neighborhood Standards [24 CFR 983.57(d)]**

The PHA may not enter into an agreement to enter into a HAP contract nor enter into a HAP contract for existing or rehabilitated housing until it has determined that the site complies with the HUD required site and neighborhood standards. The site must:

- Be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- Have adequate utilities and streets available to service the site;
- Promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- Be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

#### **New Construction Site and Neighborhood Standards [24 CFR 983.57(e)]**

In order to be selected for PBV assistance, a site for newly constructed housing must meet the following HUD required site and neighborhood standards:

- The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- The site must have adequate utilities and streets available to service the site;
- The site must not be located in an area of minority concentration unless the PHA determines that sufficient, comparable opportunities exist for housing for minority families in the income range to be served by the proposed project outside areas of minority concentration or that the project is necessary to meet overriding housing needs that cannot be met in that housing market area;
- The site must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.
- The site must promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate;
- The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Except for housing designed for elderly persons, the housing must be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

#### **19-II.H. ENVIRONMENTAL REVIEW [24 CFR 983.58]**

The PHA activities under the PBV program are subject to HUD environmental regulations in 24 CFR parts 50 and 58. The *responsible entity* is responsible for performing the federal environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The PHA may not enter into an agreement to enter into a HAP contract nor enter into a HAP contract until it has complied with the environmental review requirements.

In the case of existing housing, the responsible entity that is responsible for the environmental review under 24 CFR part 58 must determine whether or not PBV assistance is categorically excluded from review under the National Environmental Policy Act and whether or not the assistance is subject to review under the laws and authorities listed in 24 CFR 58.5.

The PHA may not enter into an agreement to enter into a HAP contract or a HAP contract with an owner, and the PHA, the owner, and its contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct real property or commit or expend program or local funds for PBV activities under this part, until the environmental review is completed.

The PHA must supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. The PHA must require the owner to carry out mitigating measures required by the responsible entity (or HUD, if applicable) as a result of the environmental review.

### **PART III: DWELLING UNITS**

#### **19-III.A. OVERVIEW**

This part identifies the special housing quality standards that apply to the PBV program, housing accessibility for persons with disabilities, and special procedures for conducting housing quality standards inspections.

#### **19-III.B. HOUSING QUALITY STANDARDS [24 CFR 983.101]**

The housing quality standards (HQS) for the tenant-based program, including those for special housing types, generally apply to the PBV program. HQS requirements for shared housing, manufactured home space rental, and the homeownership option do not apply because these housing types are not assisted under the PBV program.

The physical condition standards at 24 CFR 5.703 do not apply to the PBV program.

#### **Lead-based Paint [24 CFR 983.101(c)]**

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR Part 35, Subparts A, B, H, and R, and 40 CFR 745.227, apply to the PBV program.

### **19-III.C. HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES**

The housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8. The PHA must ensure that the percentage of accessible dwelling units complies with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR 8, subpart C.

Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable. (24 CFR 983.102)

### **19-III.D. INSPECTING UNITS**

#### **Pre-selection Inspection [24 CFR 983.103(a)]**

The PHA must examine the proposed site before the proposal selection date. If the units to be assisted already exist, the PHA must inspect all the units before the proposal selection date, and must determine whether the units substantially comply with HQS. To qualify as existing housing, units must substantially comply with HQS on the proposal selection date. However, the PHA may not execute the HAP contract until the units fully comply with HQS.

#### **Pre-HAP Contract Inspections [24 CFR 983.103(b), FR Notice 1/18/17, and Notice PIH 2017-20]**

The PHA must inspect each contract unit before execution of the HAP contract. The PHA may not provide assistance on behalf of the family until the unit fully complies with HQS, unless the PHA has adopted a policy to enter into a HAP contract for units that fail the initial HQS inspection as a result of only non-life-threatening conditions, or if the unit passed an alternative inspection.

#### PHA Policy

The PHA will not provide assistance on behalf of the family until the unit fully complies with HQS.

#### **Turnover Inspections [24 CFR 983.103(c)]**

Before providing assistance to a new family in a contract unit, the PHA must inspect the unit. The PHA may not provide assistance on behalf of the family until the unit fully complies with HQS.

#### **Annual/Biennial Inspections [24 CFR 983.103(d); FR Notice 6/25/14]**

At least once every 24 months during the term of the HAP contract, the PHA must inspect a random sample consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS. Turnover inspections are not counted toward meeting this inspection requirement. The PHA also has the option in certain mixed finance properties to rely on alternative inspections conducted at least triennially.

### PHA Policy

The PHA will inspect on an annual basis a random sample consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS.

If more than 20 percent of the sample of inspected contract units in a building fail the initial inspection, the PHA must reinspect 100 percent of the contract units in the building.

### **Other Inspections [24 CFR 983.103(e)]**

The PHA must inspect contract units whenever needed to determine that the contract units comply with HQS and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. The PHA must take into account complaints and any other information coming to its attention in scheduling inspections.

The PHA must conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an HQS violation, and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of HQS.

In conducting PHA supervisory quality control HQS inspections, the PHA should include a representative sample of both tenant-based and project-based units.

### **Inspecting PHA-Owned Units [24 CFR 983.103(f)]**

In the case of PHA-owned units, the inspections must be performed by an independent entity designated by the PHA and approved by HUD. The independent entity must furnish a copy of each inspection report to the PHA and to the HUD field office where the project is located. The PHA must take all necessary actions in response to inspection reports from the independent entity, including exercise of contractual remedies for violation of the HAP contract by the PHA-owner.

## **PART IV: REHABILITATED AND NEWLY CONSTRUCTED UNITS**

### **19-IV.A. OVERVIEW [24 CFR 983.151]**

There are specific requirements that apply to PBV assistance for newly constructed or rehabilitated housing that do not apply to PBV assistance in existing housing. This part describes the requirements unique to this type of assistance.

Housing selected for this type of assistance may not at a later date be selected for PBV assistance as existing housing.

### **19-IV.B. AGREEMENT TO ENTER INTO HAP CONTRACT**

In order to offer PBV assistance in rehabilitated or newly constructed units, the PHA must enter into an agreement to enter into HAP contract (Agreement) with the owner of the property. The Agreement must be in the form required by HUD [24 CFR 983.152(b)]. The PHA may not enter into an Agreement if commencement of construction or rehabilitation has commenced after proposal submission [24 CFR 983.152(c)]. Construction begins when excavation or site preparation (including clearing of the land) begins for the housing. Rehabilitation begins with the physical commencement of rehabilitation activity on the housing.

In the Agreement the owner agrees to develop the PBV contract units to comply with HQS, and the PHA agrees that upon timely completion of such development in accordance with the terms of the Agreement, the PHA will enter into a HAP contract with the owner for the contract units [24 CFR 983.152(a)].

#### **Content of the Agreement [24 CFR 983.152(d)]**

At a minimum, the Agreement must describe the following features of the housing to be developed and assisted under the PBV program:

- Site and the location of the contract units;
- Number of contract units by area (size) and number of bedrooms and bathrooms;
- Services, maintenance, or equipment to be supplied by the owner without charges in addition to the rent;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner and utility services to be paid by the tenant;
- An indication of whether or not the design and construction requirements of the Fair Housing Act and section 504 of the Rehabilitation Act of 1973 apply to units under the Agreement. If applicable, any required work item resulting from these requirements must be included in the description of work to be performed under the Agreement;
- Estimated initial rents to owner for the contract units;
- Description of the work to be performed under the Agreement. For rehabilitated units, the description must include the rehabilitation work write up and, where determined necessary by the PHA, specifications and plans. For new construction units, the description must include the working drawings and specifications.
- Any additional requirements for quality, architecture, or design over and above HQS.

#### **Execution of the Agreement [24 CFR 983.153]**

The Agreement must be executed promptly after PHA notice of proposal selection to the selected owner. The PHA may not enter into the Agreement if construction or rehabilitation has started after proposal submission. Generally, the PHA may not enter into the Agreement with the owner until the subsidy layering review is completed. Likewise, the PHA may not enter into the Agreement until the environmental review is completed and the PHA has received environmental approval. However, the PHA does not need to conduct a subsidy layering review in the case of a HAP contract for existing housing or if the applicable state or local agency has conducted such a review. Similarly, environmental reviews are not required for existing structures unless otherwise required by law or regulation.

#### **PHA Policy**

The PHA will enter into the Agreement with the owner within 10 business days of receiving both environmental approval and notice that subsidy layering requirements have been met, and before construction or rehabilitation work is started.

#### **19-IV.C. CONDUCT OF DEVELOPMENT WORK**

##### **Labor Standards [24 CFR 983.154(b)]**

If an Agreement covers the development of nine or more contract units (whether or not completed in stages), the owner and the owner's contractors and subcontractors must pay Davis-Bacon wages to laborers and mechanics employed in the development of housing. The HUD-prescribed form of the Agreement will include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates.

The owner, contractors, and subcontractors must also comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR part 5, and other applicable federal labor relations laws and regulations. The PHA must monitor compliance with labor standards.

##### **Owner Disclosure [24 CFR 983.154(d) and (e)]**

The Agreement and HAP contract must include a certification by the owner that the owner and other project principals are not on the U.S. General Services Administration list of parties excluded from federal procurement and non-procurement programs.

The owner must also disclose any possible conflict of interest that would be a violation of the Agreement, the HAP contract, or HUD regulations.

#### **19-IV.D. COMPLETION OF HOUSING**

The Agreement must specify the deadlines for completion of the housing, and the owner must develop and complete the housing in accordance with these deadlines. The Agreement must also specify the deadline for submission by the owner of the required evidence of completion.

##### **Evidence of Completion [24 CFR 983.155(b)]**

At a minimum, the owner must submit the following evidence of completion to the PHA in the form and manner required by the PHA:

- Owner certification that the work has been completed in accordance with HQS and all requirements of the Agreement; and
- Owner certification that the owner has complied with labor standards and equal opportunity requirements in development of the housing.

At the PHA's discretion, the Agreement may specify additional documentation that must be submitted by the owner as evidence of housing completion.

##### PHA Policy

The PHA will determine the need for the owner to submit additional documentation as evidence of housing completion on a case-by-case basis depending on the nature of the PBV project. The PHA will specify any additional documentation requirements in the Agreement to enter into HAP contract.

##### **PHA Acceptance of Completed Units [24 CFR 983.156]**

Upon notice from the owner that the housing is completed, the PHA must inspect to determine if the housing has been completed in accordance with the Agreement, including compliance with HQS and any additional requirements imposed under the Agreement. The PHA must also determine if the owner has submitted all required evidence of completion.

If the work has not been completed in accordance with the Agreement, the PHA must not enter into the HAP contract.

If the PHA determines the work has been completed in accordance with the Agreement and that the owner has submitted all required evidence of completion, the PHA must submit the HAP contract for execution by the owner and must then execute the HAP contract.



## **PART V: HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)**

### **19-V.A. OVERVIEW**

The PHA must enter into a HAP contract with an owner for units that are receiving PBV assistance. The purpose of the HAP contract is to provide housing assistance payments for eligible families. Housing assistance is paid for contract units leased and occupied by eligible families during the HAP contract term. With the exception of single-family scattered-site projects, a HAP contract shall cover a single project. If multiple projects exist, each project is covered by a separate HAP contract. The HAP contract must be in the form required by HUD [24 CFR 983.202(a)].

### **19-V.B. HAP CONTRACT REQUIREMENTS**

#### **Contract Information [24 CFR 983.203]**

The HAP contract must specify the following information:

- The total number of contract units by number of bedrooms;
- The project's name, street address, city or county, state and zip code, block and lot number (if known), and any other information necessary to clearly identify the site and the building;
- The number of contract units in each building, the location of each contract unit, the area of each contract unit, and the number of bedrooms and bathrooms in each contract unit;
- Services, maintenance, and equipment to be supplied by the owner and included in the rent to owner;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner (included in rent) and utility services to be paid by the tenant;
- Features provided to comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR part 8;
- The HAP contract term;
- The number of units in any project that will exceed the 25 percent per project cap, which will be set aside for occupancy by qualifying families (elderly and/or disabled families and families receiving supportive services); and
- The initial rent to owner for the first 12 months of the HAP contract term.

#### **Execution of the HAP Contract [24 CFR 983.204]**

The PHA may not enter into a HAP contract until each contract unit has been inspected and the PHA has determined that the unit complies with the Housing Quality Standards (HQS), unless the PHA has adopted a policy to enter into a HAP contract for units that fail the initial HQS inspection as a result of only non-life-threatening conditions. For existing housing, the HAP contract must be executed promptly after the PHA selects the owner proposal and inspects the housing units. For newly constructed or rehabilitated housing the HAP contract must be executed after the PHA has inspected the completed units and has determined that the units have been completed in accordance with the agreement to enter into HAP, and the owner furnishes all required evidence of completion.

##### PHA Policy

For existing housing, the HAP contract will be executed within 10 business days of the PHA determining that all units pass HQS.

For rehabilitated or newly constructed housing, the HAP contract will be executed within 10 business days of the PHA determining that the units have been completed in accordance with the agreement to enter into HAP, all units meet HQS, and the owner has submitted all required evidence of completion.

#### **Term of HAP Contract [24 CFR 983.205, FR Notice 1/18/17, and Notice PIH 2017-21]**

The PHA may enter into a HAP contract with an owner for an initial term of no less than one year and no more than 20 years for each contract unit. The length of the term of the HAP contract for any contract unit may not be less than one year, nor more than 20 years. In the case of PHA-owned units, the term of the HAP contract must be agreed upon by the PHA and the independent entity approved by HUD [24 CFR 983.59(b)(2)].

##### PHA Policy

The term of all PBV HAP contracts will be negotiated with the owner on a case-by-case basis.

At the time of the initial HAP contract term or any time before expiration of the HAP contract, the PHA may extend the term of the contract for an additional term of up to 20 years if the PHA determines an extension is appropriate to continue providing affordable housing for low-income families. A HAP contract extension may not exceed 20 years. A PHA may provide for multiple extensions; however, in no circumstances may such extensions exceed 20 years, cumulatively. Extensions after the initial extension are allowed at the end of any extension term, provided that not more than 24 months prior to the expiration of the previous extension contract the PHA agrees to extend the term, and that such extension is appropriate to continue providing affordable housing for low-income families or to expand housing opportunities. Extensions after the initial extension term shall not begin prior to the expiration date of the previous extension term. Subsequent extensions are subject to the same limitations. All extensions must be on the form and subject to the conditions prescribed by HUD at the time of the extension. In the case of PHA-owned units, any extension of the term of the HAP contract must be agreed upon by the PHA and the independent entity approved by HUD [24 CFR 983.59(b)(2)].

### PHA Policy

When determining whether or not to extend an expiring PBV contract, the PHA will consider several factors including, but not limited to:

The cost of extending the contract and the amount of available budget authority;

The condition of the contract units;

The owner's record of compliance with obligations under the HAP contract and lease(s);

Whether the location of the units continues to support the goals of deconcentrating poverty and expanding housing opportunities; and

Whether the funding could be used more appropriately for tenant-based assistance.

### ***Termination by PHA [24 CFR 983.205(c) and FR Notice 1/18/17]***

The HAP contract must provide that the term of the PHA's contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by the PHA in accordance with HUD instructions. For these purposes, sufficient funding means the availability of appropriations, and of funding under the ACC from such appropriations, to make full payment of housing assistance payments payable to the owner for any contract year in accordance with the terms of the HAP contract.

In times of insufficient funding, HUD requires that PHAs first take all cost-saving measures prior to failing to make payments under existing PBV HAP contracts.

If it is determined that there may not be sufficient funding to continue housing assistance payments for all contract units and for the full term of the HAP contract, the PHA may terminate the HAP contract by notice to the owner. The termination must be implemented in accordance with HUD instructions.

### ***Termination by Owner [24 CFR 983.205(d)]***

If in accordance with program requirements the amount of rent to an owner for any contract unit is reduced below the amount of the rent to owner at the beginning of the HAP contract term, the owner may terminate the HAP contract by giving notice to the PHA. In this case, families living in the contract units must be offered tenant-based assistance.

**Statutory Notice Requirements: Contract Termination or Expiration [24 CFR 983.206, FR Notice 1/18/17, and Notice PIH 2017-21]**

Not less than one year before the HAP contract terminates, or if the owner refuses to renew the HAP contract, the owner must notify the PHA and assisted tenants of the termination. The notice must be provided in the form prescribed by HUD. If the owner does not give timely notice, the owner must permit the tenants in assisted units to remain in their units for the required notice period with no increase in the tenant portion of their rent, and with no eviction as a result of the owner's inability to collect an increased tenant portion of rent. An owner may renew the terminating contract for a period of time sufficient to give tenants one-year advance notice under such terms as HUD may require.

Upon termination or expiration of the contract, a family living at the property is entitled to receive a tenant-based voucher. Tenant-based assistance would not begin until the owner's required notice period ends. The PHA must provide the family with a voucher and the family must also be given the option by the PHA and owner to remain in their unit with HCV tenant-based assistance as long as the unit complies with inspection and rent reasonableness requirements. The family must pay their total tenant payment (TTP) and any additional amount if the gross rent exceeds the applicable payment standard. The family has the right to remain in the project as long as the units are used for rental housing and are otherwise eligible for HCV assistance. The owner may not terminate the tenancy of a family that exercises its right to remain except for serious or repeated lease violations or other good cause. Families that receive a tenant-based voucher at the expiration or termination of the PBV HAP contract are not new admissions to the PHA HCV tenant-based program and are not subject to income eligibility requirements or any other admission requirements. If the family chooses to remain in their unit with tenant-based assistance, the family may do so regardless of whether the family share would initially exceed 40 percent of the family's adjusted monthly income.

**Remedies for HQS Violations [24 CFR 983.208(b)]**

The PHA may not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with HQS. If the PHA determines that a contract does not comply with HQS, the PHA may exercise any of its remedies under the HAP contract, for any or all of the contract units. Available remedies include termination of housing assistance payments, abatement or reduction of housing assistance payments, reduction of contract units, and termination of the HAP contract.

**PHA Policy**

The PHA will abate and terminate PBV HAP contracts for non-compliance with HQS in accordance with the policies used in the tenant-based voucher program. These policies are contained in Section 8-II.G., Enforcing Owner Compliance.

## **19-V.C. AMENDMENTS TO THE HAP CONTRACT**

### **Substitution of Contract Units [24 CFR 983.207(a)]**

At the PHA's discretion and subject to all PBV requirements, the HAP contract may be amended to substitute a different unit with the same number of bedrooms in the same project for a previously covered contract unit. Before any such substitution can take place, the PHA must inspect the proposed unit and determine the reasonable rent for the unit.

### **Addition of Contract Units [FR Notice 1/18/17 and Notice PIH 2017-21]**

The PHA and owner may amend the HAP contract to add additional PBV contract units in projects that already have a HAP contract without having to fulfill the selection requirements found at 24 CFR 983.51(b) for those additional PBV units, regardless of when the HAP contract was signed. The additional PBV units, however, are still subject to the PBV program cap and individual project caps. Prior to attaching additional units without competition, the PHA must submit to the local field office information outlined in FR Notice 1/18/17. The PHA must also detail in the administrative plan their intent to add PBV units and the rationale for adding units to the specific PBV project.

#### PHA Policy

The PHA will add units to the contract on a case-by-case basis to ensure the availability of affordable housing as long as the addition of units does not exceed allowable project caps.

## **19-V.D. HAP CONTRACT YEAR, ANNIVERSARY AND EXPIRATION DATES [24 CFR 983.207(b) and 983.302(e)]**

The HAP contract year is the period of 12 calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year.

There is a single annual anniversary and expiration date for all units under a particular HAP contract, even in cases where contract units are placed under the HAP contract in stages (on different dates) or units are added by amendment. The anniversary and expiration dates for all units coincide with the dates for the contract units that were originally placed under contract.

#### **19-V.E. OWNER RESPONSIBILITIES UNDER THE HAP CONTRACT [24 CFR 983.210]**

When the owner executes the HAP contract s/he certifies that at such execution and at all times during the term of the HAP contract:

- All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with HQS;
- The owner is providing all services, maintenance, equipment and utilities as agreed to under the HAP contract and the leases;
- Each contract unit for which the owner is receiving HAP, is leased to an eligible family referred by the PHA, and the lease is in accordance with the HAP contract and HUD requirements;
- To the best of the owner's knowledge the family resides in the contract unit for which the owner is receiving HAP, and the unit is the family's only residence;
- The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit;
- The amount of the HAP the owner is receiving is correct under the HAP contract;
- The rent for contract units does not exceed rents charged by the owner for comparable unassisted units;
- Except for HAP and tenant rent, the owner has not received and will not receive any other payment or consideration for rental of the contract unit;
- The family does not own or have any interest in the contract unit (does not apply to family's membership in a cooperative); and
- Repair work on the project selected as an existing project that is performed after HAP execution within such post-execution period as specified by HUD may constitute development activity, and if determined to be development activity, the repair work undertaken shall be in compliance with Davis-Bacon wage requirements.

## **19-V.F. ADDITIONAL HAP REQUIREMENTS**

### **Housing Quality and Design Requirements [24 CFR 983.101(e) and 983.208(a)]**

The owner is required to maintain and operate the contract units and premises in accordance with HQS, including performance of ordinary and extraordinary maintenance. The owner must provide all the services, maintenance, equipment, and utilities specified in the HAP contract with the PHA and in the lease with each assisted family. In addition, maintenance, replacement and redecoration must be in accordance with the standard practice for the building as established by the owner.

The PHA may elect to establish additional requirements for quality, architecture, or design of PBV housing. Any such additional requirements must be specified in the Agreement to enter into a HAP contract and the HAP contract. These requirements must be in addition to, not in place of, compliance with HQS.

#### PHA Policy

The PHA will identify the need for any special features on a case-by-case basis depending on the intended occupancy of the PBV project. The PHA will specify any special design standards or additional requirements in the invitation for PBV proposals, the agreement to enter into HAP contract, and the HAP contract.

### **Vacancy Payments [24 CFR 983.352(b)]**

At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner for a PHA-determined period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month. The amount of the vacancy payment will be determined by the PHA and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner (including amounts available from the tenant's security deposit).

#### PHA Policy

The PHA will decide on a case-by-case basis if the PHA will provide vacancy payments to the owner. The HAP contract with the owner will contain any such agreement, including the amount of the vacancy payment and the period for which the owner will qualify for these payments.

## **PART VI: SELECTION OF PBV PROGRAM PARTICIPANTS**

### **19-VI.A. OVERVIEW**

Many of the provisions of the tenant-based voucher regulations [24 CFR 982] also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the PBV program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

### **19-VI.B. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(a) and (b)]**

The PHA may select families for the PBV program from those who are participants in the PHA's tenant-based voucher program and from those who have applied for admission to the voucher program. For voucher participants, eligibility was determined at original admission to the voucher program and does not need to be redetermined at the commencement of PBV assistance. For all others, eligibility for admission must be determined at the commencement of PBV assistance.

Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and the PHA, [meet asset limitation requirements](#), have income at or below HUD-specified income limits, and qualify on the basis of citizenship or the eligible immigration status of family members [24 CFR 982.201(a) and 24 CFR 983.2(a)]. In addition, an applicant family must provide social security information for family members [24 CFR 5.216 and 5.218] and consent to the PHA's collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. The PHA may also not approve a tenancy if the owner (including a principal or other interested party) of the unit is the parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless needed as a reasonable accommodation. An applicant family must also meet HUD requirements related to current or past criminal activity.

#### **PHA Policy**

The PHA will determine an applicant family's eligibility for the PBV program in accordance with the policies in Chapter 3.



#### **In-Place Families [24 CFR 983.251(b)]**

An eligible family residing in a proposed PBV contract unit on the date the proposal is selected by the PHA is considered an “in-place family.” These families are afforded protection from displacement under the PBV rule. If a unit to be placed under contract (either an existing unit or a unit requiring rehabilitation) is occupied by an eligible family on the date the proposal is selected, the in-place family must be placed on the PHA’s waiting list. Once the family’s continued eligibility is determined (the PHA may deny assistance to an in-place family for the grounds specified in 24 CFR 982.552 and 982.553), the family must be given an absolute selection preference and the PHA must refer these families to the project owner for an appropriately sized PBV unit in the project. Admission of eligible in-place families is not subject to income targeting requirements.

This regulatory protection from displacement does not apply to families that are not eligible to participate in the program on the proposal selection date.

#### **19-VI.C. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c)]**

The PHA may establish a separate waiting list for PBV units or it may use the same waiting list for both tenant-based and project-based assistance. The PHA may also merge the PBV waiting list with a waiting list for other assisted housing programs offered by the PHA. If the PHA chooses to offer a separate waiting list for PBV assistance, the PHA must offer to place applicants who are listed on the tenant-based waiting list on the waiting list for PBV assistance.

If a PHA decides to establish a separate PBV waiting list, the PHA may use a single waiting list for the PHA’s whole PBV program, or it may establish separate waiting lists for PBV units in particular projects or buildings or for sets of such units.

##### **PHA Policy**

The PHA will establish and manage separate waiting lists for individual projects or buildings that are receiving PBV assistance. The PHA currently has waiting lists for the following PBV projects:

Proposed new project through RAD transfer of assistance to Villas on McQueen located on McQueen and Chandler Blvd (2025).

#### **19-VI.D. SELECTION FROM THE WAITING LIST [24 CFR 983.251(c)]**

Applicants who will occupy units with PBV assistance must be selected from the PHA’s waiting list. The PHA may establish selection criteria or preferences for occupancy of particular PBV units. The PHA may place families referred by the PBV owner on its PBV waiting list.

##### **Income Targeting [24 CFR 983.251(c)(6)]**

At least 75 percent of the families admitted to the PHA’s tenant-based and project-based voucher programs during the PHA fiscal year from the waiting list must be extremely low-income families. The income targeting requirement applies to the total of admissions to both programs.

#### **Units with Accessibility Features [24 CFR 983.251(c)(7)]**

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, the PHA must first refer families who require such features to the owner.

#### **Preferences [24 CFR 983.251(d), FR Notice 11/24/08]**

The PHA may use the same selection preferences that are used for the tenant-based voucher program, establish selection criteria or preferences for the PBV program as a whole, or for occupancy of particular PBV developments or units. The PHA must provide an absolute selection preference for eligible in-place families as described in Section 19-VI.B. above.

The PHA may establish a selection preference for families who qualify for voluntary services, including disability-specific services, offered in conjunction with assisted units, provided that preference is consistent with the PHA plan. The PHA may not, however, grant a preference to a person with a specific disability [FR Notice 1/18/17].

In advertising such a project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible disabled persons who may benefit from services provided in the project. In these projects, disabled residents may not be required to accept the particular services offered as a condition of occupancy.

If the PHA has projects with “excepted units” for elderly families or supportive services, the PHA must give preference to such families when referring families to these units [24 CFR 983.261(b); FR Notice 1/18/17].

#### **PHA Policy**

The PHA will provide a selection preference when required by the regulation (e.g., eligible in-place families, elderly families or units with supportive services, or mobility impaired persons for accessible units). The PHA will not offer any additional preferences for the PBV program or for particular PBV projects or units.

### **19-VI.E. OFFER OF PBV ASSISTANCE**

#### **Refusal of Offer [24 CFR 983.251(e)(3)]**

The PHA is prohibited from taking any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

- Refuse to list the applicant on the waiting list for tenant-based voucher assistance;
- Deny any admission preference for which the applicant qualifies;
- 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’s selection policy;
- Remove the applicant from the tenant-based voucher waiting list.

#### **Disapproval by Landlord [24 CFR 983.251(e)(2)]**

If a PBV owner rejects a family for admission to the owner's units, such rejection may not affect the family's position on the tenant-based voucher waiting list.

**Acceptance of Offer [24 CFR 983.252]**

***Family Briefing***

When a family accepts an offer for PBV assistance, the PHA must give the family an oral briefing. The briefing must include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, the PHA must provide a briefing packet that explains how the PHA determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

***Persons with Disabilities***

If an applicant family's head or spouse is disabled, the PHA must assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet. This may include making alternative formats available (see Chapter 2). In addition, the PHA must have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.

***Persons with Limited English Proficiency***

The PHA should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166 (see Chapter 2).

**19-VLF. OWNER SELECTION OF TENANTS**

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection [24 CFR 983.253(a)(2) and (a)(3)].

**Leasing [24 CFR 983.253(a)]**

During the term of the HAP contract, the owner must lease contract units to eligible families that are selected and referred by the PHA from the PHA's waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on the PHA's subsidy standards.

**Filling Vacancies [24 CFR 983.254(a)]**

The owner must promptly notify the PHA of any vacancy or expected vacancy in a contract unit. After receiving such notice, the PHA must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies. The PHA and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

#### PHA Policy

The owner must notify the PHA in writing (mail, fax, or email) within five business days of learning about any vacancy or expected vacancy.

The PHA will make every reasonable effort to refer families to the owner within 10 business days of receiving such notice from the owner.

#### **Reduction in HAP Contract Units Due to Vacancies [24 CFR 983.254(b)]**

If any contract units have been vacant for 120 or more days since owner notice of the vacancy, the PHA may give notice to the owner amending the HAP contract to reduce the number of contract units by subtracting the number of contract units (according to the bedroom size) that have been vacant for this period.

#### PHA Policy

If any contract units have been vacant for 120 days, the PHA will give notice to the owner that the HAP contract will be amended to reduce the number of contract units that have been vacant for this period. The PHA will provide the notice to the owner within 10 business days of the 120<sup>th</sup> day of the vacancy. The amendment to the HAP contract will be effective the 1<sup>st</sup> day of the month following the date of the PHA's notice.

#### **19-VI.G. TENANT SCREENING [24 CFR 983.255]**

##### **PHA Responsibility**

The PHA is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. However, the PHA may opt to screen applicants for family behavior or suitability for tenancy and may deny applicants based on such screening.

#### PHA Policy

The PHA will not conduct screening to determine a PBV applicant family's suitability for tenancy.

The PHA must provide the owner with an applicant family's current and prior address (as shown in PHA records) and the name and address (if known by the PHA) of the family's current landlord and any prior landlords.

In addition, the PHA may offer the owner other information the PHA may have about a family, including information about the tenancy history of family members or about drug trafficking and criminal activity by family members. The PHA must provide applicant families a description of the PHA policy on providing information to owners, and the PHA must give the same types of information to all owners.

The PHA may not disclose to the owner any confidential information provided in response to a request for documentation of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human

trafficking, except at the written request or with the written consent of the individual providing the documentation [see 24 CFR 5.2007(a)(4)].

#### PHA Policy

The PHA will inform owners of their responsibility to screen prospective tenants, and will provide owners with the required known name and address information, at the time of the turnover HQS inspection or before. The PHA will not provide any additional information to the owner, such as tenancy history, criminal history, etc.

#### **Owner Responsibility**

The owner is responsible for screening and selection of the family to occupy the owner's unit. When screening families the owner may consider a family's background with respect to the following factors:

- Payment of rent and utility bills;
- Caring for a unit and premises;
- Respecting the rights of other residents to the peaceful enjoyment of their housing;
- Drug-related criminal activity or other criminal activity that is a threat to the health, safety, or property of others; and
- Compliance with other essential conditions of tenancy.

### **PART VII: OCCUPANCY**

#### **19-VII.A. OVERVIEW**

After an applicant has been selected from the waiting list, determined eligible by the PHA, referred to an owner and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

#### **19-VII.B. LEASE [24 CFR 983.256]**

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.

#### **Form of Lease [24 CFR 983.256(b)]**

The tenant and the owner must enter into a written lease agreement that is signed by both parties. If an owner uses a standard lease form for rental units to unassisted tenants in the locality or premises, the same lease must be used for assisted tenants, except that the lease must include a HUD-required tenancy addendum. The tenancy addendum must include, word-for-word, all provisions required by HUD.

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.

The PHA may review the owner's lease form to determine if the lease complies with state and local law. If the PHA determines that the lease does not comply with state or local law, the PHA may decline to approve the tenancy.

#### PHA Policy

The PHA will not review the owner's lease for compliance with state or local law.

#### **Lease Requirements [24 CFR 983.256(c)]**

The lease for a PBV unit must specify all of the following information:

- The names of the owner and the tenant;
- The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);
- The term of the lease (initial term and any provision for renewal);
- The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;
- A specification of the services, maintenance, equipment, and utilities that will be provided by the owner; and
- The amount of any charges for food, furniture, or supportive services.

#### **Tenancy Addendum [24 CFR 983.256(d)]**

The tenancy addendum in the lease must state:

- The program tenancy requirements;
- The composition of the household as approved by the PHA (the names of family members and any PHA-approved live-in aide);
- All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.

#### **Initial Term and Lease Renewal [24 CFR 983.256(f)]**

The initial lease term must be for at least one year. The lease must provide for automatic renewal after the initial term of the lease in either successive definitive terms (e.g. month-to-month or year-to-year) or an automatic indefinite extension of the lease term. For automatic indefinite extension of the lease term, the lease terminates if any of the following occur:

- The owner terminates the lease for good cause
- The tenant terminates the lease
- The owner and tenant agree to terminate the lease
- The PHA terminates the HAP contract
- The PHA terminates assistance for the family

**Changes in the Lease [24 CFR 983.256(e)]**

If the tenant and owner agree to any change in the lease, the change must be in writing, and the owner must immediately give the PHA a copy of all changes.

The owner must notify the PHA in advance of any proposed change in the lease regarding the allocation of tenant and owner responsibilities for utilities. Such changes may only be made if approved by the PHA and in accordance with the terms of the lease relating to its amendment. The PHA must redetermine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The redetermined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

**Owner Termination of Tenancy [24 CFR 983.257]**

With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program (see Section 12-III.B. and 24 CFR 982.310). In the PBV program, terminating tenancy for “good cause” does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

***Tenant Absence from the Unit [24 CFR 983.256(g) and 982.312(a)]***

The lease may specify a maximum period of family absence from the unit that may be shorter than the maximum period permitted by PHA policy. According to program requirements, the family's assistance must be terminated if they are absent from the unit for more than 180 consecutive days. PHA termination of assistance actions due to family absence from the unit are subject to 24 CFR 981.312, except that the unit is not terminated from the HAP contract if the family is absent for longer than the maximum period permitted.

**Continuation of Housing Assistance Payments [24 CFR 982.258]**

Housing assistance payments shall continue until the tenant rent equals the rent to owner. The cessation of housing assistance payments at such point will not affect the family's other rights under its lease, nor will such cessation preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances if such changes occur within 180 days following the date of the last housing assistance payment by the PHA. After the 180-day period, the unit shall be removed from the HAP contract pursuant to 24 CFR 983.211.

**PHA Policy**

If a participating family receiving zero assistance experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify the PHA of the change and request an interim reexamination before the expiration of the 180-day period.

**Security Deposits [24 CFR 983.259]**

The owner may collect a security deposit from the tenant. The PHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

#### PHA Policy

The PHA will allow the owner to collect a security deposit amount the owner determines is appropriate.

When the tenant moves out of a contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease.

The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.

If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance from the tenant. The PHA has no liability or responsibility for payment of any amount owed by the family to the owner.

### **19-VII.C. MOVES**

#### **Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.260]**

If the PHA determines that a family is occupying a wrong size unit, based on the PHA's subsidy standards, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, the PHA must promptly notify the family and the owner of this determination, and the PHA must offer the family the opportunity to receive continued housing assistance in another unit.

#### PHA Policy

The PHA will notify the family and the owner of the family's need to move based on the occupancy of a wrong-size or accessible unit within 10 business days of the PHA's determination. The PHA will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

- PBV assistance in the same building or project;
- PBV assistance in another project; and
- Tenant-based voucher assistance.

If the PHA offers the family a tenant-based voucher, the PHA must terminate the housing assistance payments for a wrong-sized or accessible unit at the earlier of the expiration of the term of the family's voucher (including any extension granted by the PHA) or the date upon which the family vacates the unit. If the family does not move out of the wrong-sized unit or accessible unit by the expiration of the term of the family's voucher, the PHA must remove the unit from the HAP contract.

If the PHA offers the family another form of assistance that is not a tenant-based voucher, and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by the PHA, or both, the PHA must terminate the housing assistance payments for the unit



at the expiration of a reasonable period as determined by the PHA and remove the unit from the HAP contract.

#### PHA Policy

When the PHA offers a family another form of assistance that is not a tenant-based voucher, the family will be given 30 days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not move out within this 30-day time frame, the PHA will terminate the housing assistance payments at the expiration of this 30-day period.

The PHA may make exceptions to this 30-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

#### **Family Right to Move [24 CFR 983.261]**

The family may terminate the lease at any time after the first year of occupancy. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to the PHA. If the family wishes to move with continued tenant-based assistance, the family must contact the PHA to request the rental assistance prior to providing notice to terminate the lease.

If the family terminates the lease in accordance with these requirements, the PHA is required to offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance. If voucher or other comparable tenant-based assistance is not immediately available upon termination of the family's lease in the PBV unit, the PHA must give the family priority to receive the next available opportunity for continued tenant-based assistance.

If the family terminates the assisted lease before the end of the first year, the family relinquishes the opportunity for continued tenant-based assistance.

#### **Emergency Transfers under VAWA [Notice PIH 2017-08]**

Except where special consideration is needed for the project-based voucher program, the PHA will follow VAWA policies as outlined in Chapter 16 Part IX of this administrative plan, including using the Emergency Transfer Plan as the basis for PBV transfers under VAWA (Exhibit 16-4).

HUD requires that the PHA include policies that address when a victim has been living in a unit for less than a year or when a victim seeks to move sooner than a tenant-based voucher is available.

#### PHA Policy

When the victim of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking has lived in the unit for less than one year, the PHA will provide several options for continued assistance.

The PHA will first try to transfer the participant to another PBV unit in the same development or transfer to a different development where the PHA has PBV units. The PHA will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible.

If no units are available for an internal transfer, or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to either tenant-based rental assistance (HCV) or assistance in the PHA's public housing program. Such a decision will be made by the PHA based on the availability of tenant-based vouchers and/or vacancies in public housing units. Such families must be selected from the waiting list for the applicable program. The PHA has adopted a waiting list preference for victims of domestic violence, dating violence, sexual assault, ~~and~~ stalking, and human trafficking in both its HCV and public housing programs in order to expedite this process. See Section 4-III.C. of this administrative plan.

If a victim wishes to move after a year of occupancy in the unit, but no tenant-based vouchers are available, the PHA will offer the participant an internal transfer to another PBV unit in the same development or a transfer to a different development where the PHA has PBV units. The PHA will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible.

If no units are available for an internal transfer, or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to the PHA's public housing program. The PHA has adopted a waiting list preference for victims of domestic violence, dating violence, sexual assault, ~~and~~ stalking, and human trafficking as part of the public housing ACOP in order to expedite this process.

#### **19-VII.D. EXCEPTIONS TO THE OCCUPANCY CAP [24 CFR 983.262]**

As of April 19, 2018, the PHA may not pay housing assistance under a PBV HAP contract for more than the greater of 25 units or 25 percent of the number of dwelling units in a project unless:

- The units are exclusively for elderly families
- The units are for households eligible for supportive services available to all families receiving PBV assistance in the project

If the project is located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year estimates, the project cap is the greater of 25 units or 40 percent (instead of 25 percent) of the units in the project [FR Notice 7/14/17].

If a family at the time of initial tenancy is receiving and while the resident of an excepted unit has received Family Self-Sufficiency (FSS) supportive services or any other service as defined by the PHA and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit. However, if the FSS family fails to successfully complete the FSS contract of participation or supportive services objective and consequently is no longer eligible for the supportive services, the family must vacate the

unit within a reasonable period of time established by the PHA, and the PHA shall cease paying HAP on behalf of the family.

Further, when a family (or remaining members of a family) residing in an excepted unit no longer meets the criteria for a “qualifying family” because the family is no longer an elderly family due to a change in family composition, the PHA has the discretion to allow the family to remain in the excepted unit. If the PHA does not exercise this discretion, the family must vacate the unit within a reasonable period of time established by the PHA, and the PHA must cease paying housing assistance payments on behalf of the non-qualifying family.

Individuals in units with supportive services who choose to no longer participate in a service or who no longer qualify for services they qualified for at the time of initial occupancy cannot subsequently be denied continued housing opportunity because of this changed circumstance. A PHA or owner cannot determine that a participant’s needs exceed the level of care offered by qualifying services or require that individuals be transitioned to different projects based on service needs.

If the family fails to vacate the unit within the established time, the unit must be removed from the HAP contract unless the project is partially assisted, and it is possible for the HAP contract to be amended to substitute a different unit in the building in accordance with program requirements; or the owner terminates the lease and evicts the family. The housing assistance payments for a family residing in an excepted unit that is not in compliance with its family obligations to comply with supportive services requirements must be terminated by the PHA.

The PHA may allow a family that initially qualified for occupancy of an excepted unit based on elderly family status to continue to reside in a unit, where through circumstances beyond the control of the family (e.g., death of the elderly family member or long-term or permanent hospitalization or nursing care), the elderly family member no longer resides in the unit. In this case, the unit may continue to be counted as an excepted unit for as long as the family resides in that unit. Once the family vacates the unit, in order to continue as an excepted unit under the HAP contract, the unit must be made available to and occupied by a qualified family.

#### PHA Policy

The PHA will allow families who initially qualified to live in an excepted unit to remain when circumstances change due to circumstances beyond the remaining family members’ control.

In all other cases, the PHA will provide written notice to the family and owner within 10 business days of making the determination. The family will be given 30 days from the date of the notice to move out of the PBV unit. If the family does not move out within this 30-day time frame, the PHA will terminate the housing assistance payments at the expiration of this 30-day period.

The PHA may make exceptions to this 30-day period if needed for reasons beyond the family’s control such as death, serious illness, or other medical emergency of a family member.

## **PART VIII: DETERMINING RENT TO OWNER**

### **19-VIII.A. OVERVIEW**

The amount of the initial rent to an owner of units receiving PBV assistance is established at the beginning of the HAP contract term. Although for rehabilitated or newly constructed housing, the agreement to enter into HAP Contract (Agreement) states the estimated amount of the initial rent to owner, the actual amount of the initial rent to owner is established at the beginning of the HAP contract term.

During the term of the HAP contract, the rent to owner is redetermined at the owner's request in accordance with program requirements, and at such time that there is a ten percent or greater decrease in the published FMR.

### **19-VIII.B. RENT LIMITS [24 CFR 983.301]**

Except for certain tax credit units (discussed below), the rent to owner must not exceed the lowest of the following amounts:

- An amount determined by the PHA, not to exceed 110 percent of the applicable fair market rent (or any HUD-approved exception payment standard) for the unit bedroom size minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

#### **Certain Tax Credit Units [24 CFR 983.301(c)]**

For certain tax credit units, the rent limits are determined differently than for other PBV units. Different limits apply to contract units that meet all of the following criteria:

- The contract unit receives a low-income housing tax credit under the Internal Revenue Code of 1986;
- The contract unit is not located in a qualified census tract;
- There are comparable tax credit units of the same bedroom size as the contract unit in the same project, and the comparable tax credit units do not have any form of rental assistance other than the tax credit; and
- The tax credit rent exceeds 110 percent of the fair market rent or any approved exception payment standard;

For contract units that meet all of these criteria, the rent to owner must not exceed the lowest of:

- The tax credit rent minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

### ***Definitions***

A *qualified census tract* is any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI), or where the poverty rate is at least 25 percent and where the census tract is designated as a qualified census tract by HUD.

*Tax credit rent* is the rent charged for comparable units of the same bedroom size in the project that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

### **Reasonable Rent [24 CFR 983.301(e) and 983.302(c)(2)]**

The PHA must determine reasonable rent in accordance with 24 CFR 983.303. The rent to owner for each contract unit may at no time exceed the reasonable rent, except in cases where the PHA has elected within the HAP contract not to reduce rents below the initial rent to owner and, upon redetermination of the rent to owner, the reasonable rent would result in a rent below the initial rent. However, the rent to owner must be reduced in the following cases:

- To correct errors in calculations in accordance with HUD requirements
- If additional housing assistance has been combined with PBV assistance after the execution of the initial HAP contract and a rent decrease is required pursuant to 24 CFR 983.55
- If a decrease in rent to owner is required based on changes in the allocation of the responsibility for utilities between owner and tenant

If the PHA has not elected within the HAP contract to establish the initial rent to owner as the rent floor, the rent to owner shall not at any time exceed the reasonable rent.

### **PHA Policy**

The PHA will elect within the HAP contract not to reduce rents below the initial level, with the exception of circumstances listed in 24 CFR 983.302(c)(2). If, upon redetermination of the rent to owner, the reasonable rent would result in a rent below the initial rent, the PHA will use the higher initial rent to owner amount.

#### **Use of FMRs, Exception Payment Standards, and Utility Allowances [24 CFR 983.301(f)]**

When determining the initial rent to owner, the PHA must use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP contract. When redetermining the rent to owner, the PHA must use the most recently published FMR and the utility allowance schedule in effect at the time of redetermination. At its discretion, the PHA may for initial rent, use the amounts in effect at any time during the 30-day period immediately before the beginning date of the HAP contract, or for redeterminations of rent, the 30-day period immediately before the redetermination date.

Any HUD-approved exception payment standard amount under the tenant-based voucher program also applies to the project-based voucher program. HUD will not approve a different exception payment stand amount for use in the PBV program.

Likewise, the PHA may not establish or apply different utility allowance amounts for the PBV program. The same utility allowance schedule applies to both the tenant-based and project-based voucher programs.

##### PHA Policy

Upon written request by the owner, the PHA will consider using the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or redetermination of rent. The owner must explain the need to use the previous FMRs or utility allowances and include documentation in support of the request. The PHA will review and make a decision based on the circumstances and merit of each request.

In addition to considering a written request from an owner, the PHA may decide to use the FMR or utility allowances in effect during the 30-day period before the start date of the HAP, or redetermination of rent, if the PHA determines it is necessary due to PHA budgetary constraints.

#### **Use of Small Area FMRs (SAFMRs) [24 CFR 888.113(h)]**

While small area FMRs (SAFMRs) do not apply to PBV projects, PHAs that operate a tenant-based program under SAFMRs may apply SAFMRs to all future PBV HAP contracts. If the PHA adopts this policy, it must apply to all future PBV projects and the PHA's entire jurisdiction. The PHA and owner may not subsequently choose to revert back to use of the FMRs once the SAFMRs have been adopted, even if the PHA subsequently changes its policy.

Further, the PHA may apply SAFMRs to current PBV projects where the notice of owner selection was made on or before the effective date of PHA implementation, provided the owner is willing to mutually agree to doing so and the application is prospective. The PHA and owner may not subsequently choose to revert back to use of the FMRs once the SAFMRs have been adopted, even if the PHA subsequently changes its policy. If rents increase as a result of the use of SAFMRs, the rent increase may not be effective until the first anniversary of the HAP contract.

##### PHA Policy

The PHA will not apply SAFMRs to the PHA's PBV program.

### **Redetermination of Rent [24 CFR 983.302]**

The PHA must redetermine the rent to owner upon the owner's request or when there is a 10 percent or greater decrease in the published FMR.

#### ***Rent Increase***

If an owner wishes to request an increase in the rent to owner from the PHA, it must be requested at the annual anniversary of the HAP contract (see Section 19-V.D.). The request must be in writing and in the form and manner required by the PHA. The PHA may only make rent increases in accordance with the rent limits described previously. There are no provisions in the PBV program for special adjustments (e.g., adjustments that reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs).

#### **PHA Policy**

An owner's request for a rent increase must be submitted to the PHA 60 days prior to the anniversary date of the HAP contract and must include the new rent amount the owner is proposing.

The PHA may not approve and the owner may not receive any increase of rent to owner until and unless the owner has complied with requirements of the HAP contract, including compliance with HQS. The owner may not receive any retroactive increase of rent for any period of noncompliance.

#### ***Rent Decrease***

If there is a decrease in the rent to owner, as established in accordance with program requirements such as a change in the FMR or exception payment standard, or reasonable rent amount, the rent to owner must be decreased regardless of whether the owner requested a rent adjustment, except where the PHA has elected within the HAP contract to not reduce rents below the initial rent under the initial HAP contract.

#### ***Notice of Rent Change***

The rent to owner is redetermined by written notice by the PHA to the owner specifying the amount of the redetermined rent. The PHA notice of rent adjustment constitutes an amendment of the rent to owner specified in the HAP contract. The adjusted amount of rent to owner applies for the period of 12 calendar months from the annual anniversary of the HAP contract.

#### **PHA Policy**

The PHA will provide the owner with at least 30 days written notice of any change in the amount of rent to owner.

### **PHA-Owned Units [24 CFR 983.301(g)]**

For PHA-owned PBV units, the initial rent to owner and the annual redetermination of rent at the anniversary of the HAP contract are determined by the independent entity approved by HUD. The PHA must use the rent to owner established by the independent entity.

### **19-VIII.C. REASONABLE RENT [24 CFR 983.303]**

At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by the PHA, except where the PHA has elected within the HAP contract to not reduce rents below the initial rent under the initial HAP contract.

#### **When Rent Reasonable Determinations Are Required**

The PHA must redetermine the reasonable rent for a unit receiving PBV assistance whenever any of the following occur:

- There is a 10 percent or greater decrease in the published FMR in effect 60 days before the contract anniversary (for the unit sizes specified in the HAP contract) as compared with the FMR that was in effect one year before the contract anniversary date;
- The PHA approves a change in the allocation of responsibility for utilities between the owner and the tenant;
- The HAP contract is amended to substitute a different contract unit in the same building or project; or
- There is any other change that may substantially affect the reasonable rent.

#### **How to Determine Reasonable Rent**

The reasonable rent of a unit receiving PBV assistance must be determined by comparison to rent for other comparable unassisted units. When making this determination, the PHA must consider factors that affect market rent. Such factors include the location, quality, size, type and age of the unit, as well as the amenities, housing services maintenance, and utilities to be provided by the owner.

#### ***Comparability Analysis***

For each unit, the comparability analysis must use at least three comparable units in the private unassisted market. This may include units in the premises or project that is receiving project-based assistance. The analysis must show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and must be retained by the PHA. The comparability analysis may be performed by PHA staff or by another qualified person or entity. Those who conduct these analyses or are involved in determining the housing assistance payment based on the analyses may not have any direct or indirect interest in the property.

#### **PHA-Owned Units**

For PHA-owned units, the amount of the reasonable rent must be determined by an independent agency approved by HUD in accordance with PBV program requirements. The independent entity must provide a copy of the determination of reasonable rent for PHA-owned units to the PHA and to the HUD field office where the project is located.



### **Owner Certification of Reasonable Rent**

By accepting each monthly housing assistance payment, the owner certifies that the rent to owner is not more than rent charged by the owner for other comparable unassisted units in the premises. At any time, the PHA may require the owner to submit information on rents charged by the owner for other units in the premises or elsewhere.

### **19-VIII.D. EFFECT OF OTHER SUBSIDY AND RENT CONTROL**

In addition to the rent limits discussed in Section 19-VIII.B above, other restrictions may limit the amount of rent to owner in a PBV unit. In addition, certain types of subsidized housing are not even eligible to receive PBV assistance (see Section 19-II.D).

#### **Other Subsidy [24 CFR 983.304]**

To comply with HUD subsidy layering requirements, at the discretion of HUD or its designee, a PHA shall reduce the rent to owner because of other governmental subsidies, including tax credits or tax exemptions, grants, or other subsidized funding.

For units receiving assistance under the HOME program, rents may not exceed rent limits as required by that program.

For units in any of the following types of federally subsidized projects, the rent to owner may not exceed the subsidized rent (basic rent) or tax credit rent as determined in accordance with requirements for the applicable federal program:

- An insured or non-insured Section 236 project;
- A formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action;
- A Section 221(d)(3) below market interest rate (BMIR) project;
- A Section 515 project of the Rural Housing Service;
- Any other type of federally subsidized project specified by HUD.

#### ***Combining Subsidy***

Rent to owner may not exceed any limitation required to comply with HUD subsidy layering requirements.

#### **Rent Control [24 CFR 983.305]**

In addition to the rent limits set by PBV program regulations, the amount of rent to owner may also be subject to rent control or other limits under local, state, or federal law.

## **PART IX: PAYMENTS TO OWNER**

### **19-IX.A. HOUSING ASSISTANCE PAYMENTS [24 CFR 983.351]**

During the term of the HAP contract, the PHA must make housing assistance payments to the owner in accordance with the terms of the HAP contract. During the term of the HAP contract, payments must be made for each month that a contract unit complies with HQS and is leased to and occupied by an eligible family. The housing assistance payment must be paid to the owner on or about the first day of the month for which payment is due, unless the owner and the PHA agree on a later date.

Except for discretionary vacancy payments, the PHA may not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).

The amount of the housing assistance payment by the PHA is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

In order to receive housing assistance payments, the owner must comply with all provisions of the HAP contract. Unless the owner complies with all provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.

### **19-IX.B. VACANCY PAYMENTS [24 CFR 983.352]**

If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. However, the owner may not keep the payment if the PHA determines that the vacancy is the owner's fault.

#### PHA Policy

If the PHA determines that the owner is responsible for a vacancy and, as a result, is not entitled to the keep the housing assistance payment, the PHA will notify the landlord of the amount of housing assistance payment that the owner must repay. The PHA will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner. The PHA may only make vacancy payments if:

- The owner gives the PHA prompt, written notice certifying that the family has vacated the unit and identifies the date when the family moved out (to the best of the owner's knowledge);
- The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;
- The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and
- The owner provides any additional information required and requested by the PHA to verify that the owner is entitled to the vacancy payment.

The owner must submit a request for vacancy payments in the form and manner required by the PHA and must provide any information or substantiation required by the PHA to determine the amount of any vacancy payment.

#### PHA Policy

If an owner's HAP contract calls for vacancy payments to be made, and the owner wishes to receive vacancy payments, the owner must have properly notified the PHA of the vacancy in accordance with the policy in Section 19-VI.F. regarding filling vacancies.

In order for a vacancy payment request to be considered, it must be made within 10 business days of the end of the period for which the owner is requesting the vacancy payment. The request must include the required owner certifications and the PHA may require the owner to provide documentation to support the request. If the owner does not provide the information requested by the PHA within 10 business days of the PHA's request, no vacancy payments will be made.

#### **19-IX.C. TENANT RENT TO OWNER [24 CFR 983.353]**

The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by the PHA in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in the PHA notice to the family and owner.

The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent determined by the PHA is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by the PHA. The owner must immediately return any excess payment to the tenant.

#### **Tenant and PHA Responsibilities**

The family is not responsible for the portion of rent to owner that is covered by the housing assistance payment and the owner may not terminate the tenancy of an assisted family for nonpayment by the PHA.

Likewise, the PHA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. The PHA is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. The PHA may not use housing assistance payments or other program funds (including administrative fee reserves) to pay any part of the tenant rent or other claim by the owner.

#### **Utility Reimbursements**

If the amount of the utility allowance exceeds the total tenant payment, the PHA must pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero.

The PHA may pay the utility reimbursement directly to the family or to the utility supplier on behalf of the family. If the PHA chooses to pay the utility supplier directly, the PHA must notify the family of the amount paid to the utility supplier.

PHA Policy

The PHA will make utility reimbursements to the utility supplier on behalf of the family.

**19-IX.D. OTHER FEES AND CHARGES [24 CFR 983.354]**

**Meals and Supportive Services**

With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

**Other Charges by Owner**

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

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### EXHIBIT 19-1: PBV DEVELOPMENT INFORMATION - SAMPLE

(Fill out one for each development)

**Date:** [Enter the date on which this form was completed]

#### DEVELOPMENT INFORMATION

**Development Name:** [Insert name of PBV development]

**Address:** [Insert full address of PBV development]

**Owner Information:** [Insert PBV development owner name and contact information. If development is PHA-owned, enter "PHA-owned."]

**Property Management Company:** [Insert property management company name and contact information, or enter "None"]

**PHA-Owned:** [Enter "Yes" or "No." If yes, enter name of independent entity]

**Mixed Finance Development:** [Enter "Yes" or "No." If yes, list other types of funding and units to which other funding applies.]

#### HAP CONTRACT

**Effective Date of Contract:** [Enter start date of HAP contract]

**HOTMA Requirements:** [If HAP contract was signed prior to April 18, 2017, enter "Pre-HOTMA." If HAP contract was signed on or after April 18, 2017, enter "Post-HOTMA."]

**Term of HAP Contract:** [Enter term from HAP contract]

**Expiration Date of Contract:** [Enter expiration date from HAP contract]

#### PBV UNITS

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	Total
# of Units							
Initial Contract Rent	\$	\$	\$	\$	\$	\$	

**Structure Type:** [Identify the structure type, i.e. Single Family Detached, Duplex or Two Family, Row House or Town House, Low Rise (3,4 Stories, including Garden Apartment), Highrise (5 or more stories)]

**Housing Type:** [Identify if the units are an Independent Group Residence or Single Room Occupancy]

## UTILITY RESPONSIBILITY

[Enter in Accordance with the HAP Exhibit C]

Utility	Fuel Type (Gas, Electric, Oil, Coal, Other)	Paid By (Tenant/Owner)	Provided By (Tenant/Owner)
Heating	Electric	Tenant	Owner
Cooking	Electric	Tenant	Owner
Water Heating	Electric	Tenant	Owner
Other Electric		Tenant	Owner
Water		Owner	Owner
Sewer		Owner	Owner
Trash Collection		Owner	Owner
Air Conditioning		Tenant	Owner
Refrigerator			
Range/Microwave			
Other (specify)			

**Accessible Units and Features:** [Identify which units are accessible and describe accessibility features or enter “None”]

**Target Population:** [Describe targeted population in accordance with HAP contract or enter “None”]

**Excepted Units:** [Identify excepted unit types below or enter “None”]

- **Supportive Services:** [Enter “Yes, see Exhibit D of HAP Contract” or enter “No”]
- **Elderly Units:** [Enter “Yes” or “No.” If yes, identify which units are elderly units.]
- **Disabled Units** (only for HAP contracts executed prior to April 18, 2017) [Enter “Yes” or “No.” If yes, identify which units are for persons with disabilities.]
- **FUPY/FYI Units:** [Enter “Yes” or “No.” If yes, identify which units are FUP units]
- **Are units excepted because they are located in a low-poverty census tract area?:** [Enter “Yes” or “No”]

## WAITING LIST AND SELECTION

**Waiting List Type:** [ Enter “Site-based waiting list,” “Combined with HCV,” “Waiting list for entire PBV program,” or “Merged with another assisted housing program”]

**Preferences:** [Enter “Same as HCV; see Chapter 4” or describe preferences offered. If different from HCV, also note in Section 17.1.B of this policy.]

**Preference Verification:** [Enter “Same as HCV; see Chapter 7” or describe for each preference listed above. If different from HCV, note in Section 17.1.B of this policy.]

**For the PBV program, is the income limit the same as the HCV program?** (Note: In mixed finance developments, other income limits may also apply.) [Enter “Same as HCV; see Chapter 3” or clearly describe. If different from HCV, note in Section 19.1.B of this policy.]

## OCCUPANCY

**Subsidy Standards:** [Enter “Same as HCV; see Chapter 5” or describe. If different from HCV, note in Section 19.1.B of this policy]

**Vacancy Payments:** [Enter in accordance with HAP contract Part 1, e, 2 and Section 19-V.F. within this chapter]

**EXHIBIT 19-2: Special Provisions Applying to TPVs Awarded as Part of a Voluntary Conversion of Public Housing Units in Projects that Include RAD PBV Units**

**[24 CFR Part 972.200; Notice PIH 2019-05; Notice PIH 2019-23]**

Under certain circumstances, HUD allows small PHAs to reposition a public housing project (or portion of a project) by voluntarily converting units to tenant-based housing choice voucher assistance. In order to preserve affordable housing for residents of the project, the PHA is given priority to receive replacement tenant protection vouchers (TPVs). As part of the voluntary conversion, the PHA has the option to continue to operate it as rental housing. If so, the PHA or subsequent owner must allow existing families to remain in their units using the TPV in the form of tenant-based assistance. In this situation, however, the PHA may choose to project-base these TPVs in the former public housing project. Families must still be provided with the option to remain in their unit using tenant-based assistance. In order for the PHA to project-base the assistance and include these units on the PBV HAP contract, the family must voluntarily consent in writing to PBV assistance following the requirements in Appendix A of Notice PIH 2019-05. If the family fails to consent to PBV assistance and chooses to remain using tenant-based assistance, the family's unit is excluded from the PBV HAP contract until the family moves out or consents to switching to PBV assistance. In general, all applicable program regulations and guidance for the standard PBV program apply to these units.

The PHA may also convert units in the same former public housing project to the PBV program under the rental assistance demonstration (RAD) program. The RAD statute authorizes HUD to waive certain statutory and regulatory provisions governing the standard PBV program and specify alternative requirements. In order to facilitate the uniform treatment of residents and units at the project, Notice PIH 2019-23 extended some of the alternative requirements to non-RAD PBV units in the converted project (i.e., the TPV units in the project). As such, while PBV TPV units in the converted project generally follow the requirements for the standard PBV program listed in this chapter, where HUD has specified alternative requirements for non-RAD PBV units in the project, PBV TPV units will instead follow the requirements outlined in Chapter 18 of this policy for the RAD PBV program.

**RAD Requirements Applicable to Non-RAD units in the Project**

<b>Alternative Requirement under RAD as Listed in Notice PIH 2019-23</b>	<b>Standard PBV Policy That Does Not Apply</b>	<b>Applicable Policy in Chapter 18</b>
1.6.A.4. Site Selection – Compliance with PBV Goals	19-II.G. SITE SELECTION STANDARDS applies with the exception of deconcentration of poverty and expanding housing and economic opportunity requirements.	18-II.F. SITE SELECTION STANDARDS
1.6.B.5.d. PBV Site-Specific Utility Allowances	Alternative requirement under RAD. No	18-VII.C. UTILITY ALLOWANCES



	corresponding policy in Chapter 19.	
1.6.C.1. No Rescreening of Tenants upon Conversion	Policies contained in Chapter 3 relating to eligibility do not apply to existing tenants who receive TPVs.	18-V.B. PROHIBITED RESCREENING OF EXISTING TENANTS UPON CONVERSION
1.6.C.2. Right to Return	Alternative requirement under RAD. No corresponding policy in Chapter 19.	18-I.D. RELOCATION REQUIREMENTS
1.6.C.3. Phase-in of Tenant Rent Increases	Alternative requirements under RAD. No corresponding policy in Chapter 19.	18-VIII.D. PHASE-IN OF TENANT RENT INCREASES
1.6.C.4. Family Self Sufficiency (FSS) and Resident Opportunities and Self-Sufficiency Service Coordinator (ROSS-SC) Programs	Not covered in administrative plan.	18-VI.C. PUBLIC HOUSING FSS AND ROSS PARTICIPANTS
1.6.C.5. Resident Participation and Funding	Alternative requirement under RAD. No corresponding policy in Chapter 19.	18-VI.D. RESIDENT PARTICIPATION AND FUNDING
1.6.C.6. Resident Procedural Rights	Policies related to hearings in Chapter 16 apply, with added procedural rights and notice requirements as outlined in Chapter 18.	18-VI.H. RESIDENTS' PROCEDURAL RIGHTS
1.6.C.7. Earned Income Disregard (EID)	Alternative requirements under RAD for in-place residents.  New admissions follow policies in Chapter 6.	18-VI.G. EARNED INCOME DISALLOWANCE
1.6.C.8. Jobs Plus	Not covered in administrative plan.	No corresponding policy.

1.6.C.9. When Total Tenant Payment Exceeds Gross Rent	<p>Alternative requirements under RAD for in-place residents.</p> <p>New admissions follow policies in 19-VII.B. LEASE, Continuation of Housing Assistance Payments.</p>	18-VI.B. LEASE, Continuation of Housing Assistance Payments
1.6.C.10. Under-Occupied Unit	<p>Alternative requirements under RAD for in-place residents.</p> <p>New admissions follow 19-VII.C. MOVES, Overcrowded, Under-Occupied, and Accessible Units</p>	18-VI.E. MOVES, Overcrowded, Under-Occupied, and Accessible Units
1.6.D.4. Establishment of Waiting List	<p>Alternative requirements under RAD for initial establishment of the waiting list.</p> <p>Once waiting list is established, follow 19-VI.D. SELECTION FROM THE WAITING LIST</p>	18-V.D. ORGANIZATION OF THE WAITING LIST
1.6.D.10. Initial Certifications and Tenant Rent Calculations	<p>Alternative requirements under RAD for in-place residents. No corresponding policy in Chapter 19.</p>	18-VIII.C. TENANT RENT TO OWNER, Initial Certifications

Note, while Notice PIH 2019-05 states that the PHA must screen families for eligibility for a tenant protection voucher and that families must be below the low-income limit (80 percent of AMI), Notice PIH 2019-23 waives these requirements for residents in projects that include RAD PBV units.

## Chapter 18

### PROJECT BASED VOUCHERS (PBV) UNDER THE RENTAL ASSISTANCE DEMONSTRATION (RAD) PROGRAM

#### INTRODUCTION

This chapter describes HUD regulations and PHA policies related to the Project-Based Voucher (PBV) program under the Rental Assistance Demonstration (RAD) program in eight parts:

Part I: General Requirements. This part describes general provisions of the PBV program, including maximum budget authority requirements, relocation requirements, and equal opportunity requirements.

Part II: PBV Project Selection. This part describes the cap on assistance at projects receiving PBV assistance, ownership and control, and site selection standards.

Part III: Dwelling Units. This part describes requirements related to housing quality standards, the type and frequency of inspections, and housing accessibility for persons with disabilities.

Part IV: Housing Assistance Payments Contract. This part discusses HAP contract requirements and policies including the execution and term of the HAP contract.

Part V: Selection of PBV Program Participants. This part describes the requirements and policies governing how the PHA and the owner will select a family to receive PBV assistance.

Part VI: Occupancy. This part discusses occupancy requirements related to the lease and describes under what conditions families are allowed or required to move.

Part VII: Determining Contract Rent. This part describes how the initial rent to owner is determined, and how rent will be redetermined throughout the life of the HAP contract.

Part VIII: Payments to Owner. This part describes the types of payments owners may receive under this program.

## **PART I: GENERAL REQUIREMENTS**

### **18-1.A. OVERVIEW AND HISTORY OF THE RAD PROGRAM**

The Rental Assistance Demonstration (RAD) program was authorized in 2012 in order to assess the effectiveness of converting public housing, moderate rehabilitation properties, and units under the rent supplement and rental assistance payments programs to long-term, project-based Section 8 rental assistance. The program's four primary objectives are to:

Preserve and improve public and other assisted housing.

Standardize the administration of the plethora of federally subsidized housing programs and rules. The conversions are intended to promote operating efficiency by using a Section 8 project-based assistance model that has proven successful and effective for over 30 years. In other words, RAD aligns eligible properties more closely with other affordable housing programs.

Attract private market capital for property renovations. Through the use of this model, properties may be able to leverage private debt and equity to make capital repairs.

Increase tenant mobility opportunities.

Under the first component, a PHA with public housing units may submit an application to HUD to convert some or all of their public housing units to long-term, project-based Section 8 HAP contracts under either:

Project-based rental assistance (PBRA) under HUD's Office of Multifamily Housing Programs.

Project-based vouchers (PBVs) under HUD's Office of Public and Indian Housing (PIH).

This chapter will focus on public housing conversions to the PBV program under RAD. In order to distinguish between requirements for public housing conversion under RAD and PBV units under the standard PBV program, we will refer to the standard PBV program and the RAD PBV program.

### **18-1.B. APPLICABLE REGULATIONS**

On the whole, the regulations for both the standard and RAD PBV programs generally follow the regulations for the tenant-based HCV program found at 24 CFR Part 982. However, important parts of the tenant-based regulations do not apply to the project-based program. 24 CFR Part 983 outlines the sections of 24 CFR Part 982 that are not applicable to the project-based program.

For the RAD PBV program, Congress authorized HUD to waive certain statutory and regulatory provisions or establish alternative requirements from the standard PBV program. These provisions are identified in Notice PIH 2019-23 (issued September 5, 2019). Any non-RAD PBV units located in the covered project are subject to the same waivers and alternative requirements where noted in Notice PIH 2019-23 and in this policy.

Otherwise, all regulatory and statutory requirements for the standard PBV program in 24 CFR Part 983 and Section 8(o)(13) of the Housing Act of 1937, and all applicable standing and subsequent Office of Public and Indian Housing (PIH) notices and guidance, including related handbooks, apply to RAD PBV. This includes environmental review, Davis-Bacon, and fair housing requirements.

RAD is authorized by the Consolidated and Further Continuing Appropriations Act of 2012 (Public Law 112-55, approved November 18, 2011), as amended by the Consolidated Appropriations Act of 2014 (Public Law 113-76, approved January 17, 2014), the Consolidated and Further Continuing Appropriations Act of 2015 (Public Law 113-235, approved December 6, 2014), the Consolidated Appropriations Act of 2016 (Public Law 114-113, approved December 18, 2015), the Consolidated Appropriations Act, 2017 (Public Law 115-31, approved May 5, 2017), and section 237 of Title II, Division L, Transportation, Housing and Urban Development, and Related Agencies, of the Consolidated Appropriations Act, 2018 (Public Law 115-141, approved March 23, 2018) collectively, the “RAD Statute.”

Requirements specific to the RAD program may be found in the following:

Generally, public housing projects converting assistance under RAD are bound by the terms of the notice in effect at the time of closing. For all conversion types, HUD reserves the right, in its sole discretion and upon request from the applicant, to apply provisions from previous versions of this notice to program participants that are near conversion.

Notice PIH 2023-19 amends Notice PIH 2019-23 and Notice PIH 2021-07, and was effective immediately.

Notice PIH 2019-23 was immediately applicable at the time of closing to all projects converting assistance (notwithstanding execution of a commitment for conversion). Notice PIH 2019-23 was published on September 5, 2019.

Except with respect to changes in the project eligibility and selection criteria, not included in this policy, which are effective after a 30-day comment period.

Notice PIH 2012-32, REV-3 was applicable to projects that were seeking conversion of assistance through RAD, including those where a CHAP had already been issued when it was published January 12, 2017.

Except with respect to changes in the project eligibility and selection criteria, not included in this policy, which were effective after a 30-day comment period.

Notice PIH 2012-32, REV-2 was applicable to projects that were seeking conversion of assistance through RAD, including those where a CHAP had already been issued when it was published June 15, 2015.

Except with respect to changes in the project eligibility and selection criteria, not included in this policy, which are effective after a 30-day comment period.

RAD Quick Reference Guide for Public Housing Converting to PBV Assistance (6/20)

RAD Welcome Guide for New Awardees: RAD 1st Component (3/15)

Notice PIH 2016-17, Rental Assistance Demonstration (RAD) Notice Regarding Fair Housing and Civil Rights Requirements and Relocation Requirements Applicable to RAD First Component – Public Housing Conversions.

- This Notice applies to all projects that have applied for RAD conversion but have not yet converted as of November 10, 2016.

Notice PIH 2014-17, Relocation Requirements under the RAD Program, Public Housing in the First Component.

- This notice may apply to projects that have converted to RAD prior to November 10, 2016, AND who have requested and received approval from HUD to be governed by this notice. See PIH Notice 2016-17, Section 1, Paragraph 1.3 for applicability.

**NOTE: The policies in this chapter follow Notice PIH 2016-17. If your project falls under PIH 2014-17, applicable policies may be found in Section 18-I.D.**

RAD FAQs (<http://www.radresource.net/search.cfm>)

#### PHA Policy

<u>Project</u>	<u>Closing Date</u>	<u>RAD Notice</u>

In other words, the standard PBV program follows many of the same regulations as the tenant-based HCV program, but not all of them, and the RAD PBV program follows many of the same regulations as the standard PBV program, but not all of them.

MTW agencies are able to apply activities impacting the PBV program that are approved in the MTW Plan to properties converting under RAD, provided they do not conflict with RAD requirements.

#### **18-I.C. TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE** **[24 CFR 983.2]**

Much of the tenant-based voucher program regulations also apply to the PBV program. Consequently, many of the PHA policies related to tenant-based assistance also apply to RAD PBV assistance. The provisions of the tenant-based voucher regulations that do not apply to the PBV program are listed at 24 CFR 983.2.

##### PHA Policy

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, the PHA policies for the tenant-based voucher program contained in this administrative plan also apply to the RAD PBV program and its participants. This chapter is intended to address requirements specific to the RAD PBV program only.

See Exhibit 18-1 for information on projects to which the PHA has attached RAD PBV assistance.

#### **18-I.D. RELOCATION REQUIREMENTS**

For projects that apply for conversion of assistance under the First Component of RAD and will convert November 10, 2016 or later, the following applies [Notice PIH 2016-17]:

In some developments, in-place residents may need to be relocated as a result of properties undergoing repairs, being demolished and rebuilt, or when assistance is transferred from one site to another. RAD program rules prohibit the permanent, involuntary relocation of residents as a result of conversion. Residents that are temporarily relocated retain the right to return to the project once it has been completed. Any non-RAD PBV units located in the same project are also subject to the right to return.

Relocation assistance provided to residents will vary depending on the length of time relocation is required. Residents must be properly notified in advance of relocation requirements in accordance with RAD program rules and Uniform Relocation Act (URA) requirements, and other requirements which may be applicable such as Section 104(d) of the Housing and Community Development Act of 1974, as amended. Sample informing notices are provided in Appendices 2–5 of Notice PIH 2014-17. A written relocation plan is required if the RAD conversion involves permanent relocation (including a move in connection with a transfer of assistance) or temporary relocation anticipated to last longer than a year. While the PHA is not required to have a written relocation plan for temporary relocation lasting one year or less, HUD strongly encourages PHAs to prepare one. Appendix II of Notice PIH 2016-17 contains recommended contents for a relocation plan.

In addition, PHAs must undertake a planning process that complies with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), although not all relocations under RAD will trigger requirements under URA. URA statute and implementing regulations may be found at 49 CFR Part 24. The obligation due to relocating residents under RAD are broader than URA relocation assistance and payments.

Any residents that may need to be temporarily relocated to facilitate rehabilitation or construction will have a right to return to either: a) a unit at the development once rehabilitation or construction is completed, provided the resident's household is not under-housed; or b) a unit in the development which provides the same major features as the resident's unit in the development prior to the implementation of the RAD conversion.

Where the transfer of assistance to a new site is warranted and approved, residents of the converting development will have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete.

If the PHA's proposed plans for conversion would preclude a resident from returning to the development, the resident must be given an opportunity to comment and/or object to such plans. PHAs must alter the project plans to accommodate the resident's right to return to the development if the resident would be precluded from returning to the development.

Examples of project plans that may preclude a resident from returning to the development include, but are not limited to:

- o Changes in the development's bedroom distribution that decrease the size of the units, resulting in the resident being under-housed;
- o The resident cannot be accommodated in the remaining assisted units due to a reduction in the number of assisted units at the development;
- o Income limit eligibility requirements associated with the LIHTC program or another program; and
- o Failure to provide a reasonable accommodation, in violation of applicable law, where reasonable accommodation may include installation of accessibility features that are needed by the resident.

Residents of a development undergoing conversion that would be precluded from returning to the development may voluntarily accept a PHA or owner's offer to permanently relocate to alternative housing, and thereby waive their right to return to the development after rehabilitation or construction is completed. In this event, the PHA must secure the resident's written consent to a voluntary permanent relocation in lieu of returning to the development. PHAs are prohibited from employing any tactics to pressure residents into relinquishing their right to return or accepting other housing options. Additionally, a PHA may not terminate a resident's lease if the PHA fails to obtain the resident's consent and the resident seeks to exercise the right to return.

In the case of multi-phase RAD transactions, the resident has a right to return to the development or to other converted phases of the development that are available for occupancy at the time the resident is eligible to exercise their right of return. Generally, the resident's right to return must be accommodated within the development associated with the resident's original unit, however, the PHA may treat multiple converted developments on the same site as one for purposes of right to return. Should the PHA seek to have the resident exercise the right to return at a future phase, the PHA must secure the resident's consent in writing.

Alternative housing options may involve a variety of housing options, including but not limited to:

- o Transfers to public housing
- o Admission to other affordable housing properties subject to the applicable program rules
- o Housing choice voucher (HCV) assistance



- Homeownership programs subject to the applicable program rules
- Other options identified by the PHA

However, for projects that applied for conversion prior to November 10, 2016, the following applies [Notice PIH 2014-17]:

In some developments, in-place residents may need to be relocated as a result of properties undergoing repairs, being demolished and rebuilt, or when assistance is transferred from one site to another. RAD program rules prohibit the permanent, involuntary relocation of residents as a result of conversion. Residents that are temporarily relocated retain the right to return to the project once it has been completed.

Relocation assistance provided to residents will vary depending on the length of time relocation is required. Residents must be properly notified in advance of relocation requirements in accordance with RAD program rules and Uniform Relocation Act (URA) requirements. Sample informing notices are provided in Appendices 2–5 of Notice PIH 2014-17. While the PHA is not required to have a written relocation plan, HUD strongly encourages PHAs to prepare one. Appendix I of Notice PIH 2014-17 contains recommended contents for a relocation plan.

In addition, PHAs must undertake a planning process that complies with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), although not all relocations under RAD will trigger requirements under URA. URA statute and implementing regulations may be found at 49 CFR Part 24.

Any residents that may need to be temporarily relocated to facilitate rehabilitation or construction will have a right to return to an assisted unit at the development once rehabilitation or construction is completed. Where the transfer of assistance to a new site is warranted and approved, residents of the converting development will have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete. Residents of a development undergoing conversion of assistance may voluntarily accept a PHA or owner's offer to permanently relocate to another assisted unit, and thereby waive their right to return to the development after rehabilitation or construction is completed.

**18-I.E. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8; 24 CFR 5.105; Notice PIH 2016-17]**

RAD conversions are governed by the same civil rights authorities that govern HUD-assisted activities in general. These authorities prohibit discrimination and impose affirmative obligations on HUD program participants. PHAs must comply with all applicable fair housing and civil rights laws, including but not limited to the Fair Housing Act, Title VI of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act of 1973, when conducting relocation planning and providing relocation assistance. For example, persons with disabilities returning to the RAD project may not be turned away or placed on a waiting list due to a lack of accessible units. Their need for an accessible unit must be accommodated. See the *RAD Fair Housing, Civil Rights, and Relocation Notice* [Notice PIH 2016-17] for more information.



## **PART II: PBV PROJECT SELECTION**

### **18-II.A. OVERVIEW**

Unlike in the standard PBV program where the PHA typically selects the property through an owner proposal selection process, projects selected for assistance under RAD PBV are selected in accordance with the provisions in Notice PIH 2019-23. Therefore, 24 CFR 983.51 does not apply since HUD selects RAD properties through a competitive selection process.

### **18-II.B. OWNERSHIP AND CONTROL [Notice PIH 2019-23]**

For projects governed by Notice PIH 2019-23, the following language applies:

- Under the PBV program, the contract administrator and the owner listed on the contract cannot be the same legal entity (i.e., the PHA cannot execute a contract with itself). To avoid this situation, the PHA may either: 1) Transfer the ownership of the project to a nonprofit affiliate or instrumentality of the PHA (including to a “single-purpose entity” that owns nothing other than the property, which will typically be a requirement of a lender or investor), or 2) The PHA can form a related entity that is responsible for management and leasing and can serve as the owner for purposes of the Section 8 HAP contract; in this scenario, the HAP is then executed between the PHA (as the contract administrator) and the PHA’s related entity (as the owner for HAP contract purposes). Note that in the second scenario, both the PHA and the entity serving as the owner for HAP contract purposes will be required to sign the RAD Use Agreement [RAD Resource Desk FAQ 01/24/19].
- Except where permitted to facilitate the use of low-income housing tax credits, during both the initial term and renewal terms of the HAP contract, ownership must be by a public or nonprofit entity. HUD may also allow ownership of the project to be transferred to a tax credit entity controlled by a for-profit entity to facilitate the use of tax credits for the project, but only if HUD determines that the PHA or a nonprofit entity preserves an interest in the profit. The requirement for a public or nonprofit entity, or preservation of an interest by a PHA or nonprofit in a property owned by a tax credit entity controlled by a for-profit entity, is satisfied if a public or nonprofit entity (or entities), directly or through a wholly owned affiliate (1) holds a fee simple interest in the property; (2) is the lessor under a ground lease with the property owner; (3) has the direct or indirect legal authority to direct the financial and legal interest of the property owner with respect to the RAD units, (4) owns 51 percent or more of the general partner interests in a limited partnership or 51 percent or more of the managing member interests in a limited liability company with all powers of a general partner or managing member, as applicable; (5) owns a lesser percentage of the general partner or managing member interests and holds certain control rights as approved by HUD; (6) owns 51 percent or more of all ownership interests in a limited partnership or limited liability company and holds certain control rights as approved by HUD; or (7) demonstrates other ownership and control arrangements approved by HUD.

- Control may be established through the terms of the project owner's governing documents or through a Control Agreement, provided that in either case amendment of the terms of control requires consent from HUD.

For projects subject to the requirements of Notice PIH 2012-32, REV-3, the following language applies:

- Except where permitted to facilitate the use of low-income housing tax credits, during both the initial term and renewal terms of the HAP contract, ownership must be by a public or nonprofit entity. The requirement for a public or nonprofit entity is satisfied if a public or nonprofit entity (or entities), directly or through a wholly owned affiliate (1) holds a fee simple interest in the property; (2) is the lessor under a ground lease with the property owner; (3) has the direct or indirect legal authority to direct the financial and legal interest of the property owner with respect to the RAD units; (4) owns 51 percent or more of the general partner interests in a limited partnership or 51 percent or more of the managing member interests in a limited liability company with all powers of a general partner or managing member, as applicable; (5) owns a lesser percentage of the general partner or managing member interests and holds certain control rights as approved by HUD; (6) owns 51 percent or more of all ownership interests in a limited partnership or limited liability company and holds certain control rights as approved by HUD; or (7) other ownership and control arrangements approved by HUD.
- If low-income housing tax credits will be used, HUD may allow ownership of the property to be transferred to a tax credit entity controlled by a for-profit entity if HUD determines that the PHA preserves its interest in the property. Preservation of PHA interest in the property includes but is not limited to the following:
  - The PHA, or an affiliate under its sole control, is the general partner or managing member;
  - The PHA retains fee ownership and leases the real estate to the tax credit entity pursuant to a long-term ground lease;
  - The PHA retains control over leasing the property and determining program eligibility;
  - The PHA enters into a control agreement by which the PHA retains consent rights over certain acts of the project owner and retains certain rights over the project;
  - Other means that HUD finds acceptable

For projects that converted assistance prior to the implementation of Notice PIH 2012-32, REV-3, the following language applies:

- During both the initial term and renewal terms of the HAP contract, ownership must be either of the following:
  - A public or nonprofit entity that has legal title to the property. The entity must have the legal authority to direct the financial, legal, beneficial, and other interests of the property; or
  - A private entity, if the property has low-income tax credits. The PHA must maintain control via a ground lease.

**18-II.C. PHA-OWNED UNITS [24 CFR 983.59, FR Notice 1/18/17, and Notice PIH 2017-21]**

If the project is PHA-owned, rent-setting and inspection functions set out in 24 CFR 983.59 must be conducted by an independent entity approved by HUD.

The definition of *ownership or control* provided under Notice PIH 2019-23 (listed above) is used specifically to determine whether a PHA retains control over a project for purposes of HUD's requirement for ownership or control of the covered project under RAD. For purposes of determining whether an independent entity will perform certain functions for the project, the definition of *PHA-owned* under Notice PIH 2017-21 is used. This is the same definition used for standard PBV units. In some cases, a project may meet the RAD definition of *ownership or control* but may not be considered PHA-owned for purposes of requiring an independent entity.

The independent entity that performs the program services 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 another HUD-approved public or private independent entity.

The PHA may compensate the independent entity from PHA ongoing administrative fee income (including amounts credited to the administrative fee reserve). The PHA may not use other program receipts to compensate the independent entity for its services. The PHA, and the independent entity, may not charge the family any fee for the services provided by the independent entity.

PHA Policy

If units converted to PBV under RAD are PHA-owned housing, the PHA will use **[insert name of the entity]** as the HUD-approved independent entity.

**18-IL.D. SUBSIDY LAYERING REQUIREMENTS [Notice PIH 2019-23; Notice PIH 2012-32, REV-3; Notice PIH 2012-32, REV-2]**

For projects governed by Notice PIH 2019-23, the following language applies:

- In the case of a PHA that will no longer have ACC units as a result of the pending or simultaneous closing, or have less than 50 units remaining and have initiated procedures to dispose of their final ACC units, there is no restriction on the amount of public housing funds that may be contributed to the covered project or projects through the conversion. However, the PHA must estimate and plan for outstanding liabilities and costs and must follow Notice PIH 2016-23 or successor notice regarding the administrative activities required to terminate the ACC if it has no plans to develop additional public housing.
- In the case where the PHA will continue to maintain other units in its inventory under a public housing ACC, a contribution of operating funds to the covered project that exceeds the average amount the project has held in operating reserves over the past three years will trigger a subsidy layering review under 24 CFR 4.13. Similarly, any contribution of capital funds, including Replacement Housing Factor (RHF) or Demolition Disposition Transitional Funding (DDTF), will trigger a subsidy layering review. Notwithstanding the subsidy layering review, PHAs should be mindful of how the capital funds or operating reserves used in the financing of its RAD properties may impact the physical and financial health of properties that will remain in its public housing inventory.
- Following execution of the HAP contract, PHAs are authorized to use operating and capital funds to make HAP payments for the remainder of the first calendar year in which the HAP contract is effective. Otherwise, a PHA may not contribute public housing program funds to the covered project unless those funds have been identified in the RCC and converted at closing for Section 8 RAD purposes.

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For projects governed by Notice PIH 2012-32, REV-3, the following language applies:

- In the case of a PHA that is converting all of its ACC units, there is no restriction on the amount of public housing funds that may be contributed to the covered project at closing; the PHA may convey all program funds to the covered projects. In order to cover the cost of administrative activities required to terminate the ACC, once it no longer has units under the ACC and has no plans to develop additional public housing, the PHA may:
  - Designate that a reserve associated with the project be available to fund any public housing closeout costs (such as an operating deficit reserve or a specific PHA closeout reserve). Any funds not needed for public housing closeout costs would remain in such reserve or may be transferred to another reserve associated with the project (such as the replacement reserve). Thereafter, these funds may be used at the project pursuant to the authorized use of the applicable reserve; or
  - Retain funds under the public housing program for this purpose. However, HUD will recapture any public housing funds that a PHA does not expend for closeout costs.

- In the case where the PHA will continue to maintain other units in its inventory under a public housing ACC, a contribution of operating funds to the covered project that exceeds the average amount the project has held in operating reserves over the past three years will trigger a subsidy layering review under 24 CFR 4.13. Similarly, any contribution of capital funds, including Replacement Housing Factor (RHF) or Demolition Disposition Transitional Funding (DDTF), will trigger a subsidy layering review. Notwithstanding the subsidy layering review, PHAs should be mindful of how the capital funds or operating reserves used in the financing of its RAD properties may impact the physical and financial health of properties that will remain in its public housing inventory.
- In addition, following execution of the HAP contract, PHAs are authorized to use operating and capital funds to make HAP payments for the remainder of the first calendar year in which the HAP contract is effective. Otherwise, a PHA may not contribute public housing program funds to the covered project unless such funding has been identified in the approved financing plan and included in the approved “sources and uses” attached to the RCC.

For projects governed by the requirements of Notice PIH 2012-32, REV-2, the following language applies:

- In the case of a PHA that is converting all of its ACC units, there is no restriction on the amount of public housing funds that may be contributed to the covered project at closing; the PHA may convey all program funds to the covered project. HUD will recapture any public housing funds that a PHA has not expended once it no longer has units under ACC. In the case where the PHA will continue to maintain other units in its inventory under a public housing ACC, a contribution of operating funds to the covered project that exceeds the average amount the project has held in operating reserves over the past three years will trigger a subsidy layering review under 24 CFR 4.13. Similarly, any contribution of capital funds, including Replacement Housing Factor (RHF) or Demolition Disposition Transitional Funding (DDTF), will trigger a subsidy layering review. Notwithstanding the subsidy layering review, PHAs should be mindful of how the capital funds or operating reserves used in the financing of its RAD properties may impact the physical and financial health of properties that will remain in its public housing inventory.



## 18-IL.E. PBV PERCENTAGE LIMITATION AND UNIT CAP [Notice PIH 2019-23 and Notice PIH 2023-19]

### PBV Percentage Limitation

Covered projects do not count against the maximum amount of assistance a PHA may utilize for the PBV program, which under the standard PBV program is set at 20 percent of the authorized units allocated to a PHA under the HCV program. The number of PBV units excluded from the PHA's PBV program cap cannot exceed the number of former public housing units that those PBV units are replacing through the course of the RAD conversion. All PBV units in a covered project that replace former public housing units at the time of conversion are excluded from both the numerator and the denominator when calculating the percent of vouchers that may be project-based by a PHA. To implement this provision, HUD is waiving section 8(o)(13)(B) of the 1937 Act as well as 24 CFR 983.6.

### Unit Cap Limitation

When HUD published REV-3 of Notice PIH 2012-32, the cap on the number of assisted units in each project was eliminated. Under the standard PBV program the cap is set at the greater of 25 units or 25 percent of the units in the project. HUD is waiving this requirement, and projects governed by Notice PIH 2019-23 and Notice PIH 2012-32, REV-3 have no cap on the number of units that may receive PBV assistance in a project.

However, for projects that are governed by REV-2 of Notice PIH 2012-32, the cap on the number of PBV units in the project is increased to 50 percent. In these projects, however, provided units met certain exception criteria, the PHA may have converted a larger number of units to RAD PBV. For projects governed by the requirements of Notice PIH 2012-32, REV-2 **only**, the following language applies:

- In general, the PHA may not provide PBV assistance for units in a project if the total number of dwelling units in the project that will receive PBV assistance during the term of the PBV HAP contract is more than 50 percent of the number of dwelling units (assisted or unassisted) in the project. However, PHAs may exceed the 50 percent limitation when units in the project are occupied by elderly and/or disabled families or families that will receive supportive services. These units are known as "excepted units" and do not count toward the project cap.
- For projects governed by the requirements of Notice PIH 2012-32, REV-2 choosing to include excepted units, additional policy decisions may be required.

### PHA Policy

For projects governed by Notice PIH 2012-32, REV-2, the PHA will not provide RAD PBV assistance for any excepted units.

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**18-IL.F. SITE SELECTION STANDARDS [Notice PIH 2019-23; Notice PIH 2016-17]**

Site selection requirements set forth in 24 CFR 983.57 apply to RAD PBV, with the exception of 983.57(b)(1) and (c)(2). HUD waives the provisions regarding deconcentration of poverty and expanding housing and economic opportunity for existing housing sites.

To facilitate the uniform treatment of residents and units, any non-RAD PBV units located in the same project are subject to the terms of this provision.

HUD will conduct a front-end civil rights review of the PHA's proposed site in certain circumstances. For RAD PBV conversions that involve new construction located in an area of minority concentration (whether on the existing public housing site or on a new site) HUD will determine whether it meets one of the exceptions that would allow for new construction in an area of minority concentration.

The PHA must ensure that its RAD PBV conversion, including any associated new construction, is consistent with its certification to affirmatively further fair housing and complies with civil rights laws.

**18-IL.G. ENVIRONMENTAL REVIEW [Notice PIH 2019-23; *Environmental Review Requirements for RAD Conversions*, March 2019]**

HUD cannot approve an applicant's financing plan submission unless and until the required environmental review has been completed for the applicant's proposed conversion project and found to meet environmental review requirements. Environmental documents must be submitted no later than the applicant's financing plan. HUD will not issue a RAD Conversion Commitment (RCC) if the project plan does not meet the environmental review requirements described in Attachment 1A of Notice PIH 2019-23. Once an awardee has submitted an application for a specific project, they may not make any choice limiting actions before the completion of the environmental review.



## **PART III: DWELLING UNITS**

### **18-III.A. OVERVIEW**

This part identifies the special housing quality standards that apply to the RAD PBV program, housing accessibility for persons with disabilities, and special procedures for conducting housing quality standards inspections.

### **18-III.B. HOUSING QUALITY STANDARDS [24 CFR 983.101]**

The housing quality standards (HQS) for the tenant-based program generally apply to the PBV program. HQS requirements for shared housing, manufactured home space rental, and the homeownership option do not apply because these housing types are not assisted under the PBV program.

The physical condition standards at 24 CFR 5.703 do not apply to the PBV program.

### **Lead-based Paint [24 CFR 983.101(c); Notice PIH 2019-23]**

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, and R, and 40 CFR 745.227, apply to the PBV program.

### **18-III.C. HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES [Notice PIH 2016-17]**

Federal accessibility requirements apply to all conversions, whether they entail new construction, alternations, or existing facilities. The housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8. The PHA must ensure that the percentage of accessible dwelling units complies with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR 8, subpart C.

Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable. (24 CFR 983.102)

## **18-III.D. INSPECTING UNITS**

### **Initial Inspection [RAD Quick Reference Guide<sup>+</sup>, Notice PIH 2019-23, and Notice PIH 2023-19]**

Under standard PBV regulations at 24 CFR 983.103(b), a PHA may not enter into a HAP contract until the PHA has determined all units comply with HQS. It is the responsibility of the contract administrator to perform this initial inspection (unless units are PHA-owned). In order to accommodate projects in which repairs are conducted, however, HUD has waived this requirement when units are undergoing rehabilitation. In this case, units must meet HQS by the date indicated in the RAD Conversion Commitment (RCC). To place the unit under HAP contract and commence making payments, the PHA may rely on the owner's certification that the owner has no reasonable basis to have knowledge that life-threatening conditions exist in the unit or units to be added to the HAP contract instead of conducting an initial inspection. During the period of the work, HQS requirements apply. The PHA must enforce the project owner's obligations and conduct inspections when needed, (for example in response to tenant complaints or other information coming to its attention), and the owner must correct any deficiencies in accordance with HQS requirements (i.e., no more than 24 hours for a life-threatening deficiency, and within no more than 30 calendar days or any PHA-approved extension for other defects, but no later than the date of the completion of the work as indicated in the RCC).

### **Turnover Inspections [24 CFR 983.103(c), FR Notice 1/18/17, and Notice PIH 2017-20]**

Before providing assistance to a new family in a contract unit, the PHA must inspect the unit. The PHA may not provide assistance on behalf of the family until the unit fully complies with HQS.

### **Annual/Biennial Inspections [24 CFR 983.103(d); FR Notice 6/25/14]**

At least once every 24 months during the term of the HAP contract, the PHA must inspect a random sample consisting of at least 20 percent of the contract units in each building, to determine if the contract units and the premises are maintained in accordance with HQS. Turnover inspections are not counted toward meeting this inspection requirement.

#### PHA Policy

The PHA will inspect on an annual basis a random sample consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS.

If more than 20 percent of the sample of inspected contract units in a building fail the initial inspection, the PHA must reinspect 100 percent of the contract units in the building.

### **Alternative Inspections [24 CFR 983.103(g); Notice PIH 2016-05]**

In the case of mixed-finance properties that are subject to alternative inspections, the PHA may rely upon an alternative inspection conducted at least triennially to demonstrate compliance with inspection requirements.

#### PHA Policy

The PHA will not rely on alternative inspection standards.

#### **Other Inspections [24 CFR 983.103(e)]**

The PHA must inspect contract units whenever needed to determine that the contract units comply with HQS and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. The PHA must take into account complaints and any other information coming to its attention in scheduling inspections.

The PHA must conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an HQS violation, and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of HQS.

In conducting PHA supervisory quality control HQS inspections, the PHA should include a representative sample of both tenant-based and project-based units.

#### **Inspecting PHA-Owned Units [24 CFR 983.103(f); Notice PIH 2017-21]**

In the case of PHA-owned units, all required inspections must be performed by an independent entity designated by the PHA and approved by HUD. The independent entity must furnish a copy of each inspection report to the PHA and to the HUD field office where the project is located. The PHA must take all necessary actions in response to inspection reports from the independent agency, including exercise of contractual remedies for violation of the HAP contract by the PHA-owner.



## **PART IV: HOUSING ASSISTANCE PAYMENTS (HAP) CONTRACT**

### **18-IV.A. OVERVIEW [RAD PBV Quick Reference Guide 6/20]**

Public housing projects converting under RAD do not employ the PBV Agreement to Enter into a Housing Assistance Payments (AHAP) contract. Instead, following the execution of all requirements contained in the Commitment to Enter into a HAP (CHAP) contract and the RAD Conversion Commitment (RCC), a project is converted immediately to the RAD PBV HAP contract following the closing of any construction financing. Owners of public housing projects converted to PBV assistance via RAD enter into a HAP contract with the PHA that will administer the PBV assistance. Units assisted under a RAD PBV HAP contract must be subject to long-term, renewable use and affordability restrictions.

### **18-IV.B. HAP CONTRACT REQUIREMENTS**

#### **Contract Information [RAD PBV Quick Reference Guide 6/20; Notice PIH 2019-23]**

The RAD PBV program uses the PBV HAP contract for new construction or rehabilitated housing (Form HUD-52530A), as modified by the RAD rider (Form HUD-52621). For closings on or after January 1, 2018, HUD incorporated the RAD rider directly into the standard PBV HAP contract. For closing that occurred prior to January 1, 2018, the RAD rider must be attached to the PBV HAP contract.

The distinction between “existing housing” and “rehabilitated and newly constructed housing” is overridden by RAD requirements. The project must also have an initial RAD use agreement. All public housing RAD conversion properties financed with LIHTC are also required to include an LIHTC rider.

#### **Execution and Effective date of the HAP Contract [RADBlast! 7/11/16]**

RAD PBV projects do not employ an Agreement to Enter into a Housing Assistance Payments (AHAP) contract like in the standard PBV program. Rather, when the conditions of the CHAP and the RCC are met and the conversion has closed, the PHA executes the HAP contract. Project owners may select the effective date of the HAP contract as the first day of either of the two months following the completed closing.

#### **Term of HAP Contract [Notice PIH 2019-23]**

The initial term of the HAP contract may not be for less than 15 years and may be for a term of up to 20 years upon request of the owner and with approval of the administering voucher agency. Upon expiration of the initial term of the contract, and upon each renewal term of the contract, the owner must accept each offer to renew the contract, for the prescribed number and mix of units, either on the site of the project subject to the expiring contract or, upon request of the project owner and subject to PHA and HUD approval, at another site through a future transfer of assistance. Contracts are subject to the terms and conditions applicable at the time of each offer and further subject to the availability of appropriations for each year of each such renewal. To implement this provision, HUD is waiving section 8(o)(13)(F) of The United States Housing Act of 1937, which permits a minimum term of one year, as well as 24 CFR 983.205(a), which governs the contract term.



#### **Agreement to Enter into a HAP (AHAP) Contract [Notice PIH 2019-23]**

For public housing conversions to PBV, there will be no agreement to enter into a Housing Assistance Payments (AHAP) contract. Therefore, all regulatory references to the Agreement (AHAP), including regulations under 24 CFR Part 983 Subpart D, are waived. The definitions for proposal selection date, new construction, rehabilitation, and existing housing are not applicable.

#### **Mandatory Contract Renewal [Notice PIH 2019-23]**

By statute, upon contract expiration, the agency administering the vouchers will offer, and the PHA will accept, renewal of the contract for the prescribed number and mix of units, either on the site of the project subject to the expiring contract or, upon request of the project owner and subject to PHA and HUD approval, at another site through a future transfer of assistance. The contract is subject to the terms and conditions applicable at the time of renewal and the availability of appropriations each year for such renewal. Consequently 24 CFR 983.205(b), governing the PHA discretion to renew the contract, will not apply.

In the event that the HAP contract is removed due to breach, non-compliance or insufficiency of appropriations, for all units previously covered under the HAP contract, new tenants must have incomes at or below 80 percent of the area median income at the time of admission and rents may not exceed 30 percent of 80 percent of median income for an appropriate size unit for the remainder of the term of the RAD use agreement.

#### **Chapter 2 Remedies for HQS Violations [24 CFR 983.208(b)]**

The PHA may not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with HQS. If the PHA determines that a contract unit does not comply with HQS, the PHA may exercise any of its remedies under the HAP contract, for any or all of the contract units. Available remedies include termination of housing assistance payments, abatement or reduction of housing assistance payments, reduction of contract units, and termination of the HAP contract.

#### **PHA Policy**

The PHA will abate and terminate PBV HAP contracts for noncompliance with HQS in accordance with the policies used in the tenant-based voucher program. These policies are contained in Section 8-II.G., Enforcing Owner Compliance.

#### **18-IV.C. AMENDMENTS TO THE HAP CONTRACT**

##### **Floating Units [Notice PIH 2019-23]**

Upon request of the owner to the voucher agency that will administer the project, HUD will permit assistance to float among units within the project that are the same bedroom size. The unit to which assistance is floated must be comparable to the unit being replaced in quality and amenities.

If the PHA chooses to float units, units are not specifically identified on the HAP contract, rather the HAP contract must specify the number and type of units in the property that are RAD PBV units. The property must maintain the same number and type of RAD units from the time of the initial HAP contract execution forward.

##### **PHA Policy**

The PHA will float assistance among unoccupied units within the project. Tracking of the number and type of units at the property, as well as identification of comparable units when assistance is floated, will be maintained by each property.

##### **Reduction in HAP Contract Units [Notice PIH 2019-23]**

Project owners are required to make available for occupancy by eligible tenants the number of assisted units under the terms of the HAP contract.

The PHA may not reduce the number of assisted units without written HUD approval. Any HUD approval of a PHA's request to reduce the number of assisted units under contract is subject to conditions that HUD may impose. MTW agencies may not alter this requirement.

If units are removed from the HAP contract because a new admission's TTP comes to equal or exceed the gross rent for the unit and if the project is fully assisted, the PHA must reinstate the unit after the family has vacated the property. If the project is partially assisted, the PHA may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR 983.207, or where the development has "floating" units.

#### **18-IV.D. HAP CONTRACT YEAR AND ANNIVERSARY DATES [24 CFR 983.302(e)]**

The HAP contract year is the period of 12 calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year. There is a single annual anniversary date for all units under a particular HAP contract.

**18-IV.E. OWNER RESPONSIBILITIES UNDER THE HAP CONTRACT**  
**[24 CFR 983.210]**

When the owner executes the HAP contract, they certify that at such execution and at all times during the term of the HAP contract:

All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with HQS;

The owner is providing all services, maintenance, equipment, and utilities as agreed to under the HAP contract and the leases;

Each contract unit for which the owner is receiving HAP is leased to an eligible family referred by the PHA, and the lease is in accordance with the HAP contract and HUD requirements;

To the best of the owner's knowledge, the family resides in the contract unit for which the owner is receiving HAP, and the unit is the family's only residence;

The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit;

The amount of the HAP the owner is receiving is correct under the HAP contract;

The rent for contract units does not exceed rents charged by the owner for comparable unassisted units;

Except for HAP and tenant rent, the owner has not received and will not receive any other payment or consideration for rental of the contract unit;

The family does not own or have any interest in the contract unit (this does not apply to the family's membership in a cooperative); and

Repair work on the project selected as an existing project that is performed after HAP contract execution within such post-execution period as specified by HUD may constitute development activity, and if determined to be development activity, the repair work undertaken shall be in compliance with Davis-Bacon wage requirements.

**18-IV.F. VACANCY PAYMENTS [24 CFR 983.352(b)]**

At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner for a PHA-determined period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month. The amount of the vacancy payment will be determined by the PHA and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner, including amounts available from the tenant's security deposit.

PHA Policy

The PHA will provide vacancy payments to the owner. The HAP contract with the owner will contain the amount of the vacancy payment and the period for which the owner will qualify for these payments.

## **PART V: SELECTION OF PBV PROGRAM PARTICIPANTS**

### **18-V.A. OVERVIEW**

Many of the provisions of the tenant-based voucher regulations [24 CFR 982] also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the PBV program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

### **18-V.B. PROHIBITED RESCREENING OF EXISTING TENANTS UPON CONVERSION** **[Notice PIH 2019-23]**

Current households cannot be excluded from occupancy at the covered project based on any rescreening, income eligibility, or income targeting provisions. Consequently, current households will be grandfathered for application of any eligibility criteria to conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion. Post-conversion, the tenure of all residents of the covered project is protected pursuant to PBV requirements regarding continued occupancy unless explicitly modified by Notice PIH 2019-23 (e.g., rent phase-in provisions). For example, a unit with a household that was over-income at time of conversion would continue to be treated as an assisted unit. Thus, 24 CFR 982.201, concerning eligibility and targeting, will not apply for current households. Once that remaining household moves out, the unit must be leased to an eligible family. Existing residents at the time of conversion may not be rescreened for citizenship status or have their social security numbers reverified.

Further, so as to facilitate the right to return to the assisted property, this provision must apply to current public housing residents of the converting project that will reside in non-RAD PBV units placed in a project that contain RAD PBV units. Such families and such contract units will otherwise be subject to all requirements of the applicable program, specifically 24 CFR 983 for non-RAD PBV. Any non-RAD PBV units located in the same project are also subject to the right to return.

For the RAD PBV program, *in-place family* means a family who lived in a pre-conversion property at the time assistance was converted from public housing to PBV under RAD.

#### **18-V.C. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(a) and (b)]**

Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and the PHA, have income at or below HUD-specified income limits, and qualify on the basis of citizenship or the eligible immigration status of family members [24 CFR 982.201(a) and 24 CFR 983.2(a)], and meet asset limitation requirements. In addition, an applicant family must provide social security information for family members [24 CFR 5.216 and 5.218] and consent to the PHA's collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. The PHA may also not approve a tenancy if the owner (including a principal or other interested party) of the unit is the parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless needed as a reasonable accommodation. An applicant family must also meet HUD requirements related to current or past criminal activity.

#### **PHA Policy**

The PHA will determine an applicant family's eligibility for the RAD PBV program in accordance with the policies in Chapter 3.

#### **18-V.D. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c); Notice PIH 2019-23]**

The standard PBV regulations at 24 CFR 983.251 set out program requirements related to establishing and maintaining a voucher-wide, PBV program-wide, or site-based waiting list from which residents will be admitted. These provisions will apply unless the project is covered by a remedial order or agreement that specifies the type of waiting list and other waiting list policies. Any non-RAD PBV units located in the same project are also subject to these requirements.

##### **PHA Policy**

The PHA will establish and manage separate waiting lists for individual projects or buildings that are receiving RAD PBV assistance. The PHA currently has waiting lists for the following RAD PBV projects:

**[Insert list of projects/buildings receiving PBV assistance for which separate waiting lists are maintained].**

For any applicants on the public housing waiting list that are likely to be ineligible for admission to a covered project converting to PBV because the household's TTP is likely to exceed the RAD gross rent, the PHA will consider transferring such household, consistent with program requirements for administration of waiting lists, to the PHA's remaining public housing waiting lists or to another voucher waiting list, in addition to transferring such household to the waiting list for the covered project.

To the extent any wait list relies on the date and time of application, the applicants shall have priority on the wait lists to which their application was transferred in accordance with the date and time of their application to the original waiting list.

The PHA will maintain the project-specific waiting list in accordance with all applicable civil rights and fair housing regulations found at 24 CFR 903.7(b)(2)(ii)-(iv). The PHA will provide applicants full information about each development, including an estimate of the wait time, location, occupancy, number and size of accessible units, and amenities like day care, security, transportation, and training programs at each development with a site-based waiting list. The system for selection will be consistent with all applicable civil rights and fair housing laws and regulations and may not be in conflict with any imposed or pending court order, settlement agreement, or complaint brought by HUD.

The PHA will give priority to participants moving under a VAWA emergency transfer from one PBV development to another in accordance with Section 18-VI.E.

#### **18-V.E. SELECTION FROM THE WAITING LIST [24 CFR 983.251(c)]**

After conversion to RAD PBV, applicants who will occupy units with RAD PBV assistance must be selected from the PHA's waiting list. The PHA may establish selection criteria or preferences for occupancy of particular PBV units.

#### **Income Targeting [24 CFR 983.251(c)(6); Notice PIH 2019-23]**

At least 75 percent of the families admitted to the PHA's tenant-based and project-based voucher programs during the PHA fiscal year from the waiting list must be extremely-low income families. The income targeting requirement applies to the total of admissions to both programs.

Families in place at the time of the conversion are exempt from income targeting requirements. New admissions follow standard PBV requirements. Any non-RAD PBV units located in the same project are also subject to these requirements.

#### **Units with Accessibility Features [24 CFR 983.251(c)(7)]**

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, the PHA must first refer families who require such features to the owner.

#### **Preferences [24 CFR 983.251(d); FR Notice 11/24/08; Notice PIH 2019-23]**

The PHA may use the same selection preferences that are used for the tenant-based voucher program, establish selection criteria or preferences for the PBV program as a whole, or for occupancy of particular PBV developments or units.

#### **PHA Policy**

The PHA will not offer any preferences for the RAD PBV program. However, the PHA will give priority to participants moving under a VAWA emergency transfer from one PBV development to another in accordance with Section 18-VI.E.

## **18-V.F. OFFER OF PBV ASSISTANCE**

### **Refusal of Offer [24 CFR 983.251(e)(3)]**

The PHA is prohibited from taking any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

Refusing to list the applicant on the waiting list for tenant-based voucher assistance

Denying any admission preference for which the applicant qualifies

Changing the applicant's place on the waiting list based on preference, date, and time of application, or other factors affecting selection under the PHA's selection policy

Removing the applicant from the tenant-based voucher waiting list

### **Disapproval by Landlord [24 CFR 983.251(e)(2)]**

If a PBV owner rejects a family for admission to the owner's units, such rejection may not affect the family's position on the tenant-based voucher waiting list.

### **Acceptance of Offer [24 CFR 983.252]**

#### **Family Briefing**

When a family accepts an offer for PBV assistance, the PHA must give the family an oral briefing. The briefing must include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, the PHA must provide a briefing packet that explains how the PHA determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

#### **Persons with Disabilities**

If an applicant family's head or spouse is disabled, the PHA must assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet. This may include making alternative formats available (see Chapter 2). In addition, the PHA must have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.

#### **Persons with Limited English Proficiency**

The PHA should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166 (see Chapter 2).



#### **18-V.G. OWNER SELECTION OF TENANTS [24 CFR 983.253]**

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection.

#### **Leasing [24 CFR 983.253(a)]**

During the term of the HAP contract, the owner must lease contract units to eligible families that are selected and referred by the PHA from the PHA's waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on the PHA's subsidy standards.

#### **Filling Vacancies [24 CFR 983.254(a)]**

The owner must promptly notify the PHA of any vacancy or expected vacancy in a contract unit. After receiving such notice, the PHA must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies. The PHA and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

#### **PHA Policy**

The owner must notify the PHA in writing (mail, fax, or email) within five business days of learning about any vacancy or expected vacancy.

The PHA will make every reasonable effort to refer families to the owner within 10 business days of receiving such notice from the owner.

## **18-V.H. TENANT SCREENING [24 CFR 983.255]**

### **PHA Responsibility**

The PHA is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. However, the PHA may opt to screen applicants for family behavior or suitability for tenancy and may deny applicants based on such screening.

#### **PHA Policy**

The PHA will not conduct screening to determine a PBV applicant family's suitability for tenancy.

The PHA must provide the owner with an applicant family's current and prior address (as shown in PHA records) and the name and address (if known by the PHA) of the family's current landlord and any prior landlords.

In addition, the PHA may offer the owner other information the PHA may have about a family, including information about the tenancy history of family members or about drug trafficking and criminal activity by family members. The PHA must provide applicant families a description of the PHA policy on providing information to owners, and the PHA must give the same types of information to all owners.

The PHA may not disclose to the owner any confidential information provided in response to a request for documentation of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking except at the written request or with the written consent of the individual providing the documentation [24 CFR 5.2007(c)].

#### **PHA Policy**

The PHA will inform owners of their responsibility to screen prospective tenants, and will provide owners with the required known name and address information, at the time of the turnover HQS inspection or before. The PHA will not provide any additional information to the owner, such as tenancy history, criminal history, etc.

### **Owner Responsibility**

The owner is responsible for screening and selection of the family to occupy the owner's unit. When screening families the owner may consider a family's background with respect to the following factors:

Payment of rent and utility bills

Caring for a unit and premises

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

Drug-related criminal activity or other criminal activity that is a threat to the health, safety, or property of others

Compliance with other essential conditions of tenancy



## **PART VI: OCCUPANCY**

### **18-VI.A. OVERVIEW**

After an applicant has been selected from the waiting list, determined eligible by the PHA, referred to an owner, and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

### **18-VI.B. LEASE [24 CFR 983.256]**

The tenant must have legal capacity to enter into 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.

The tenant and the owner must enter into a written lease agreement that is signed by both parties. The tenancy addendum must include, word-for-word, all provisions required by HUD.

### **Lease Requirements [24 CFR 983.256(c); Notice PIH 2019-23]**

The lease for a PBV unit must specify all of the following information:

The names of the owner and the tenant;

The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);

The term of the lease (initial term and any provision for renewal);

The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;

A specification of the services, maintenance, equipment, and utilities that will be provided by the owner;

The amount of any charges for food, furniture, or supportive services; and

For any family admitted following conversion, the lease must specify what will happen if the family elects to remain in its unit after increasing its income such that it requires zero HAP. Specifically, the lease must make clear how the tenant rent will be calculated, and it must address the transition to a new lease. The PHA must include resident procedural rights for termination notification and grievance procedures in the owner's lease. These requirements are not part of the regular PBV program but are required under RAD.

### **Tenancy Addendum [24 CFR 983.256(d)]**

The tenancy addendum in the lease must state:

The program tenancy requirements

The composition of the household as approved by the PHA (the names of family members and any PHA-approved live-in aide)

All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.

**Initial Term and Lease Renewal [24 CFR 983.256(f); RAD PBV Quick Reference Guide 6/20]**

Leases for residents who will remain in place (i.e., who will not be relocated solely as a result of conversion) must have an effective date that coincides with—and must be signed on or before—the effective date of the RAD PBV HAP contract.

The initial lease term must be for at least one year. The lease must provide for automatic renewal after the initial term of the lease in either successive definitive terms (e.g., month-to-month or year-to-year) or an automatic indefinite extension of the lease term. For automatic indefinite extension of the lease term, the lease terminates if any of the following occur:

The owner terminates the lease for good cause

The tenant terminates the lease

The owner and tenant agree to terminate the lease

The PHA terminates the HAP contract

The PHA terminates assistance for the family

**Changes in the Lease [24 CFR 983.256(e)]**

If the tenant and owner agree to any change in the lease, the change must be in writing, and the owner must immediately give the PHA a copy of all changes.

The owner must notify the PHA in advance of any proposed change in the lease regarding the allocation of tenant and owner responsibilities for utilities. Such changes may only be made if approved by the PHA and in accordance with the terms of the lease relating to its amendment. The PHA must redetermine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The redetermined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

#### **Owner Termination of Tenancy [24 CFR 983.257; Notice PIH 2019-23]**

With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program (see Section 12-III.B. and 24 CFR 982.310). In the PBV program, terminating tenancy for “good cause” does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

Projects converting from public housing to PBV under RAD have additional procedural rights that do not apply to the standard PBV program. These procedural rights must be included in the owner’s lease as well as the PHA’s administrative plan. In addition to the regulations at 24 CFR 983.257 related to project owner termination of tenancy and eviction (which MTW agencies may not alter) the termination procedure for RAD conversions to PBV will require that PHAs provide adequate written notice of termination of the lease, which may not be less than:

A reasonable period of time, but not to exceed 30 days:

- If the health or safety of other tenants, PHA employees, or persons residing in the immediate vicinity of the premises is threatened; or
- In the event of any drug-related or violent criminal activity or any felony conviction

Not less than 14 days in the case of nonpayment of rent

Not less than 30 days in any other case, except that if a state or local law provides for a shorter period of time, such shorter period will apply

These provisions apply to non-RAD PBV units located in the project as well.

#### **Tenant Absence from the Unit [24 CFR 983.256(g) and 982.312(a)]**

The lease may specify a maximum period of family absence from the unit that may be shorter than the maximum period permitted by PHA policy. According to program requirements, the family’s assistance must be terminated if they are absent from the unit for more than 180 consecutive days. PHA termination of assistance actions due to family absence from the unit are subject to 24 CFR 982.312, except that the unit is not terminated from the HAP contract if the family is absent for longer than the maximum period permitted.

Continuation of Housing Assistance Payments [24 CFR 983.258; Notice PIH 2019-23; Notice PIH 2023-19; RAD PBV Quick Reference Guide 6/20]

Pre-Conversion Residents

The unit for a family with a TTP that equals or exceeds the gross rent (which is defined as the contract rent plus any utility allowance for the unit) must be placed on the PBV HAP contract and the family must be admitted to the PBV program. ~~Current residents living in the property prior to conversion are placed on and remain under the HAP contract when TTP equals or exceeds gross rent.~~ In this case, and until such time as the family's TTP falls below the gross rent, the family will pay the owner the alternate rent which is defined as the lesser of:

- The family's ~~their~~ TTP minus the utility allowance (subject to any required phase-in); or
- The Zero HAP Rent Cap, which is the lower of:
  - 110 percent for the applicable FMR minus the utility allowance; or
  - In the event the units are subject to more restrictive rent setting requirement under the LIHTC or HOME programs (or other programs approved by HUD on a project-specific basis, the rent to owner set to comply with such requirements.

~~or any applicable maximum rent under the LIHTC program.~~ The family will continue to pay this amount until/if circumstances change, and HAP is paid on their behalf. In other words, assistance may subsequently be reinstated if the tenant becomes eligible for assistance in which case normal PBV rent requirements will apply to the family. In such cases, the resident is still considered a program participant. All of the family obligations and protections under RAD and standard PBV apply to the resident. Likewise, all requirements with respect to the unit, such as compliance with the HQS requirements, apply as long as the unit is under HAP contract or added back to the HAP Contract. Any non-RAD PBV units located in the same project are also subject to these requirements.

After a family has paid the Zero HAP Rent Cap for a period of 180 days, the PHA must remove the unit from the HAP Contract and the family's participating in the PBV program ends. If the Covered Project is fully assisted and the family subsequently leaves the property, the PHA must reinstate the unit back onto the HAP contract and admit an eligible family. If the Covered Project is partially assisted and the family subsequently leaves the property, the unit must be reinstated back onto the HAP contract unless the PHA previously substituted a different unit on the HAP contract in accordance with 24 CFR § 983.207 or, where "floating units" have been permitted.

Additionally, if the family continues to reside in the project after the family's unit was removed from the HAP contract, the family may request to return to the PBV program if the family's income subsequently decreases to the extent that the family's TTP is less than the Zero-HAP Rent Cap, and the family is otherwise eligible for PBV assistance. The PHA must, at the earliest opportunity, reinstate the family's unit back onto the HAP contract to provide rental assistance to the family. If the project was partially assisted and the PHA previously substituted a different unit on the HAP contract, the PHA must substitute the family's unit for a vacant unit on the HAP contract if there is a vacant unit at the time of the request, or by doing so as soon as a unit on the HAP contract becomes vacant if there are no vacant units on the HAP contract at the time of the family request

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### **New Admission Families**

Unless a waiver is requested and approved, following conversion, 24 CFR 983.53(d) applies, and any new admission referred to the RAD PBV project must be initially eligible for a HAP payment at admission to the program. This means a family's TTP may not equal or exceed the gross rent for the unit at admission. The PHA may request a waiver from HUD in order to admit otherwise eligible families whose TTP exceeds gross rent and to allow the units those families occupy to remain under the HAP contract even if the PHA has not paid HAP for the family in 180 days.

Further, for any new families admitted after the conversion, assistance will be terminated 180 days after the last housing assistance payment on their behalf. The cessation of housing assistance payments does not affect the family's other rights under its lease, nor does it preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances if such changes occur within the 180-day window. If a family's assistance is terminated as a result of their zero HAP status, the PHA must remove the unit from the HAP contract. If the project is fully assisted and the family subsequently leaves the property, the PHA must reinstate the unit after the family has vacated the property and admit an eligible family. If the project is partially assisted, the PHA may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR 983.207 or where floating units have been permitted.

Per the RAD Use Agreement, the owner may charge the family a rent that does not exceed 30 percent of 80 percent of the area median income. If a unit is removed from the RAD PBV HAP contract, then the lease terminates automatically, as stated in the tenancy addendum, as though the RAD PBV HAP contract had been terminated. The tenant must be offered a new lease, which must reflect the new tenant rent. A tenant in this circumstance is no longer a program participant and therefore no longer benefits from any of the rights or protections specific to RAD, or to the PBV program. Should the family subsequently lose employment, the owner may choose to reduce the family's rent, but if the family wishes to be admitted to the HCV/PBV program, then it must be admitted through the waiting list like any other applicant.

In circumstances where low RAD PBV rents may prohibit a significant number of otherwise eligible families on the waiting list from being admitted to the project because they do not require subsidy, and which could consequently create an undue concentration of poverty at the project compared to non-RAD PBV projects, a PHA may request a waiver from HUD for the covered project. The waiver will apply the alternative requirements applicable to the pre-conversion residents to new admission families.

### **PHA Policy**

The PHA will not request a-waivers from HUD to allow families whose TTP initially exceeds gross rent to occupy units apply the alternative requirements applicable to pre-conversion residents to new admission families.

If a participating family who was admitted after the RAD conversion receive zero assistance and subsequently experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify the PHA of the change and request an interim reexamination before the expiration of the 180-day period.



**Security Deposits [24 CFR 983.259; RAD PBV Quick Reference Guide 6/20]**

Owners are permitted to recognize security deposit amounts that have been previously provided by tenants who are in-place at the time of the RAD conversion. If a tenant residing in a converting project has not previously provided a security deposit, then the owner may collect a security deposit at the time of initial lease execution. Otherwise, the security deposit requirements for standard PBV apply.

The owner may collect a security deposit from the tenant. The PHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

**PHA Policy**

The PHA will allow the owner to collect a security deposit amount the owner determines is appropriate.

When the tenant moves out of a contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease.

The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.

If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance from the tenant. The PHA has no liability or responsibility for payment of any amount owed by the family to the owner.

#### **18-VLC. PUBLIC HOUSING FSS AND ROSS PARTICIPANTS [Notice PIH 2019-23]**

Current PH FSS participants will continue to participate in the PHA's FSS program, and PHAs will be allowed to use any PH FSS funds granted previously or pursuant to the current fiscal year (FY) PH FSS notice of funding availability (NOFA) to serve those FSS participants who live in units converted to RAD and who will as a result be moving to the HCV FSS program. A PHA must convert the PH FSS program participants at the covered project to their HCV FSS program.

Residents who were converted from the PH FSS program to the HCV FSS program through RAD may not be terminated from the HCV FSS program or have HCV assistance withheld due to the participant's failure to comply with the contract of participation. Consequently, 24 CFR 984.303(b)(5)(iii) does not apply to FSS participants in converted properties.

At the completion of the FSS grant, PHAs should follow the normal closeout procedures outlined in the grant agreement. If the PHA continues to run an FSS program that serves PH and/or HCV participants, the PHA will continue to be eligible (subject to NOFA requirements) to apply for FSS funding.

Current Resident Opportunities and Self-Sufficiency-Service Coordinators (ROSS-SC) program grantees will be able to finish out their current ROSS-SC grants once their housing is converted under RAD. However, once the property is converted, it will no longer be eligible to be counted towards the unit count for future public housing ROSS-SC grants.

At the completion of the ROSS-SC grant, PHAs should follow the normal closeout procedures outlined in the grant agreement. Please note that ROSS-SC grantees may be a nonprofit or local resident association and this consequence of a RAD conversion may impact those entities.

Any non-RAD PBV units located in the same project are also subject to these requirements.

#### **18-VLD. RESIDENT PARTICIPATION AND FUNDING [Notice PIH 2019-23]**

Residents of covered projects converting assistance to PBVs will have the right to establish and operate a resident organization for the purpose of addressing issues related to their living environment and be eligible for resident participation funding.

## 18-VLE. MOVES

### Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.260; Notice PIH 2019-23]

All in-place tenants at the time of conversion are eligible to remain in the project. Over-housed families should be moved into appropriately sized units if such units are available in the new or rehabbed project. If appropriately sized units are not available, the existing tenants may continue to be over-housed until an appropriately sized unit becomes available or until the tenant leaves the project. Once the unit turns over, it must be leased to an appropriately sized family. Any non-RAD PBV units located in the same project are also subject to these requirements.

Following conversion, the standard PBV regulations apply. If the PHA determines that a family is occupying a wrong-size unit, based on the PHA's subsidy standards, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, the PHA must promptly notify the family and the owner of this determination, and the PHA must offer the family the opportunity to receive continued housing assistance in another unit.

#### PHA Policy

The PHA will notify the family and the owner of the family's need to move based on the occupancy of a wrong-size or accessible unit within 10 business days of the PHA's determination. The PHA will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

PBV assistance in the same building or project

PBV assistance in another project

Tenant-based voucher assistance

If the PHA offers the family a tenant-based voucher, the PHA must terminate the housing assistance payments for a wrong-size or accessible unit at the earlier of the expiration of the term of the family's voucher, including any extension granted by the PHA, or the date upon which the family vacates the unit. If the family does not move out of the wrong-size unit or accessible unit by the expiration of the term of the family's voucher, the PHA must remove the unit from the HAP contract.

If the PHA offers the family another form of assistance that is not a tenant-based voucher, and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by the PHA, or both, the PHA must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by the PHA and remove the unit from the HAP contract.

#### PHA Policy

When the PHA offers a family another form of assistance that is not a tenant-based voucher, the family will be given 30 days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not move out within this 30-day time frame, the PHA will terminate the housing assistance payments at the expiration of this 30-day period.

The PHA may make exceptions to this 30-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

#### **Family Right to Move [24 CFR 983.261]**

The family may terminate the lease at any time after the first year of occupancy. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to the PHA.

**Choice Mobility [Notice PIH 2019-23; PRRAC Choice Mobility Implementation Guidance, 8/20]**

**Family's Right to Choice Mobility**

Under RAD PBV, the choice mobility option provides families with the opportunity to move with continued assistance any time after 12 months of occupancy. All residents in converted properties should be aware of their housing mobility rights and of their options in a range of neighborhoods.

**PHA Policy**

To ensure that residents are fully aware of and understand their rights under choice mobility, the PHA will inform families of their rights under the choice mobility option and the benefits to moving to lower poverty areas, and provide a summary of the steps necessary to exercise this option, at the time the family signs the lease for the RAD PBV unit and during their annual recertification.

Information on choice mobility will be made be accessible to persons with disabilities, ensuring any information, electronic or otherwise, is accessible for persons with vision, hearing, and other disabilities. This information will also be made available in accordance with Limited English Proficiency (LEP) requirements, including document translation and user of interpretation services. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements.

**Moving with Continued Assistance under Choice Mobility**

If the family wishes to move with continued tenant-based assistance under choice mobility, the family must contact the PHA to request the rental assistance prior to providing notice to terminate the lease. If the family terminates the lease in accordance with lease requirements, the PHA is required to offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance. If a voucher or other comparable tenant-based assistance is not immediately available, the PHA must give the family priority to receive the next available opportunity for continued tenant-based assistance.

Families are eligible to move with continued assistance under choice mobility after 12 months of occupancy. If the family terminates the assisted lease before the end of the first year, the family relinquishes the opportunity for continued tenant-based assistance.

#### PHA Policy

Prior to providing notice to the owner to terminate the lease, the family may submit a written request to the PHA for a choice mobility voucher at any time after completing the 12-month occupancy requirement.

The family will remain eligible to request a choice mobility voucher as long as they continue living at the same covered project. If a family moves from one covered project to another covered project prior to completing their 12-month occupancy requirement, their 12-month clock will reset. The family must wait 12 months from the date of move at the new property before they may request another choice mobility voucher. If a family transfers to a different unit within the same covered project, the 12-month clock does not reset.

The PHA will maintain a combined, agency-wide waiting list for all standard PBV and RAD PBV families wishing to exercise mobility after one year of tenancy. This list will be maintained separately from the tenant-based HCV list. Families on the choice mobility waiting list will be given priority over families on the tenant-based waiting list. The choice mobility waiting list will be organized by date and time of the family's written request to exercise choice mobility. The list will also identify whether families live in standard or RAD PBV units.

The PHA will not subject RAD PBV families applying for choice mobility vouchers to any additional rescreening requirements in order to receive a tenant-based voucher.

Families exercising choice mobility will not be required to vacate their units before a lease has been entered into using their tenant-based voucher. At the time the PHA issues a choice mobility voucher, the PHA will notify the family of their right to remain in their unit if they are unable find a rental unit using the tenant-based voucher.

#### Turnover Cap

If as a result of RAD, the total number of PBV units (including RAD PBV units) administered by the PHA exceeds 20 percent of the PHA's authorized units under its HCV ACC with HUD, the PHA may establish a turnover cap. The PHA is not required to provide more than three-quarters of its turnover vouchers in any single year to the residents of covered projects. If the PHA chooses to establish a turnover cap and the cap is implemented, the PHA must create and maintain a waiting list in the order requests from eligible households were received.

#### PHA Policy

As a result of RAD, the total number of PBV units (including RAD PBV units) administered by the PHA exceeds 20 percent of the PHA's authorized units under its HCV ACC with HUD. Therefore, the PHA will establish a choice mobility cap. The PHA will not provide more than three-quarters of its turnover vouchers in a single year to residents of covered projects.

Families who requested a choice mobility voucher and are denied due to the cap will be given priority the following year when choice mobility vouchers are again issued since the choice mobility list will be organized by the date and time of the family's request.

### Emergency Transfers under VAWA [Notice PIH 2017-08]

Except where special consideration is needed for the project-based voucher program, the PHA will follow VAWA policies as outlined in Chapter 16 Part IX of this administrative plan, including using the Emergency Transfer Plan as the basis for PBV transfers under VAWA (Exhibit 16-4).

HUD requires that the PHA include policies that address when a victim has been living in a unit for less than a year or when a victim seeks to move sooner than a tenant-based voucher is available.

#### PHA Policy

When the victim of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking has lived in the unit for less than one year, the PHA will provide several options for continued assistance.

The PHA will first try to transfer the participant to another PBV unit in the same development or transfer to a different development where the PHA has PBV units. The PHA will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible. If assistance is transferred to another development, the PHA will give priority to the participant on the other development's waiting list.

If no units are available for an internal transfer to a PBV development or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to either tenant-based rental assistance (HCV) or assistance in the PHA's public housing program. Such a decision will be made by the PHA based on the availability of tenant-based vouchers and/or vacancies in public housing units. Such families must be selected from the waiting list for the applicable program. The PHA has adopted a waiting list preference for victims of domestic violence, dating violence, sexual assault, ~~and~~ stalking, and human trafficking in both its HCV and public housing programs in order to expedite this process. See Section 4-III.C. of this administrative plan.

If a victim wishes to move after a year of occupancy in the unit, but no tenant-based vouchers are available, the PHA will offer the participant an internal transfer to another PBV unit in the same development or a transfer to a different development where the PHA has PBV units. The PHA will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible.

If no units are available for an internal transfer, or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to the PHA's public housing program. The PHA has adopted a waiting list preference for victims of domestic violence, dating violence, sexual assault, ~~and~~ stalking, and human trafficking as part of the public housing ACOP in order to expedite this process.

#### **18-VI.F. REEXAMINATIONS [RAD PBV Quick Reference Guide 6/20]**

A family living in a unit converted from public housing to RAD PBV may retain its certification date. Unless a family's annual reexamination is due at the same time as the effective date of the RAD PBV HAP contract, the PHA does not need to recertify tenants at the point of conversion. For each family residing in a unit undergoing conversion of assistance under RAD, the administering PHA will have to submit a form HUD-50058 reflecting the family's admission to the voucher program. The effective date of the new admission will be the same as the effective date of the RAD PBV HAP contract. The form should include the same information previously found on the public housing form 50058, including the next annual reexamination date.

#### **18-VI.G. EARNED INCOME DISALLOWANCE [Notice PIH 2019-23]**

Tenants who are employed and are currently receiving the EID exclusion at the time of conversion will continue to receive the EID after conversion, in accordance with regulations at 24 CFR 5.617. Upon the expiration of the EID for such families, the rent adjustment will not be subject to rent phase-in; instead, the rent will automatically rise to the appropriate rent level based upon tenant income at that time. Any non-RAD PBV units located in the same project are also subject to these requirements.

Under the HCV program, the EID exclusion is limited to only persons with disabilities [24 CFR 5.617(b)]. In order to allow all tenants (including non-disabled persons) who are employed and currently receiving the EID at the time of conversion to continue to benefit from this exclusion in the PBV project, the provision in section 5.617(b) limiting EID to only persons with disabilities is waived. The waiver and resulting alternative requirement only applies to tenants receiving the EID at the time of conversion. No other tenant, such as tenants who at one time received the EID but are not receiving the EID exclusion at the time of conversion (e.g., due to loss of employment), tenants that move into the property following conversion, etc., is covered by this waiver.

#### **18-VI.H. RESIDENTS' PROCEDURAL RIGHTS [Notice PIH 2019-23]**

HUD is incorporating additional termination notification requirements for public housing projects that convert assistance under RAD to PBV and to non-RAD PBV units located in the same project beyond those for the standard PBV program. In addition to the regulations at 24 CFR 983.257 related to owner termination of tenancy and eviction (which MTW agencies may not alter), the termination procedure for RAD conversions to PBV requires that PHAs provide adequate written notice of termination of the lease, which is:

A reasonable period of time, but not to exceed 30 days:

- If the health or safety of other tenants, project owner employees, or persons residing in the immediate vicinity of the premises is threatened; or
- In the event of any drug-related or violent criminal activity or any felony conviction.

Not less than 14 days in the case of nonpayment of rent

Not less than 30 days in any other case, except that if a state or local law provides for a shorter period of time, such shorter period will apply



#### **18-VII. INFORMAL REVIEWS AND HEARINGS [Notice PIH 2019-23]**

In addition to reasons for an informal hearing listed at 24 CFR 982.555(a)(1)(i)–(v) (See 16-III.C. Informal Hearings for Participants), an opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to an owner action in accordance with the individual’s lease or the contract administrator in accordance with RAD PBV requirements that adversely affect the resident’s rights, obligations, welfare, or status.

For any hearing required under 24 CFR 982.555(a)(1)(i)–(v), the contract administrator will perform the hearing in accordance with Chapter 16 Part III: Informal Reviews and Hearings, as is the current standard in the program.

For any additional hearings required under RAD, the PHA (as owner) will perform the hearing.

An informal hearing will not be required for class grievances or for disputes between residents not involving the PHA (as owner) or contract administrator. This hearing requirement does not apply to and is not intended as a forum for initiating or negotiating policy changes between a group or groups of residents and the PHA (as owner) or contract administrator.

The owner must give residents notice of their ability to request an informal hearing as outlined in 24 CFR 982.555(c)(1) for informal hearings that will address circumstances that fall outside of the scope of 24 CFR 982.555(a)(1)(i)–(v). (See Chapter 16)

The owner must provide an opportunity for an informal hearing before an eviction.

## **PART VII: DETERMINING CONTRACT RENT**

### **18-VII.A. INITIAL CONTRACT RENTS [Notice PIH 2019-23]**

RAD conversions are intended to be cost-neutral, and therefore, should not exceed current public housing funding as adjusted for unit size. Since public housing units do not currently have contract rents, HUD provides an estimate of current contract rents for each PHA's public housing units based on current funding as adjusted by bedroom size. Current funding includes operating subsidy, tenant rents, capital funds, replacement housing factor funds (RHF), and demolition disposition transitional funding (DDTF). The funding may limit the amount of initial rent for a property. A detailed explanation of the determination of current funding may be found in Attachment 1C of Notice PIH 2019-23. Once the current funding amount is calculated, the amount is adjusted by bedroom size to determine the current funding rent. HUD uses the same bedroom adjustment factors as in the metropolitan FMR schedules where the project is located.

PHAs may adjust subsidy (and contract rents) across multiple projects as long as the PHA does not exceed the aggregate subsidy for all of the projects the PHA has submitted for conversion under RAD.

Notwithstanding HUD's calculation of the initial contract rent based on the project's subsidy under the public housing program and any modifications made to the initial contract rent, the initial rents are set at the lower of:

An amount determined by the PHA, not to exceed 110 percent of the fair market rent (FMR) or the PHA's exception payment standard approved by HUD, or the alternate rent cap in a PHA's MTW agreement minus any utility allowance

The reasonable rent

The rent requested by the owner

**18-VII.B. ADJUSTING CONTRACT RENTS [Notice PIH 2019-23; RAD PBV Quick Reference Guide 6/20; PHA Asset Repositioning “How to Apply OCAF for RAD PBV” Webinar]**

RAD PBV contract rents are adjusted differently than contract rents in the standard PBV program. At each annual anniversary of the HAP contract, contract rents will be adjusted only by HUD’s operating cost adjustment factor (OCAF) that is applied to the current contract rent, less the portion of the rent paid for debt service, subject to the availability of appropriations for each year of the contract term. As such, section 8(o)(13)(I) of the 1937 Act, and 24 CFR 983.301 and 983.302, concerning rent determinations, do not apply when adjusting rents. The rent to owner may at no time exceed the reasonable rent charged for comparable unassisted units in the private market, as determined by the contract administrator in accordance with 24 CFR 983.303.

Contract rents may not exceed the reasonable rent (as determined by the PHA that administers the contract or the independent entity, as applicable), with the exception that the contract rent for each unit may not be reduced below the initial contract rent under the initial HAP contract.

However, the rent to owner may fall below the initial contract rent in the following situations:

To correct errors in calculations in accordance with HUD requirements

If additional housing assistance has been combined with PBV assistance after the execution of the initial HAP contract and a rent decrease is required pursuant to 983.55 (prohibition of excess public assistance)

If a decrease in rent to owner is required based on changes in the allocation of responsibility for utilities between the owner and the tenant

The contract rent adjustment will be the lesser of:

The current contract rent increased by the operating cost adjustment factor (OCAF), which is published annually in the *Federal Register*; or

The reasonable rent

The administering PHA (or independent entity, if the project is PHA-owned) is responsible for processing rent adjustments at each contract anniversary date in accordance with the prevailing OCAF. The PHA who administers the contract (directly or via an independent entity) must maintain records to demonstrate how OCAF amounts were determined and how rent adjustments were calculated. HUD approval of rent adjustments is not required.

Properties are eligible to receive prior years’ OCAF adjustments for years in which the OCAF was not taken. The OCAF must be applied retroactively if it was missed. The PHA administering the contract (or the independent entity) must make sure that all OCAFs have been applied correctly since the RAD closing and calculate the current rents accordingly, including making sure that the RAD PBV contract rents do not exceed the PBV program caps.

#### PHA Policy

The owner will request a contract rent adjustment from the PHA who administers the contract within 120 days, but no less than 60 days, prior to the HAP contract anniversary date by submitting a completed OCAF rent adjustment worksheet (Form HUD-9624). The independent entity will validate the data on the form and determine whether the rent exceeds the reasonable rent charged for comparable unassisted units in the private market, in accordance with 24 CFR 983.303. If rents would be unreasonable following application of the requested OCAF, then the rent will only be increased up to the reasonable rent. The independent entity will notify the PHA who administers the contract in writing of the results of its review of the rent adjustment request. The PHA who administers the contract will retain a copy of the worksheet and any other records necessary to demonstrate how the OCAF was used to make rent adjustments for audit purposes. The approved rent adjustment will go into effect via written notice from the PHA that administers the project to the owner. This notice will constitute an amendment to the rents specified on Exhibit A of the RAD PBV HAP contract. The new rents to owner will take effect on the date of the contract anniversary.

#### Rent Decrease

Rents must not be reduced below the initial rent except to correct errors, for additional subsidy to the property, or to realign utility responsibilities.

#### 18-VII.C. UTILITY ALLOWANCES [Notice PIH 2019-23; RAD PBV Quick Reference Guide 6/20]

When contract rent amounts are set initially, the amount does not include a utility allowance. In general, the utility allowances that are used on the initial HAP contract at closing are the public housing utility allowances that are in effect prior to conversion. The CHAP must be updated prior to conversion to reflect current public housing utility allowances. At its discretion, a PHA may use the FMRs and utility allowances in effect during the 30-day period immediately before the beginning date of the HAP contract.

After conversion, the PHA that administers the contract must maintain the utility allowance schedule. The PHA may either maintain a utility allowance schedule for tenant-paid utilities in accordance with standard PBV and HCV utility allowance regulations at 24 CFR 983.301(f)(2)(ii) and 24 CFR 982.517, respectively, or the PHA may instead apply site-specific utility allowances. HUD waived the requirement for the standard PBV program that the HCV utility allowance be used. If a site-specific utility allowance is used, the utility allowance is applicable to non-RAD PBV units in the project and is calculated consistent with Notice H 2015-04.

Each family transitions to the new utility allowance at their first recertification following conversion.

#### PHA Policy

The PHA will use the HCV utility allowance schedule for the RAD PBV developments.

## **18-VII.D. REASONABLE RENT [24 CFR 983.303]**

At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by the PHA, except rents must not be reduced below the initial rent except to correct errors, for additional subsidy to the property, or to realign utility responsibilities.

### **How to Determine Reasonable Rent**

The reasonable rent of a unit receiving PBV assistance must be determined by comparison to rent for other comparable unassisted units. When making this determination, the PHA must consider factors that affect market rent. Such factors include the location, quality, size, type and age of the unit, as well as the amenities, housing services maintenance, and utilities to be provided by the owner.

### **Comparability Analysis**

For each unit, the comparability analysis must use at least three comparable units in the private unassisted market. This may include units in the premises or project that is receiving project-based assistance. The analysis must show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and must be retained by the PHA. The comparability analysis may be performed by PHA staff or by another qualified person or entity. Those who conduct these analyses or are involved in determining the housing assistance payment based on the analyses may not have any direct or indirect interest in the property.

### **PHA-Owned Units**

For PHA-owned units, the amount of the reasonable rent must be determined by an independent entity approved by HUD in accordance with PBV program requirements. The independent entity must provide a copy of the determination of reasonable rent for PHA-owned units to the PHA and to the HUD field office where the project is located.

## **PART VIII: PAYMENTS TO OWNER**

### **18-VIII.A. HOUSING ASSISTANCE PAYMENTS**

During the term of the HAP contract, the PHA must make housing assistance payments to the owner in accordance with the terms of the HAP contract. During the term of the HAP contract, payments must be made for each month that a contract unit complies with HQS and is leased to and occupied by an eligible family. The housing assistance payment must be paid to the owner on or about the first day of the month for which payment is due, unless the owner and the PHA agree on a later date.

Except for discretionary vacancy payments, the PHA may not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).

The amount of the housing assistance payment by the PHA is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

In order to receive housing assistance payments, the owner must comply with all provisions of the HAP contract. Unless the owner complies with all provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.

#### **18-VIII.B. VACANCY PAYMENTS [24 CFR 983.352]**

If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. However, the owner may not keep the payment if the PHA determines that the vacancy is the owner's fault.

##### PHA Policy

If the PHA determines that the owner is responsible for a vacancy and as a result is not entitled to the keep the housing assistance payment, the PHA will notify the landlord of the amount of housing assistance payment that the owner must repay. The PHA will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner. The PHA may only make vacancy payments if:

The owner gives the PHA prompt, written notice certifying that the family has vacated the unit and identifies the date when the family moved out (to the best of the owner's knowledge);

The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;

The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and

The owner provides any additional information required and requested by the PHA to verify that the owner is entitled to the vacancy payment.

The owner must submit a request for vacancy payments in the form and manner required by the PHA and must provide any information or substantiation required by the PHA to determine the amount of any vacancy payment.

##### PHA Policy

If an owner's HAP contract calls for vacancy payments to be made, and the owner wishes to receive vacancy payments, the owner must have properly notified the PHA of the vacancy in accordance with the policy in Section 18-V.G. regarding filling vacancies.

In order for a vacancy payment request to be considered, it must be made within 10 business days of the end of the period for which the owner is requesting the vacancy payment. The request must include the required owner certifications and the PHA may require the owner to provide documentation to support the request. If the owner does not provide the information requested by the PHA within 10 business days of the PHA's request, no vacancy payments will be made.

#### **18-VIII.C. TENANT RENT TO OWNER [24 CFR 983.353; Notice PIH 2019-23]**

The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by the PHA in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in the PHA notice to the family and owner.

The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent determined by the PHA is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by the PHA. The owner must immediately return any excess payment to the tenant.

#### **Initial Certifications [Notice PIH 2019-23]**

For the initial certification, the PHA will use the family's public housing tenant rent (reflected on line 10f of the family's most recent 50058) at the date of conversion to calculate HAP and tenant rent for the PBV program. The PHA will use this amount until the effective date of the earlier of the family's first regular or interim recertification following the conversion. At that point, the PHA will use the family's TTP based on the recertification and the applicable utility allowance (HCV or RAD PBV site-based, as applicable) to determine PBV HAP and tenant rent. Any non-RAD PBV units located in the same project are subject to the same requirements.

#### **Tenant and PHA Responsibilities**

The family is not responsible for the portion of rent to owner that is covered by the housing assistance payment and the owner may not terminate the tenancy of an assisted family for nonpayment by the PHA.

Likewise, the PHA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. The PHA is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. The PHA may not use housing assistance payments or other program funds (including administrative fee reserves) to pay any part of the tenant rent or other claim by the owner.

#### **Utility Reimbursements**

If the amount of the utility allowance exceeds the total tenant payment, the PHA must pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero.

The PHA may pay the utility reimbursement directly to the family or to the utility supplier on behalf of the family. If the PHA chooses to pay the utility supplier directly, the PHA must notify the family of the amount paid to the utility supplier.

#### **PHA Policy**

The PHA will make utility reimbursements directly to the family.



**18-VIIL.D. PHASE-IN OF TENANT RENT INCREASES [Notice PIH 2019-23; PHA Asset Repositioning “Phase-in of Tenant Rents” Webinar]**

For in-place tenants, if the amount the tenant would pay for rent and utilities (TTP) would increase by more than the greater of 10 percent or \$25 purely as a result of conversion, the rent increase will be phased in over three years. To implement this provision, HUD is waiving section 3(a)(1) of the 1937 Act, as well as 24 CFR 983.3 (definition of *total tenant payment (TTP)*) only to the extent necessary to allow for the phase-in of tenant rent increases. For families who were on EID at the time of conversion to RAD PBV, upon the expiration of the EID, the rent adjustment is not subject to rent phase-in.

The PHA must communicate this policy in writing to affected residents. Any non-RAD PBV units located in the same covered project are subject to the terms of the phase-in provisions.

PHA Policy

The PHA will use the family’s public housing tenant rent (reflected on line 10f of the family’s most recent 50058) at the date of conversion to calculate the family’s tenant rent in PBV. The PHA will implement a three-year phase-in for in-place families whose TTP increases by more than the greater of 10 percent or \$25 purely as a result of the conversion as follows:

Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion: 33 percent of the difference between the most recently paid TTP and the currently calculated PBV TTP. (If the family was paying flat rent immediately prior to conversion, the PHA will use the flat rent amount to calculate the phase-in for Year 1.)

Year 2: Year 2 annual recertification and any interim recertification: 50 percent of the difference between the most recently paid TTP and the currently calculated PBV TTP

Year 3: Year 3 annual recertification and all subsequent recertifications: Full calculated TTP

Once the standard TTP is equal to or less than the previous TTP, the phase-in ends, and tenants will pay full TTP from that point forward.

If the family’s income falls during the phase-in period such that the currently calculated PBV TTP falls below the amount that would otherwise be the phased-in rent, the family pays the currently calculated PBV TTP and the phase-in ends.

The PHA will communicate the PHA’s phase-in policy in writing to the family at the time the PHA first determines that the family qualifies for a rent phase-in.

Any non-RAD PBV units located in the same project are also subject to rent phase-in requirements.

#### **18.VIII.E. OTHER FEES AND CHARGES [24 CFR 983.354]**

##### **Meals and Supportive Services**

With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

##### **Other Charges by Owner**

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.



**EXHIBIT 18-1: PBV DEVELOPMENT INFORMATION**

(Fill out one for each development)

**Date:** [Enter the date on which this form was completed]

**DEVELOPMENT INFORMATION**

**Development Name:** [Insert name of PBV development]

**Address:** [Insert full address of PBV development]

**Owner Information:** [Insert PBV development owner name and contact information. If development is PHA-owned, enter "PHA-owned."]

**Property Management Company:** [Insert property management company name and contact information, or enter "None"]

**PHA-Owned:** [Enter "Yes" or "No." If yes, enter name of independent entity.]

**Mixed-Finance Development:** [Enter "Yes" or "No." If yes, list other types of funding and units to which other funding applies.]

**HAP CONTRACT**

**Closing Date:** [Enter closing date of RAD conversion]

**List Which RAD Notice Applies to the Project:** [Enter "PIH 2012-32, REV-2," "PIH 2012-32, REV-3," or "PIH 2019-23"]

**Effective Date of Contract:** [Enter start date of HAP contract]

**HOTMA Requirements:** [If HAP contract was signed prior to April 18, 2017, enter "Pre-HOTMA." If HAP contract was signed on or after April 18, 2017, enter "Post-HOTMA."]

**Term of HAP Contract:** [Enter term from HAP contract]

**Expiration Date of Contract:** [Enter expiration date from HAP contract]

**PBV UNITS**

	<b><u>0 BR</u></b>	<b><u>1 BR</u></b>	<b><u>2 BR</u></b>	<b><u>3 BR</u></b>	<b><u>4 BR</u></b>	<b><u>5 BR</u></b>	<b><u>Total</u></b>
<b><u># of Units</u></b>							
<b><u>Initial Contract Rent</u></b>	\$	\$	\$	\$	\$	\$	

**Unit Designation:** [Enter "Fixed" or "Floating"]

**Accessible Units and Features:** [Identify which units are accessible and describe accessibility features or enter “None”]

**Target Population:** [Describe targeted population in accordance with HAP contract or enter “None”]

**Excepted Units (Notice PIH 2012-32, REV-2 Developments Only):** [Identify excepted unit types below or enter “None”]

**Supportive Services:** [Enter “Yes, see Exhibit D of HAP contract” or enter “No”]

**Elderly Units:** [Enter “Yes” or “No.” If yes, identify which units are elderly units.]

**Disabled Units** [Enter “Yes” or “No.” If yes, identify which units are for persons with disabilities.]

#### **WAITING LIST AND SELECTION**

**Waiting List Type:** [Enter “Site-based waiting list,” “Combined with HCV,” “Waiting list for entire PBV program,” or “Merged with another assisted housing program”]

**Preferences:** [Enter “Same as HCV; see Chapter 4” or describe preferences offered. If different from HCV, note in Section 18.1.C. of this policy.]

**Preference Verification:** [Enter “Same as HCV; see Chapter 7” or describe for each preference listed above. If different from HCV, note in Section 18.1.C. of this policy.]

**For the PBV program, is the income limit the same as the HCV program?** (Note: In mixed-finance developments, other income limits may also apply.) [Enter “Same as HCV; see Chapter 3” or clearly describe]

#### **OCCUPANCY**

**Subsidy Standards:** [Enter “Same as HCV; see Chapter 5” or describe. If different from HCV, note in Section 18.1.C. of this policy.]

**Utilities:** [Enter in accordance with HAP contract Exhibit C]

**Vacancy Payments:** [Enter in accordance with HAP contract Part 1, e, 2 and Section 18-IV.F. within this chapter]



## GLOSSARY

### A. ACRONYMS USED IN HOUSING CHOICE VOUCHER (HCV) PROGRAM

<del>AAF</del>	<del>Annual adjustment factor (published by HUD in the Federal Register and used to compute annual rent adjustments)</del>
ABLE	Achieving a better Life Experience Act of 2014
ACC	Annual contributions contract
ADA	Americans with Disabilities Act of 1990
AIDS	Acquired immune deficiency syndrome
BR	Bedroom
CDBG	Community Development Block Grant (Program)
CFR	Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as “the regulations”)
CFR	Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as “the regulations”)
CPI	Consumer price index (published monthly by the Department of Labor as an inflation indicator)
DOJ	Department of Justice
<del>EID</del>	<del>Earned Income Disallowance</del>
EITC	Earned Income Tax Credit
EHV	Emergency Housing Vouchers
EIV	Enterprise Income Verification
EOP	End of Participation
FDIC	Federal Deposit Insurance Corporation
FHA	Federal Housing Administration (HUD Office of Housing)
FHEO	Fair Housing and Equal Opportunity (HUD Office of Housing)
FICA	Federal Insurance Contributions Act (established Social Security taxes)
FMR	Fair market rent
FR	Federal Register
FSS	Family Self-Sufficiency (Program)
FUP	Family Unification Program
FY	Fiscal year



<b>FYE</b>	Fiscal year end
<b>GAO</b>	Government Accountability Office
<b>GR</b>	Gross rent
<b>HA</b>	Housing authority or housing agency
<b>HCV</b>	Housing choice voucher
<b>HEA</b>	Higher Education Act of 1965
<b><u>HIP</u></b>	<b><u>Housing Information Portal</u></b>
<b>HOME</b>	Home Investment Partnerships Program
<b>HOTMA</b>	Housing Opportunity Through Modernization Act
<b>HQS</b>	Housing Quality Standards
<b>HUD</b>	Department of Housing and Urban Development
<b>HUDCLIPS</b>	HUD Client Information and Policy System
<b>IG</b>	(HUD Office of) Inspector General
<b>IPA</b>	Independent public accountant
<b>IRA</b>	Individual Retirement Account
<b>IRS</b>	Internal Revenue Service
<b>IVT</b>	Income Validation Tool
<b>JTPA</b>	Job Training Partnership Act
<b>LBP</b>	Lead-based paint
<b>LEP</b>	Limited English proficiency
<b>LIHTC</b>	Low Income Housing Tax Credit
<b>MSA</b>	Metropolitan statistical area (established by the U.S. Census Bureau)
<b><del>MTCS</del></b>	<del>Multi-family Tenant Characteristics System (now the Form HUD-50058 submodule of the PIC system)</del>
<b>NOFA</b>	Notice of funding availability
<b><u>NSPIRE</u></b>	<b><u>National Standards for the Physical Inspection of Real Estate</u></b>
<b>OGC</b>	HUD's Office of General Counsel
<b>OMB</b>	Office of Management and Budget
<b>PASS</b>	Plan for Achieving Self-Support
<b>PBV</b>	Project Based Voucher
<b>PHA</b>	Public housing agency

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<b>PHRA</b>	Public Housing Reform Act of 1998 (also known as the Quality Housing and Work Responsibility Act)
<del><b>PIC</b></del>	<del>PIH Information Center</del>
<b>PIH</b>	(HUD Office of) Public and Indian Housing
<b>PS</b>	Payment standard
<b>PBV</b>	<b>Project Based Vouchers</b>
<b>QC</b>	Quality control
<b>QHWRA</b>	Quality Housing and Work Responsibility Act of 1998
<b>RAD</b>	<b>Rental Assistance Demonstration</b>
<b>REAC</b>	(HUD) Real Estate Assessment Center
<b>RFP</b>	Request for proposals
<b>RFTA</b>	Request for tenancy approval
<b>RIGI</b>	Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level)
<b>SAFMR</b>	Small Area Fair Market Rent
<b>SEMAP</b>	Section 8 Management Assessment Program
<b>SRO</b>	Single room occupancy
<b>SSA</b>	Social Security Administration
<b>SSI</b>	Supplemental security income
<b>SSN</b>	Social Security Number
<b>SWICA</b>	State wage information collection agency
<b>TANF</b>	Temporary assistance for needy families
<b>TR</b>	Tenant rent
<b>TTP</b>	Total tenant payment
<b>UA</b>	Utility allowance
<b>UFAS</b>	Uniform Federal Accessibility Standards
<b>UIV</b>	Upfront Income Verification
<b>NSPIRE</b>	Uniform Physical Conditions System for Vouchers
<b>URP</b>	Utility reimbursement payment
<b>U.S.C.</b>	United States Code
<b>USCIS</b>	United States Citizenship and Immigration Services
<b>VASH</b>	<b>Veterans Affairs Supportive Housing</b>

**VAWA** Violence Against Women ~~Reauthorization Act of 2013~~

**VCA** Voluntary Compliance Agreement

**VMS** Voucher Management System

## **B. GLOSSARY OF SUBSIDIZED HOUSING TERMS**

**Absorption.** In portability (under subpart H of this part 982): the point at which a receiving PHA stops billing the initial PHA for assistance on behalf of a portability family. The receiving PHA uses funds available under the receiving PHA consolidated ACC.

**Accessible.** The facility or portion of the facility can be approached, entered, and used by individuals with physical handicaps.

**Adjusted Income.** Annual income, less allowable HUD deductions.

**Adjusted Annual Income.** Same as Adjusted Income.

**Administrative fee.** Fee paid by HUD to the PHA for administration of the program. See §982.152.

**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. See §982.155. Administrative fee reserves from FY 2004 and 2005 funding are further restricted to activities related to the provision of tenant-based rental assistance authorized under Section 8.

**Administrative Plan.** The plan that describes PHA policies for administration of the tenant-based programs. The Administrative Plan and any revisions must be approved by the PHA’s board and included as a supporting document to the PHA Plan. See §982.54.

**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 a tenant-based program.

**Affiliated individual.** With respect to an individual, a spouse, parent, brother, sister, or child of that individual, or an individual to whom that individual stands in loco parentis (in the place of a parent), or any individual, tenant, or lawful occupant living in the household of that individual.

**Amortization payment.** In a manufactured home space rental: The monthly debt service payment by the family to amortize the purchase price of the manufactured home.

**Annual.** Happening once a year.

**Annual contributions contract (ACC).** The written contract between HUD and a PHA under which HUD agrees to provide funding for a program under the 1937 Act, and the PHA agrees to comply with HUD requirements for the program.

**Annual Income.** The anticipated total income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.

**Applicant (applicant family).** A family that has applied for admission to a program but is not yet a participant in the program.

**Area Exception Rent.** An amount that exceeds the published FMR. See §982.504(b).

***“As-paid” States.*** States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

***Assets.*** (See Net Family Assets.)

***Auxiliary aids.*** Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving Federal financial assistance.

***Biennial.*** Happening every two years.

***Budget authority.*** An amount authorized and appropriated by the Congress for payment to HAs under the program. For each funding increment in a PHA program, budget authority is the maximum amount that may be paid by HUD to the PHA over the ACC term of the funding increment.

***Child.*** A member of the family other than the family head or spouse who is under 18 years of age.

***Child care expenses.*** Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further their education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

***Citizen.*** A citizen or national of the United States.

***Cohead.*** An individual in the household who is equally responsible for the lease with the head of household. A family may have a cohead or spouse but not both. A cohead never qualifies as a dependent. The cohead must have legal capacity to enter into a lease.

***Common space.*** In shared housing: Space available for use by the assisted family and other occupants of the unit.

***Computer match.*** The automated comparison of data bases containing records about individuals.

***Confirmatory review.*** An on-site review performed by HUD to verify the management performance of a PHA.

***Consent form.*** Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

***Congregate housing.*** Housing for elderly persons or persons with disabilities that meets the HQS/NSPIRE for congregate housing. A special housing type: see §982.606 to §982.609.

**Contiguous MSA.** In portability (under subpart H of part 982): 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 Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the voucher program.

**Contract.** (See Housing Assistance Payments Contract.)

**Contract authority.** The maximum annual payment by HUD to a PHA for a funding increment.

**Cooperative** (term includes mutual housing). Housing owned by a nonprofit corporation or association, and 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. A special housing type: see §982.619.

**Covered families.** Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

**Criminal Activity.** Is any activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity; or Criminal activity that may threaten the health or safety of property owners and management staff, and persons performing contract administration functions or other responsibilities on behalf of the PHA (including a PHA employee or a PHA contractor, subcontractor, or agent). ‘Immediate vicinity’ means within a three-block radius of the premises. Examples of *criminal activity* includes, but not limited to: Loitering, , Criminal Trespassing, Forgery, Identity Theft, Discharge of Firearm, Criminal Damage, Indecent Exposure, Theft against any government agency, Disorderly Conduct, Burglary, Harassment

**Dating violence.** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

**Dependent.** A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

**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, spouse, or sole member is a person with disabilities; or two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

**Disabled person.** See Person with Disabilities.

**Displaced family.** A family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

**Domestic violence.** Felony or misdemeanor crimes ~~of violence~~ committed by a current or former spouse or intimate partner of the victim ~~of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction~~, under the family or domestic violence laws of the jurisdiction receiving grant funding, and in the case of victim services, includes the user or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who is:

- The current or former spouse or intimate partner of the victim, or person similarly situated to a spouse or intimate partner of the victim
- A person who is cohabitating or has cohabitated with the victim as a spouse or intimate partner
- A person with whom the victim shares a child in common
- A person who commits acts against a youth or adult victim who is protected from those acts under the domestic or family violence laws of the jurisdiction

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**Domicile.** The legal residence of the household head or spouse as determined in accordance with State and local law.

**Drug-related criminal activity.** The illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute, or use the drug.

**Economic abuse.** Behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitle, including using coercion, fraud, and manipulation to:

- Restrict a person's access to money, assets, credit, or financial information
- Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage
- Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or to whom one has a fiduciary duty

**Economic Self-Sufficiency Program.** Any program designed to encourage, assist, train, or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see §5.603(c).

**Effective date.** The “effective date” of an examination or reexamination refers to: (i) in the case of an examination for admission, the date of initial occupancy and (ii) in the case of reexamination of an existing tenant, the date the redetermined tenant rent becomes effective.

**Elderly family.** A family whose head, spouse, or sole member is a person who is at least 62 years of age; or two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

**Elderly Person.** An individual who is at least 62 years of age.

**Eligible Family.** A family that is income eligible and meets the other requirements of the Act and Part 5 of 24 CFR. See also *family*.

**Emergency Housing Vouchers (EHV) Program.** The American Rescue Plan Act of 2021 (ARP) (P.L. 117-2) was signed by President Biden on March 11, 2021 to appropriate \$5 billion for the creation, administration, and renewal of new incremental emergency housing vouchers (EHVs) and other eligible expenses related to COVID-19. ARP provides funding to administer the EHV program for individuals and families who meet specific preferences.

**Employer Identification Number (EIN).** The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.

**Evidence of citizenship or eligible status.** The documents which must be submitted to evidence citizenship or eligible immigration status. (See §5.508(b).)

**Extremely Low Income Family.** A family whose annual income does not exceed the higher of 30 percent of area median income *or the federal poverty level*.

**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** means title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

**Fair market rent (FMR).** The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the Federal Register in accordance with 24 CFR part 888.

**Family.** Includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, and can be further defined in PHA policy.

- A family with or without children (the temporary absence of a child from the home due to placement in foster care is not considered in determining family composition and family size)
- An elderly family or a near-elderly family
- A displaced family
- The remaining member of a tenant family
- A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

**Family rent to owner.** In the voucher program, the portion of rent to owner paid by the family.

**Family self-sufficiency program (FSS program).** The program established by a PHA within its jurisdiction, to promote self-sufficiency among participating families, including the coordination of supportive services for these families [24 CFR §984.103].

**Family share.** The portion of rent and utilities paid by the family. For calculation of family share, see §982.515(a).

**Family unit size.** The appropriate number of bedrooms for a family, as determined by the PHA under the PHA subsidy standards.

**Federal agency.** A department of the executive branch of the federal government.

**Foster Child Care Payment.** Payment to eligible households by state, local, or private agencies appointed by the State, to administer payments for the care of foster children.

**Full-time Student.** A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended). (*CFR 5.603*)

**Funding increment.** Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

**Gender identity.** Actual or perceived gender-related characteristics.

**Gross rent.** The sum of the rent to owner plus any utility allowance.

**Group home.** 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). A special housing type: see §982.610 to §982.614.

**Handicap.** Any condition or characteristic that renders a person an individual with handicaps. See 24CFR §8.3.

**Handicap Assistance Expense.** See “Disability Assistance Expense.”

**HAP contract.** Housing assistance payments contract. (Contract). A written contract between the PHA and an owner for the purpose of providing housing assistance payments to the owner on behalf of an eligible family.

**Head of household.** The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

**Housing assistance payment (HAP).** The monthly assistance payment by a PHA, 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 payment.** The monthly assistance payment by a PHA, 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 payment contract (HAPC).** The monthly assistance payment by a PHA, 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 agency (HA).** A State, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) authorized to engage in or assist in the development or operation of low-income housing. (“PHA” and “HA” mean the same thing.)

**Housing Quality Standards.** The HUD minimum quality standards for housing assisted under the voucher program.

**HUD.** The Department of Housing and Urban Development.

**Human trafficking.** A crime involving the exploitation of a person for labor, services, or commercial sex. The Trafficking Victims Protection Act of 2000 and its subsequent reauthorizations recognize and define two primary forms of human trafficking:

- Sex trafficking is the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age. See 22 U.S.C. § 7102(11)(A).
- Forced labor is the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. See 22 U.S.C. § 7102(11)(B).

**Imputed asset.** An asset disposed of for less than Fair Market Value during the two years preceding examination or reexamination.

**Imputed asset income.** HUD passbook rate multiplied by the total cash value of assets. The calculation is used when net family assets exceed \$5,000.

**HOTMA: Imputed asset income.** HUD passbook rate multiplied by the total cash value of assets. Effective Jan. 1, 2024, the calculation used when net family assets exceed \$50,000.

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**Imputed welfare income.** An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction, but is included in the family's annual income and therefore reflected in the family's rental contribution.

**Income.** Income from all sources of each member of the household, as determined in accordance with criteria established by HUD.

**Income For Eligibility.** Annual Income.

**Income information** means information relating to an individual's income, including:

- All employment income information known to current or previous employers or other income sources
- All information about wages, as defined in the State's unemployment compensation law, including any Social Security Number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, Employer Identification Number of an employer reporting wages under a State unemployment compensation law
- Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received
- Unearned IRS income and self-employment, wages and retirement income
- Wage, social security, and supplemental security income data obtained from the Social Security Administration.

**Individual with handicaps.** Any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment.

**Initial PHA.** In portability, the term refers to both: (1) A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and (2) A PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.

**Initial payment standard.** The payment standard at the beginning of the HAP contract term.

**Initial rent to owner.** The rent to owner at the beginning of the HAP contract term.

**Jurisdiction.** The area in which the PHA has authority under State and local law to administer the program.

**Landlord.** Either the owner of the property or their representative or the managing agent or their representative, as shall be designated by the owner.

**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.

**Life Threatening Condition (HQS)-** (See *Life Threatening Condition, Chapter 8, page 8-5; Federal Register, 1/18/2017*) HUD is defining life-threatening conditions as they apply to HQS inspections, as follows:

- (1) Gas (natural or liquid petroleum) leak or fumes. A life-threatening condition under this standard is one of the following: (a) A fuel storage vessel, fluid line, valve, or connection that supplies fuel to a HVAC unit is leaking; or (b) a strong gas odor detected with potential for explosion or fire, or that results in health risk if inhaled.
- (2) Electrical hazards that could result in shock or fire. A life-threatening condition under this standard is one of the following: (a) A light fixture is readily accessible, is not securely mounted to the ceiling or wall, and electrical connections or wires are exposed; (b) a light fixture is hanging by its wires; (c) 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; (d) a receptacle (outlet) or switch is missing or broken and electrical connections or wires are exposed; (e) a receptacle (outlet) or switch has a missing or damaged cover plate and electrical connections or wires are exposed; (f) 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; (g) a cover is missing from any electrical device box, panel box, switch gear box, control panel, etc., and there are exposed electrical connections; (h) any nicks, abrasions, or fraying of the insulation that expose conducting wire; (i) exposed bare wires or electrical connections; (j) any condition that results in openings in electrical panels or electrical control device enclosures; (k) water leaking or ponding near any electrical device; or (l) any condition that poses a serious risk of electrocution or fire and poses an immediate life-threatening condition.
- (3) Inoperable or missing smoke detector. A life-threatening condition under this standard is one of the following: (a) the smoke detector is missing; or (b) the smoke detector does not function as it should.
- (4) Interior air quality. A life-threatening condition under this standard is one of the following: (a) the carbon monoxide detector is missing; or (b) the carbon monoxide detector does not function as it should.
- (5) Gas/oil fired water heater or heating, ventilation, or cooling system with missing, damaged, improper, or misaligned chimney or venting. A life-threatening condition under this standard is one of the following: (a) 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; (b) a gas dryer vent is missing, damaged, or is visually determined to be inoperable, or the dryer exhaust is not vented to the outside; (c) a fuel fired space heater is not properly vented or lacks available combustion air; (d) a non-vented space heater is present; (e) safety devices on a fuel fired space heater are missing

or damaged; or (f) 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.

- (6) Lack of alternative means of exit in case of fire or blocked egress. A life-threatening condition under this standard is one of the following: (a) Any of the components that affect the function of the fire escape are missing or damaged; (b) stored items or other barriers restrict or prevent the use of the fire escape in the event of an emergency; or (c) the building's emergency exit is blocked or impeded, thus limiting the ability of occupants to exit in a fire or other emergency.
- (7) Other interior hazards. A life-threatening condition under this standard is a fire extinguisher (where required) that is missing, damaged, discharged, overcharged, or expired.
- (8) Deteriorated paint, as defined by 24 CFR §35.110, 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. All lead hazard reduction requirements in 24 CFR part 35, including the timeline for lead hazard reduction procedures, still apply.
- (9) Any other condition subsequently identified by HUD as life threatening in a notice published in the **Federal Register**. HUD will notify PHAs if such changes are made.
- (10) Any other condition identified by the administering PHA as life-threatening in the PHA's administrative plan prior to this notice taking effect.

**Live-in aide.** A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

- Is determined to be essential to the care and well-being of the persons;
- Is not obligated for the support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services.

**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. See HCV GB p. 10-6 and 24 CFR §982.401.

**Local Preference.** A preference used by the PHA to select among applicant families.

**Low-Income Family.** A family whose income does not exceed 80% of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80% for areas with unusually high or low incomes.

**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/NSPIRE . A special housing type: See §982.620 and §982.621.

**Manufactured home space.** In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space. See §982.622 to §982.624.

**Medical expenses.** Medical expenses, including medical insurance premiums that are anticipated during the period for which annual income is computed, and that are not covered by insurance (a deduction for elderly or disabled families only). These allowances are given when calculating adjusted income for medical expenses in excess of 3 percent of annual income.

HOTMA: Effective Jan. 1, 2024, a two-year phase-in will begin for a total 10 percent, instead of 3 percent of annual income to be used in the calculation of eligible medical expenses. (Effective Jan. 1, 2024, the threshold is 6.5 percent; effective Jan. 1, 2025) **Merger Date.** October 1, 1999.

**Minor.** A member of the family household other than the family head or spouse, who is under 18 years of age.

**Mixed family.** A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

**Monthly adjusted income.** One twelfth of adjusted income.

**Monthly income.** One twelfth of annual income.

**Mutual housing.** Included in the definition of “cooperative.”

**National.** A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

**Near-elderly family.** A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

**Net family assets.** (1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

- In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under §5.609.
- In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the

case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

**Noncitizen.** A person who is neither a citizen nor national of the United States.

**Non-Life Threatening** For the purposes of implementing § 8(o)(8)(A)(ii) (HOTMA), HUD is defining a non-life-threatening condition as any condition that would fail to meet the housing quality standards under 24 CFR §982.401 and is not a life-threatening condition. [**Federal Register, 1/18/2011**]

**Notice of Funding Availability (NOFA).** 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.

**Overcrowded.** A unit that does not meet the following HQS/NSPIRE space standards: (1) Provide adequate space and security for the family; and (2) Have at least one bedroom or living/sleeping room for each two persons.

**Office of General Counsel (OGC).** The General Counsel of HUD.

**Owner.** Any person or entity with the legal right to lease or sublease a unit to a participant.

**PHA Plan.** The annual plan and the 5-year plan as adopted by the PHA and approved by HUD [24 CFR §903].

**PHA's quality control sample.** An annual sample of files or records drawn in an unbiased manner and reviewed by a PHA supervisor (or by another qualified person other than the person who performed the original work) to determine if the work documented in the files or records conforms to program requirements. For minimum sample size see CFR §985.3.

**Participant (participant family).** 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).

**Payment standard.** The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

**Persons with Disabilities.** A person who has a disability as defined in 42 U.S.C. 423 or a developmental disability as defined in 42 U.S.C. 6001. Also includes a person who is determined, under HUD regulations, to have a physical or mental impairment that is expected to be of long-continued and indefinite duration, substantially impedes the ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions. For purposes of reasonable accommodation and program accessibility for persons with disabilities, means and "individual with handicaps" as defined in 24 CFR §8.3. Definition does not exclude persons who have AIDS or conditions arising from AIDS, but does not include a person whose disability is based solely on drug or alcohol dependence (for low-income housing eligibility purposes). See "Individual with handicaps."

**Portability.** Renting a dwelling unit with Section 8 housing choice voucher outside the jurisdiction of the initial PHA.

**Premises.** The building or complex in which the dwelling unit is located, including common areas and grounds.

**Private space.** In shared housing: The portion of a contract unit that is for the exclusive use of an assisted family.

**Processing entity.** The person or entity that, under any of the programs covered, is responsible for making eligibility and related determinations and any income reexamination. In the Section 8 program, the “processing entity” is the “responsible entity.”

**Project Based Vouchers (PBV).** The PBVs are administered by the local voucher agency, which enters into a Housing Assistance Payments (HAP) contract with the project owner. The voucher agency receives an Administrative Fee for these PBV units, in the same manner in which it receives an Administrative Fee for other voucher units.

**Project owner.** The person or entity that owns the housing project containing the assisted dwelling unit.

**Public assistance.** Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by Federal, state, or local governments.

**Public housing agency (PHA).** Any State, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

**Qualified family** (under the earned income disallowance). A family participating in an applicable assisted housing program or receiving HCV 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 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.

**Qualified census tract.** With regard to certain tax credit units, any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have



an income of less than 60 percent of Area Median Gross Income (AMGI), or where the poverty rate is at least 25 percent, and where the census tract is designated as a qualified census tract by HUD.

**Reasonable rent.** A rent to owner that is not more than rent charged: (1) For comparable units in the private unassisted market; and (2) For comparable unassisted units in the premises.

**Reasonable accommodation.** A change, exception, or adjustment to a rule, policy, practice, or service to allow a person with disabilities to fully access the PHA's programs or services.

**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.

**Recertification.** Sometimes called reexamination. The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.

**Remaining Member of Tenant Family.** Person left in assisted housing who may or may not normally qualify for assistance on own circumstances (i.e., an elderly spouse dies, leaving widow age 47 who is not disabled).

**Rent to owner.** The total monthly rent payable to the owner under the lease for the unit (also known as contract rent). Rent to owner covers payment for any housing services, maintenance and utilities that the owner is required to provide and pay for.

**Rental Assistance Demonstration (RAD).** In 2012, Congress authorized the *Rental Assistance Demonstration (RAD)* to test a new way of meeting the large and growing capital improvement needs of the nation's aging public housing stock, as well as to preserve projects funded under HUD's "legacy" programs (Rental Supplement, Rental Assistance Payment, and Moderate Rehabilitation). Properties "convert" their assistance to long-term, project-based Section 8 contracts. These new contracts provide a more reliable source of operating subsidy that allow PHAs and owners to safely leverage private capital – typically debt and equity – in order to finance the property rehabilitation or replacement. The contracts as well as underlying use restrictions must be renewed each time they expire, ensuring the long-term affordability of the improved properties.

**Residency Preference.** A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area ("residency preference area").

**Residency Preference Area.** The specified area where families must reside to qualify for a residency preference.

**Responsible entity.** For the public housing and the Section 8 tenant-based assistance, project-based voucher assistance, and moderate rehabilitation programs, the responsible entity means the PHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

**Row/Townhouse.** Refers to duplex, quads, townhouse and multifamily.

**Secretary.** The Secretary of Housing and Urban Development.

**Section 8.** Section 8 of the United States Housing Act of 1937. Also known as Housing Choice Voucher.

**Section 8 covered programs.** All HUD programs which assist housing under Section 8 of the 1937 Act, including Section 8 assisted housing for which loans are made under section 202 of the Housing Act of 1959.

**Section 214.** Section 214 of the Housing and Community Development Act of 1980, as amended.

**Section 214 covered programs** is the collective term for the HUD programs to which the restrictions imposed by Section 214 apply. These programs are set forth in 24 CFR §5.500.

**Security Deposit.** A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the owner upon termination of the lease.

**Set-up charges.** In a manufactured home space rental: 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 victim lacks capacity to consent (42 U.S.C. 13925(a)).

**Sexual Orientation.** Homosexuality, heterosexuality or bisexuality.

**Shared housing.** 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. A special housing type: see §982.615 to §982.618.

**Single Person.** A person living alone or intending to live alone.

**Single room occupancy housing (SRO).** A unit that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities. A special housing type: see 24 CFR §982.602 to §982.605.

**Small rural public housing agency (PHA).** Section 38 defines the term “small public housing agency” as a public housing agency “for which the sum of the number of public housing dwelling units administered by the agency and the number of vouchers under section 8(o) administered by the agency is 550 or fewer” and “that predominantly operates in a rural area, as described in section 1026.35(b)(2)(iv)(A) of title 12, Code of Federal Regulations.” After consideration of the public comments discussed above, HUD is interpreting “predominantly operates in a rural area” to mean a small PHA that:

- (1) Has a primary administrative building with a physical address in a rural area as described in 12 CFR 1026.35(b)(2)(iv)(A); or
- (2) more than 50 percent of its combined public housing units and voucher units under section 8(o) are in rural areas as described in 12 CFR 1026.35(b)(2)(iv)(A). HUD also clarifies that voucher units under section 8(o) include those in the tenant-based Housing Choice Voucher (HCV) program and the Project-Based Voucher (PBV) program.

**Social Security Number (SSN).** The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person's earnings reported to the Social

Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

**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.** See subpart M of part 982. Subpart M states the special regulatory requirements for: SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

**Specified Welfare Benefit Reduction.** Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

**Spouse.** The marriage partner of the head of household.

**Stalking.** To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

**State Wage Information Collection Agency (SWICA).** The state agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the state, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

**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.

**Suspension.** The term on the family's voucher stops from the date 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. This practice is also called "tolling".

**Technological abuse.** An act or pattern of behavior that occurs within domestic violence, dating violence, sexual assault, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor another person, except as otherwise permitted by law, that occurs using any form of technology, including but not limited to:

- Internet enabled devices
- Online spaces and platforms
- Computers
- Mobile devices
- Cameras and imaging programs
- Apps

- Location tracking devices
- Communication technologies
- Any other emergency technologies

**Tenancy Addendum.** For the Housing Choice Voucher Program, the lease language required by HUD in the lease between the tenant and the owner.

**Tenant.** The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

**Tenant rent to owner.** See “Family rent to owner.”

**Term of Lease.** The amount of time a tenant agrees in writing to live in a dwelling unit.

**Total Tenant Payment (TTP).** The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

**Unit.** Residential space for the private use of a family. The size of a unit is based on the number of bedrooms contained within the unit and generally ranges from zero (0) bedrooms to six (6) bedrooms.

**Utilities.** Water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection, and sewage services. Telephone service is not included.

**Utility Allowance.** If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD 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.** In the voucher program, the portion of the housing assistance payment which exceeds the amount of rent to owner.

**Utility hook-up charge.** In a manufactured home space rental: Costs payable by a family for connecting the manufactured home to utilities such as water, gas, electrical and sewer lines.

**Veteran.** A person who has served in the active military or naval service of the United States at any time and who shall have been discharged or released therefrom under conditions other than dishonorable.

**Violence Against Women Reauthorization Act (VAWA)-~~of 2013~~.** Prohibits denying admission to the program to an otherwise qualified applicant or terminating assistance on the basis that the applicant or program participant is or has been a victim of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking.

**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. This is the income limit for the housing choice voucher program.

***Violent criminal activity.*** Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

***Voucher (Housing Choice Voucher).*** A document issued by a PHA to a family selected for admission to the housing choice voucher program. This document describes the program and the procedures for PHA approval of a unit selected by the family. The voucher also states obligations of the family under the program.

***Voucher holder.*** A family holding a voucher with an unexpired term (search time).

***Voucher program.*** The housing choice voucher program.

***Waiting list.*** A list of families organized according to HUD regulations and PHA policy who are waiting for a unit to become available.

***Welfare assistance.*** Income assistance from Federal or State welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families.

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**The City of Chandler Housing and Redevelopment Department  
Admissions and Continued Occupancy Policy  
(ACOP)**

20232024



Effective 07/01/20232024

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## Introduction

### ABOUT THE ACOP

#### REFERENCES CITED IN THE ACOP

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

#### HUD

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

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

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

#### State Law

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

#### Industry Practice

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

## **RESOURCES CITED IN THE ACOP**

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

### **Public Housing Occupancy Guidebook**

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

On September 29, 2023, HUD issued Notice PIH 2023-27 to implement sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA). The notice supersedes relevant portion of the guidebook, specifically the chapters on eligibility and occupancy, income determinations, and reexaminations. Where chapters have not been altered by the HOTMA implementation notice, the model policy continues to cite the *Public Housing Occupancy Guidebook*.

### **Abbreviations**

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

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

### **Resources and Where to Find Them**

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

Guidebooks, handbooks, and other HUD resources may be found at the HUDClips website:  
[https://www.hud.gov/program\\_offices/administration/hudclips](https://www.hud.gov/program_offices/administration/hudclips)

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

<u>Document and Location</u>
<u>Code of Federal Regulations</u> <a href="http://www.ecfr.gov">http://www.ecfr.gov</a>
<u>Enterprise Income Verification (EIV) System PHA Security Procedures</u> <a href="https://www.hud.gov/sites/documents/EIVSECGUIDEPHA.PDF">https://www.hud.gov/sites/documents/EIVSECGUIDEPHA.PDF</a>
<u>Executive Order 11063</u> <a href="https://www.archives.gov/federal-register/codification/executive-order/11063.html">https://www.archives.gov/federal-register/codification/executive-order/11063.html</a>
<u>Federal Register</u> <a href="https://www.federalregister.gov/">https://www.federalregister.gov/</a>
<u>HOTMA Final Rule</u> <a href="https://www.federalregister.gov/documents/2023/02/14/2023-01617/housing-opportunity-through-modernization-act-of-2016-implementation-of-sections-102-103-and-104?utm_campaign=subscription+mailing+list&amp;utm_source=federalregister.gov&amp;utm_medium=email">https://www.federalregister.gov/documents/2023/02/14/2023-01617/housing-opportunity-through-modernization-act-of-2016-implementation-of-sections-102-103-and-104?utm_campaign=subscription+mailing+list&amp;utm_source=federalregister.gov&amp;utm_medium=email</a>
<u>HOTMA Implementation Notice, PIH 2023-27</u> <a href="https://www.hud.gov/sites/dfiles/OCHCO/documents/2023-27pihn.pdf">https://www.hud.gov/sites/dfiles/OCHCO/documents/2023-27pihn.pdf</a>
<u>Joint Statement of the Department of Housing and Urban Development and the Department of Justice, issued May 17, 2004</u> <a href="https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf">https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf</a>
<u>Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007</u> <a href="https://www.lep.gov/guidance/HUD_guidance_Jan07.pdf">https://www.lep.gov/guidance/HUD_guidance_Jan07.pdf</a>

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[Notice PIH 2010-26, Nondiscrimination and Accessibility Notice](#)

<http://www.hud.gov/offices/pih/publications/notices/10/pih2010-26.pdf>

[Notice PIH 2017-12, Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification \(EIV\) System](#)

<https://www.hud.gov/sites/documents/PIH2017-12EIVNOTICE.PDF>

[Public Housing Occupancy Guidebook, June 2003](#)

[https://www.hud.gov/sites/documents/DOC\\_10760.PDF](https://www.hud.gov/sites/documents/DOC_10760.PDF)

[VAWA Resources](#)

<https://www.hud.gov/vawa>

## CHAPTER 1

### OVERVIEW OF THE PROGRAM AND PLAN

#### INTRODUCTION

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

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

There are three parts to this chapter:

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

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

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

## **PART I: THE PHA**

### **1-I.A. OVERVIEW**

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

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

Public housing is funded by the federal government and administered by the City of Chandler Housing and Redevelopment Division for the jurisdiction of City of Chandler.

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

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

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

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

### **1-I.C. PHA MISSION**

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

#### PHA Policy

The Housing and Redevelopment Division (the Housing Authority) of the City of Chandler is a local municipal subcomponent unit of government incorporated within the City of Chandler with the purpose of providing, facilitating, and managing affordable housing products and supportive services to eligible persons with limited incomes, through a variety of federal, state, local and private resources.

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

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

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

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

## **PART II: THE PUBLIC HOUSING PROGRAM**

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

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

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

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

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

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

[On July 29, 2016, the Housing Opportunity Through Modernization Act of 2016 \(HOTMA\) was signed into law. HOTMA made numerous changes to statutes governing HUD programs, including sections of the United States Housing Act of 1937. Title I of HOTMA contains 14 different sections that impact the public housing and Section 8 programs. The Final Rule implementing broad changes to income and assets in Sections 102 and 104 of HOTMA, and for PHAs that administer the public housing program over-income provisions in Section 103, was officially published in the \*Federal Register\* on February 14, 2023. On September 29, 2023, HUD issued notice PIH 2023-27, which provided guidance to PHAs on the implementation of the program changes described in the Final Rule.](#)

## **1-II.B. PUBLIC HOUSING PROGRAM BASICS**

### **HOUSING PROGRAM BASICS**

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

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

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

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

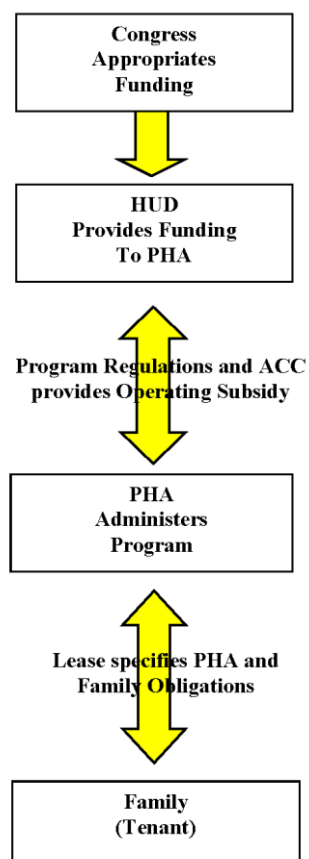
## **1-II.C. PUBLIC HOUSING PARTNERSHIPS**

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

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

The following chart illustrates key aspects of these relationships.

#### The Public Housing Relationships



## What Does HUD Do?

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

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

## What does the PHA do?

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

- Ensure compliance with all non-discrimination, equal opportunity, and fair housing laws, and ensure that the program is accessible to persons with disabilities
- Establish local policies and procedures for operating the program
- Accept applications from interested applicant families and determine whether they are income eligible for the program
- Maintain waiting list and select families for admission
- Screen applicant families for suitability as renters
- Maintain housing units by making any necessary repairs in a timely manner
- Make unit offers to families (minimize vacancies without overcrowding)
- Maintain properties to the standard of decent, safe, sanitary, and in good repair (including assuring compliance with uniform physical conditions standards)  
Maintain properties to the standard of safe, habitable dwelling units (including assuring compliance with National Standards for the Physical Inspection of Real Estate (NSPIRE))
- Make sure the PHA has adequate financial resources to maintain its housing stock
- Perform regular reexaminations of family income and composition in accordance with HUD requirements

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- Collect rent due from the assisted family and comply with and enforce provisions of the lease
- Ensure that families comply with program rules
- Provide families with prompt and professional service
- Comply with all fair housing and equal opportunity requirements. HUD regulations and requirements, the ACC Annual Contributions Contract, HUD-approved applications for funding, the PHA's ACOP, and other applicable federal, state, and local laws

#### What does the Tenant do?

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

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

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

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#### **1-II.D. APPLICABLE REGULATIONS**

Applicable regulations include:

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

## **PART III: THE ADMISSIONS AND CONTINUED OCCUPANCY POLICIES**

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

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

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

### **1-III.B. CONTENTS OF THE POLICY**

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

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

- Policies and rules about safety and ownership of pets in public housing (Chapter 10)

#### **New Approach to Policy Development Mandatory vs. Discretionary Policy**

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

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

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

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

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

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

#### **1-III.C. UPDATING AND REVISING THE POLICY**

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

##### **PHA Policy**

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

## CHAPTER 2

### FAIR HOUSING AND EQUAL OPPORTUNITY

#### INTRODUCTION

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

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

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

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

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

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## PART I: NONDISCRIMINATION

### 2-I.A. OVERVIEW

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

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063 and 13988.
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the *Federal Register* February 3, 2012, and further clarified in Notice PIH 2014-20.
- Violence against Women Act ~~of 2013~~ (VAWA)
- Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted

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

#### PHA Policy

No state or local nondiscrimination laws or ordinances apply.

### 2-I.B. NONDISCRIMINATION

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

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

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

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

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#### PHA Policy

The PHA does not identify any additional protected classes.

~~PHA will not discriminate on the basis of marital status or sexual orientation [FR 02/03/2012; Executive Order 13988].~~

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The PHA will not use any of these factors to:

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

#### **Providing Information to Families**

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

## **2.I.C. DISCRIMINATION COMPLAINTS**

### **General Housing Discrimination Complaints**

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

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

Upon receipt of a housing discrimination complaint, the PHA is required to:

- Provide written notice of the complaint to those alleged and inform the complainant that such notice was made
- Investigate the allegations and provide the complainant and those alleged with findings and either a proposed corrective action or an explanation of why corrective action is not warranted
- Keep records of all complaints, investigations, notices, and corrective actions [Notice PIH 2014-20]

#### **PHA Policy**

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

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

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

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

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

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



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

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

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

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

#### **PHA Policy**

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

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

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

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

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

### **VAWA Complaint Processing [Notice FHEO 2023-01]**

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

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

PHA Policy

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

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

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

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

## **PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES**

### **2-II.A. OVERVIEW**

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

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

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

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

#### **PHA Policy**

The PHA will provide for alternate format applications for persons requiring a reasonable accommodation in the online application process.

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

#### **For applicants:**

The City of Chandler Housing and Redevelopment Division is committed to fully complying with all state, federal and local laws involving non-discrimination and equal opportunity. Any person who believes he/she needs a reasonable accommodation to participate in any program for the City of Chandler Housing and Redevelopment Division should notify our office at least twenty-four hours prior to the date of the accommodation will be required.

#### **For Reexamination documents and notices of adverse action by the PHA:**

The City of Chandler Housing and Redevelopment Division is committed to fully complying with all state, federal and local laws involving non-discrimination and equal opportunity. Any person who believes he/she needs a reasonable accommodation to participate in any program for the City of Chandler Housing and Redevelopment Division should notify their housing specialist at least twenty-four hours prior to the date of the accommodation will be required.

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

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## **2-II.B. DEFINITION OF REASONABLE ACCOMMODATION**

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

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

### **Types of Reasonable Accommodations**

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

- Permitting applications and reexaminations to be completed by mail, telephone, or walk-in. Reexaminations must be by appointment only. Walk-in applicants will be directed to the online process only during times the waitlist is open.
- Providing "large-print" forms
- Conducting home visits
- Permitting a higher utility allowance for the unit if a person with disabilities requires the use of specialized equipment related to the disability
- Modifying or altering a unit or physical system if such a modification or alteration is necessary to provide equal access to a person with a disability
- Installing a ramp into a dwelling or building
- Installing grab bars in a bathroom
- Installing visual fire alarms for hearing impaired persons
- Allowing a PHA-approved live-in aide to reside in the unit if that person is determined to be essential to the care of a person with disabilities, is not obligated for the support of the person with disabilities and would not be otherwise living in the unit.

- Providing a designated handicapped-accessible parking space
- Allowing an assistance animal
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with PHA staff
- Displaying posters and other housing information in locations throughout the PHA's office in such a manner as to be easily readable from a wheelchair

## **2-II.C. REQUEST FOR AN ACCOMMODATION**

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

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

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

### PHA Policy

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

## **2-II.D. VERIFICATION OF DISABILITY**

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

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

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

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

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

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

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

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

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

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

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

**PHA Policy**

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

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

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

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

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

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

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

### **PHA Policy**

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

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

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



## **2-II.G. PHYSICAL ACCESSIBILITY**

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

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

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

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

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

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

## **2-II.H. DENIAL OR TERMINATION OF ASSISTANCE**

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

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

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

When reviewing reasonable accommodation requests, the PHA must consider whether reasonable accommodation will allow the family to overcome the problem that led to the PHA's

decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, the PHA must make the accommodation [24 CFR §966.7].

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

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

### **2-III.A. OVERVIEW**

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

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

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

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

### **2-III.B. ORAL INTERPRETATION ~~[FEDERAL REGISTER, JANUARY 22, 2007, FINAL GUIDANCE TO FEDERAL FINANCIAL ASSISTANCE RECIPIENTS REGARDING TITLE VI, PROHIBITION AGAINST NATIONAL ORIGIN DISCRIMINATION AFFECTING LIMITED ENGLISH PROFICIENT PERSONS; NOTICE, SECTION VI. 7.]~~**

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

When providing oral assistance, the PHA is expected to ensure competency of the language service provider, no matter which of the strategies outlined below are used. Competency requires more than self-identification as bilingual.

Some bilingual staff or community volunteers, for instance, may be able to communicate effectively in a different language when communicating information directly in that language, but not be competent to interpret in and out of English.

#### PHA Policy

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

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

The PHA will utilize staff translators for Spanish-speaking interpreter services.

When exercising the option to conduct remote hearings, however, for languages other than Spanish, the PHA will coordinate with a remote interpretation service which will have available video conferencing technology available, as well as voice-only interpretation.

The PHA will follow the guidelines in the City of Chandler Language Access Plan and Procedures for Persons with Limited English Proficiency.

The PHA should not plan to rely on an LEP person's family members, friends, or other informal interpreters to provide meaningful access to important programs and activities.

The PHA, at its discretion, may choose to use the language services even when LEP persons desire to use an interpreter of their choosing.

LEP persons may feel more comfortable when a trusted family member or friend acts as an interpreter. In addition, in exigent circumstances that are not reasonably foreseeable, (for example, an unscheduled meeting to discuss a change report) temporary use of interpreters not provided by the PHA may be necessary.

However, the accompanying adult interpreter must agree to provide such service and then only if the PHA agrees that it is appropriate under the circumstances (28 CFR §35.160-164; 24 CFR §8.6).

#### PHA Policy

**For non-administrative meetings** and Where LEP persons desire, they will be permitted to use, at their own expense, an interpreter of their own choosing, in place of or as a supplement to the free language services offered by the PHA. The interpreter may be a family member or friend, however the PHA will not rely on a minor to serve as the interpreter.

The interpreter may be a family member or friend, however, in meetings involving housing rules, regulations or other legal matters, COCHRD will provide an interpreter.

**For administrative meetings**, the PHA will continue to provide free translation services to ensure proper and legal translation occurs, during administrative hearings, termination actions, or when housing services or benefits are at stake, or any time the family does not request an interpreter of their choosing:

- Where precise, complete, and accurate interpretations or translations of information and/or testimony are critical for legal reasons, or where the competency of the LEP

person's interpreter is not established, the PHA will provide its own, independent interpreter, even if an LEP person wants to use their own interpreter as well.

- If the interpreter chosen by the family is a minor, the PHA will not rely on the minor to serve as the interpreter.
- In the case where the family brings their own interpreter even though the PHA is providing translation services for the communications between the PHA and the family.
- The PHA's interpreter will provide the legal, official interpretation for the meeting, even when the LEP person brings their own interpreter.

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

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

## **2-III.C. WRITTEN TRANSLATION**

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

### **PHA Policy**

In order to comply with written-translation obligations, the PHA will take the following steps:

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

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

## **2-III.D. IMPLEMENTATION PLAN**

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

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

#### PHA Policy

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

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

***EXHIBIT 2-1: Definition of a Person with a Disability Under Federal Civil Rights Laws  
[24 CFR Parts §8.3 and §100.201; ~~HOTMA~~]***

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

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

The phrase “physical or mental impairment” includes:

- Any physiological disorder or condition, cosmetic or disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; 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, mental retardation, emotional illness, drug addiction and alcoholism.

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

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

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

The definition of a person with disabilities does not include:

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

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

The HUD definition of a person with a disability is much narrower than the civil rights definition of disability. The HUD definition of a person with a disability is used for purposes of receiving the disabled family preference, the \$550 elderly/disabled household deduction (~~HOTMA~~), the allowance for medical expenses, or the allowance for disability assistance expenses.

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



## CHAPTER 3

### ELIGIBILITY

#### INTRODUCTION

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

To be eligible for the public housing program:

The applicant family must:

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

This chapter contains three parts:

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

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

**Part III: Denial of Admission.** This part covers factors related to an applicant's past or current conduct (e.g., criminal activity) that can cause the PHA to deny admission as well as the asset limitation for public housing.

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## PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

### 3-I.A. OVERVIEW

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

### 3-I.B. FAMILY AND HOUSEHOLD [24 CFR §5.105(A)(2), 24 CFR §5.403, FR NOTICE NOTICE-02/03/12, NOTICE PIH 2014-20], NOTICE PIH 2023-27, AND FR NOTICE 2/14/23

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

#### Family

To be eligible for admission, an applicant must qualify as a family. *Family as defined by HUD includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, a single person, who may be an elderly person, 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. 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. The PHA has the discretion to determine if any other group of persons qualifies as a family.*

~~*Family as defined by HUD, includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, a single person, who may be an elderly person, disabled person, near-elderly person, or any other single person; or a group of persons residing together.*~~

~~*Such group includes, but 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, near-elderly family, a disabled family, a displaced family, or the remaining member of a tenant family. The PHA has the discretion to determine if any other group of persons qualifies as a family.*~~

*Gender Identity* means actual or perceived gender characteristics.

*Sexual orientation* means homosexuality, heterosexuality, or bisexuality.

#### PHA Policy

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

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

#### **Household**

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

### **3-I.C. FAMILY BREAK-UP AND REMAINING MEMBER OF TENANT FAMILY**

#### ***Family Break-up***

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

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

#### PHA Policy

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

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

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

In the absence of a judicial decision or an agreement among the original family members, the PHA will determine which family will ~~retains~~ their placement on the waiting list, or

~~will~~ continue in occupancy. In making its determination, the PHA will take -taking-into consideration the following factors:

- (1) the interest of any minor children, including custody arrangements
- (2) the interest of any ill, elderly, or disabled family members
- (3) the interest of any family member who is or has been the victim of domestic violence, dating violence, sexual assault, ~~or stalking,~~ or human trafficking,, including a family member who was forced to leave a public housing unit as a result of such actual or threatened abuse, and provides documentation in accordance with Section 16-VII.D of this ACOP; (4) any possible risks to family members as a result of criminal activity, and (5) the recommendations of social service professionals.

(4)

~~(4) any possible risks to family members as a result of criminal activity~~

~~(5) the recommendations of social service professionals~~

#### ***Remaining Member of a Tenant Family [24 CFR §5.403]***

The HUD definition of family includes the *remaining member of a tenant family*, which is a member of a resident family who remains in the unit when other members of the family have left the unit [PH Occ GB, p. 26]. Household members such as live-in aides, foster children, and foster adults do not qualify as remaining members of a family.

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

#### **3-I.D. HEAD OF HOUSEHOLD [24 CFR §5.504(B)]**

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

##### PHA Policy

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

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

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

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

*Spouse* means the marriage partner of the head of household.

#### PHA Policy

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

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

#### PHA Policy

The PHA does not acknowledge cohead as a household member relation type. Instead, the term "other adult" is used. A family can have only one cohead.  
~~A family can have only one cohead.~~

#### PHA Policy

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

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

### 3-I.F. DEPENDENTS AND MINORS -[24 CFR §5.603]

A minor is a member of the family, other than the head of family or spouse, who is under 18 years of age.

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

#### *Joint Custody of Dependents*

#### PHA Policy

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

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

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

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

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

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

#### ***Elderly Persons***

An *elderly person* is a person who is at least 62 years of age [24 CFR §5.100].

#### ***Near-Elderly Persons***

A *near-elderly person* is a person who is 50-61 years of age [24 CFR §945.105].

#### ***Elderly Family***

An *elderly family* is one in which the head, spouse, cohead, or sole member is an elderly person [24 CFR §5.403]. Identifying elderly families is important because these families qualify for the elderly family allowance and the medical allowance as described in Chapter 6 and may qualify for a particular type of development as noted in Chapter 4.

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

#### ***Persons with Disabilities***

Under the public housing program, special rules apply to persons with disabilities and to any family whose head, spouse, or cohead is a person with disabilities. The technical definitions of individual with handicaps and persons with disabilities are provided in Exhibit 3-1 at the end of

this chapter. These definitions are used for a number of purposes including ensuring that persons with disabilities are not discriminated against based upon disability.

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

### ***Disabled Family***

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

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

### **3-I.J. GUESTS [24 CFR §5.100]**

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

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

#### **PHA Policy**

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

~~A resident family must give prior notice to the Authority of any guest staying overnight at the resident's premises and any such overnight stay is deemed an accommodation for the guest. A guest can remain in the unit no longer than 14 days during any 12-month period.~~

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



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

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

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

The PHA will consider unauthorized occupants to be trespassers. The family in tenancy that allows an unauthorized occupant to reside in their unit is not in compliance with the lease and is subject to termination of tenancy. Some examples of unauthorized occupants include:

- A former resident of the PHA who has been evicted from a PHA development;
- Persons that have been trespassed from a PHA development;
- Guests who represent the unit address as their residence address or address of record for receipt of benefits or any other purposes will be considered unauthorized occupants;
- Family members over age 17 or emancipated minors who moved from the dwelling unit to establish new households;
- Persons that have joined the household without undergoing screening;
- Guests who remain in the unit beyond the allowable time limit; and
- A person (often a relative) that came to the unit as an extended visitor because the resident needed support, for example, after a medical procedure but stayed on in the unit beyond the time needed by the resident.

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

The burden of proof that the individual is a guest rests on the family. In the absence of such proof, the individual will be considered an unauthorized member of the household and the PHA will terminate assistance since prior approval was not requested for the addition.

### **3-I.K. FOSTER CHILDREN AND FOSTER ADULTS [24 CFR 5.603]**

~~A foster adult is 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 judgement, decree, or other order of any court of competent jurisdiction. are usually persons with disabilities, unrelated to the tenant family, who are unable to live alone [24 CFR §5.609(c)(2)].~~

~~The term A foster child is 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 judgement, decree, or other order of any court of competent jurisdiction. not specifically defined by the regulations.~~

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

#### PHA Policy

A foster child or foster adult may be allowed to reside in the unit if their presence would not overcrowd the unit.

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

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

### **3-I.L. ABSENT FAMILY MEMBERS**

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

#### ***Definitions of Temporarily and Permanently Absent***

##### PHA Policy

Generally, an individual who is or is expected to be absent from the public housing unit for ~~less than~~ 30 consecutive days is considered temporarily absent and continues to be considered a family member. Generally, an individual who is or is expected to be absent from the public housing unit for more than 30 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

#### ***Absent Students***

##### PHA Policy

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

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

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

##### PHA Policy

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

#### ***Absent Head, Spouse, or Cohead***

##### PHA Policy

An employed head, spouse, or cohead absent from the unit, up to a maximum of 180 consecutive days due to employment will continue to be considered a family member. A head, spouse, or cohead who is absent from the unit because of a military deployment or active service will continue to be considered a family member.

#### ***Individuals Confined for Medical Reasons***

##### PHA Policy

An individual confined to a nursing home or hospital on a permanent basis is not considered a family member, and the income of that person is not counted.

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

#### ***Return of Permanently Absent Family Members***

##### PHA Policy

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

### **3-I.M. LIVE-IN AIDE**

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

The PHA must approve a live-in aide if needed as a reasonable accommodation in accordance with 24 CFR 8, to make the program accessible to and usable by the family member with disabilities.

A live-in aide is considered a household member but not a family member.

The income of the live-in aide is not counted in determining the annual income of the family. [24 CFR §5.609(c)(5)]. Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. However, a relative who serves as a live-in aide is not considered a family member and would not be considered a remaining member of a tenant family.

#### PHA Policy

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A family's request for a live-in aide may be made either orally or in writing. The PHA will verify the need for a live-in aide with a reliable, knowledgeable professional as provided by the family, such as a doctor, social worker, or case worker, that the live-in aide is essential for the care and well-being of the elderly, near elderly, or disabled family member.

For continued approval, the family must submit a new written request subject to PHA verification -at at- every other year during the annual reexamination unless a knowledgeable professional declares on verification that disability-related need is permanent. process. No further written request needs to be submitted.

~~Participants who have come portable to COCHRD's jurisdiction and have a valid, acceptable Reasonable Accommodation for a Live-In Aide approved by the Initial PHA, may be allowed to use that Reasonable Accommodation for one year, until the next Annual Reexamination, or until the next change of unit, whichever comes first. At which time, participants will be required to comply with the full Reasonable Accommodation process.~~

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

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

- 1) The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- 2) The person has a history of drug-related criminal activity or violent criminal activity; or
- 3) The person currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

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

Occasional, intermittent, multiple, or rotating care givers typically do not reside in the unit and would not qualify as live-in aides. Therefore, an additional bedroom should not be approved for a live-in aide under these circumstances [PIH 2014-25].

## PART II: BASIC ELIGIBILITY CRITERIA

### 3-II.A. INCOME ELIGIBILITY AND TARGETING

#### *Income Limits*

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

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

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

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

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

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

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

#### *Using Income Limits for Eligibility [24 CFR §960.201 and Notice PIH 2023-27]*

Income limits are used ~~to determine for~~ eligibility ~~only~~ at admission. Eligibility is established by comparing a family's annual income with HUD's published income limits. To be income-eligible, a family must be a *low-income* family. Income and net family assets of household members are excluded when determining income eligibility; however, household members are considered for purposes of unit size and subsidy standards.

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

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

If admissions of extremely low-income families to the PHA's housing choice voucher program during a PHA fiscal year exceed the 75 percent minimum targeting requirement for that program,

such excess shall be credited against the PHA's public housing basic targeting requirement for the same fiscal year.

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

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

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

### **3-II.B. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR §5, SUBPART E]**

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

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

#### ***Declaration [24 CFR §5.508]***

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

#### ***U.S. Citizens and Nationals***

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





#### PHA Policy

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

#### ***Eligible Noncitizens***

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

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

#### ***Ineligible Noncitizens***

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

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

#### ***Mixed Families***

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

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

A PHA may elect to provide assistance to a family before the verification of the eligibility of the individual or one family member [24 CFR §5.512(b)]. Otherwise, no individual or family may be

assisted prior to the affirmative establishment by the PHA that the individual or at least one family member is eligible [24 CFR §5.512(a)].

PHA Policy

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

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

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

Grievance hearing procedures are contained in Chapter 14.

***Timeframe for Determination of Citizenship Status [24 CFR §5.508(g)]***

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

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

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

PHA Policy

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

**3-II.C. SOCIAL SECURITY NUMBERS [24 CFR §5.216 AND §5.218], NOTICE PIH 2018-24]**

The applicant and all members of the applicant's household must disclose the complete and accurate social security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN. If a child under age 6 has been added to an applicant family within the 6 months prior to program admission, an otherwise eligible family may be admitted to the program and must disclose and document the child's SSN within 90 days of admission. A detailed discussion of acceptable documentation is provided in Chapter 7.

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

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

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

### **3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR §5.23~~20~~, HOTMA]**

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

The PHA must deny admission to the program if any member of the applicant family fails to sign and submit consent forms which allow the PHA to obtain information that the PHA has determined is necessary in administration of the public housing program [24 CFR §960.259(a) and (b)] and 24 CFR 5.232(a)].

However, this does not apply if the applicant or participant, or any member of their family, revokes their consent with respect to the ability of the PHA to access financial records from financial institutions, unless the PHA establishes a policy that revocation of consent to access financial records will result in denial or termination of assistance or admission [24 CFR 5.232 (c)].

~~**HOTMA Requirement: HOTMA streamlines the rules for determining household income and rent payments. The new rule will require each adult household member to sign a consent form one time, instead of annually.**~~

### **PHA Policy**

PHA will require the form HUD-9886 to be signed at least once for each adult household member, but the PHA may require the form HUD-9886 to be signed at any other time, as needed. The PHA has established a policy that the family's revocation of

consent to allow the PHA to access records from financial institutions will result in denial of admission.

**3-II.E. EIV SYSTEM SEARCHES [~~NOTICE PIH 2018-18~~; EIV FAQs; EIV SYSTEM TRAINING 9/30/20; AND NOTICE PIH 2023-27]**

***Existing Tenant Search***

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

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

**PHA Policy**

The PHA will contact the other PHA, or owner identified in the report to confirm that the family has moved out of the unit and obtain documentation of current tenancy status, including a form HUD-50058 or 50059, as applicable, showing an end of participation.

The PHA will only approve assistance contingent upon the move-out from the currently occupied assisted unit.

***Debts Owed to PHAs and Terminations***

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

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

**PHA Policy**

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

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

#### ***Income and Income Validation Tool (IVT) Reports***

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

## PART III: DENIAL OF ADMISSION

### 3-III.A. OVERVIEW [PIH 2015-19]

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

In addition, HUD requires or permits the PHA to deny admission based on certain types of current or past behaviors of family members as discussed in this part. The PHA's authority in this area is limited by the Violence against Women ~~Reauthorization Act of 2013~~ (VAWA), which ~~expressly~~ prohibits the denial of admission to an otherwise qualified applicant on the basis, or as a direct result of the fact, that the applicant is or has been the victim of domestic violence, dating violence, sexual assault, ~~or stalking, or human trafficking~~. [see 24 CFR §5.2005(b)].

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

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

HUD's Office of General Counsel issued a memo on April 4, 2016, regarding the application of Fair Housing Act standards to the use of criminal records. This memo states that a PHA violates the Fair Housing Act when their policy or practice has an unjustified discriminatory effect, even when the PHA had no intention to discriminate. Where a policy or practice that restricts admission based on criminal history has a disparate impact on a particular race, national origin, or other protected class, that policy or practice is in violation of the Fair Housing Act if it is not necessary to serve a substantial, legitimate, nondiscriminatory interest of the PHA, or if that interest could be served by another practice that has a less discriminatory effect [OGC Memo 4/4/16]. HUD codified this stance on disparate impact and discriminatory effects in a final rule dated March 31, 2023. In doing so, HUD also standardized its long-practiced three-step approach to assessing burdens of proof.

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

~~An individualized assessment of relevant mitigating information beyond that contained in an individual's criminal record is likely to have a less discriminatory effect than categorical exclusions that do not take such additional information into account. Relevant individualized evidence might include the facts or circumstances surrounding the criminal conduct; the age of the individual at the time of the conduct; evidence that the individual has maintained a good tenant history before and/or after the criminal conduct; and evidence of rehabilitation efforts. By delaying consideration of criminal history until after an individual's financial and other qualifications are verified, a PHA may be able to minimize any additional costs that might add to the applicant screening process. [4/4/2016 Office on General Counsel Guidance on Application of Fair Housing Act standards to the Use of Criminal Records by Housing Providers and Real Estate Related Transactions]~~

~~Notice PIH 2015-19 does not completely exclude the review of arrest records in housing decisions. Although the fact that an individual was arrested is not grounds to deny a housing opportunity, a record of an arrest might properly trigger an inquiry by a PHA or owner into whether a person actually engaged in disqualifying criminal activity. As part of such an inquiry, a PHA or owner may continue to obtain and review the police report, record of disposition of any criminal charges, and other evidence associated with the arrest to inform its eligibility determination.~~

This part covers the following topics:

- ~~• Required denial of admission~~
- The asset limitation in public housing
- Other permitted reasons for denial of admission
- Screening
- Criteria for deciding to deny admission
- Prohibition against denial of admission to victims of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking
- Notice of eligibility or denial

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

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

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

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



- Any member of the household has been evicted from federally assisted housing in the last 3 years for drug-related criminal activity. HUD permits but does not require the PHA to admit an otherwise-eligible family if the household member has completed a PHA-approved drug rehabilitation program or the circumstances which led to eviction no longer exist (e.g., the person involved in the criminal activity no longer lives in the household).

PHA Policy

The PHA will admit an otherwise-eligible family who was evicted from federally assisted housing within the past 3 years for drug-related criminal activity if the PHA is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by the PHA, or the person who committed the crime is no longer living in the household.

If it is found that after admission the ineligible family member is residing in the unit, the family will be terminated.

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

PHA Policy

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

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

PHA Policy

The PHA will consider the use of a controlled substance or alcohol to be a *pattern* if there is more than one incident during the previous six-6 months.

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

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

State laws purporting to legalize medical or recreational marijuana directly conflict with the admission and continued requirements of the Quality Housing and Work Responsibility Act of 1998 (“Public Housing Reform Act”) and are thus subject to preemption. [September 24, 1999, HUD Letter Re: Medical Use of Marijuana]

PHA Policy

The use, possession, or growing of marijuana by any household member on the premises of a subsidized unit is grounds for termination of assistance. The “premises” includes, but is not limited to, the interior and exterior of the subsidized unit, patio/balcony, sidewalks, walkways, recreation areas/common areas, laundry room, parking lot, etc.).

Household members with a “medical marijuana card” are not exempt from this rule.

The use of marijuana may include smoking, edibles, or other forms of the drug.

**3-III.C. RESTRICTION ON ASSISTANCE BASED ON ASSETS [24 CFR 5.618]**

There are two circumstances under which a family is ineligible for the program based on asset ownership.

First, assistance may not be provided to any family if the family’s net assets exceed \$100,000 (adjusted annually by HUD).

Second, the family has real property that is suitable for occupancy by the family as a residence and the family has:

- A present ownership interest in the real property;
- A legal right to reside in the real property; and
- The effective legal authority to sell (based on state or local laws of the jurisdiction where the property is located) the real property.

However, the real property restriction does not apply in the following circumstances:

- Any property for which the family is receiving assistance for a manufactured home under 24 CFR 982.620 or under the HCV Homeownership program;
- 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;
- Any family that is offering the property for sale; or
- Any person who is a victim of domestic violence, dating violence, sexual assault, or stalking.
- When a family asks for an exception because a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, the PHA must comply with all the confidentiality requirements under VAWA. The PHA must accept a self-certification

from the family member, and the restrictions on requesting documentation under VAWA apply.

A property is considered *suitable for occupancy* unless the family demonstrates that it:

- Does not meet the disability-related needs for all members of the family (e.g., physical accessibility requirements, disability-related need for additional bedrooms, proximity to accessible transportation, etc.);
- Is not sufficient for the size of the family;

#### PHA Policy

The PHA defines *not sufficient for the size of the family* as being overcrowded based on the PHA's occupancy standards in Chapter 5.

- Is geographically located so as to be a hardship for the family (e.g., the distance or commuting time between the property and the family's place of work or school would be a hardship to the family, as determined by the PHA or owner);
- Is not safe to reside in because of the physical condition of the property (e.g., property's physical condition poses a risk to the family's health and safety and the condition of the property cannot be easily remedied); or
- Is not a property that a family may reside in under the State or local laws of the jurisdiction where the property is located.

### **3-III.D. OTHER PERMITTED REASONS FOR DENIAL OF ADMISSION**

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

#### ***Criminal Activity [24 CFR §960.203 ~~(c)(b)~~ and ~~(e)~~]***

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

#### PHA Policy

If any household member is currently engaged in, or has engaged in any of the following criminal activities, within the past three (3) years, the family will be denied admission.

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

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

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

Criminal activity that may threaten the health or safety of PHA staff, contractors, subcontractors, or agents, and persons performing contract administration functions or other responsibilities on behalf of the PHA (including a PHA employee or a PHA contractor, subcontractor, or agent).

'Immediate vicinity' means within a three-block radius of the premises.

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

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

- Any record of convictions, arrests, or evictions for suspected drug-related or violent criminal activity of household members within the past three (3) years. A record or records of arrest(s) will not be used as the sole basis for the denial or proof that the applicant engaged in disqualifying criminal activity.
- Records of arrests for drug-related or violent criminal activity within the past three (3) years, although a record of arrest(s) will not be used as the sole basis for the denial, or proof that the applicant engaged in disqualifying criminal activity.
- Criminal activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity; or
- Criminal activity that may threaten the health or safety of management staff, and persons performing contract administration functions or other responsibilities on behalf of the PHA (including a PHA employee or a PHA contractor, subcontractor, or agent).
- Any record of eviction from public or privately-owned housing as a result of criminal activity within the past (3) three years.

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

Examples of *criminal activity* includes, but not limited to:

- Loitering
- Criminal Trespassing

- Forgery
- Identity Theft
- Discharge of Firearm
- Criminal Damage
- Indecent Exposure
- Theft against any government agency
- Disorderly Conduct
- Burglary
- Harassment

***Previous Behavior [24 CFR §960.203(c) and (d) and PH Occ GB, p. 48; ~~§5.851-§5.861~~]***

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

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

**PHA Policy**

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

- Has a pattern of unsuitable past performance in meeting financial obligations, including rent within the past ~~three~~five years.
- Has a pattern of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences within the past ~~three~~five years, which may adversely affect the health, safety, or welfare of other tenants.
- Owes rent or other amounts to this or any other PHA or owner in connection with any assisted housing program.
- The family has breached the terms of a repayment agreement entered into with the PHA, unless the family repays the full amount of the debt covered in the repayment agreement prior to being selected from the waiting list.
- Misrepresented or does not provide true and complete information related to eligibility, including income, award of preferences for admission, expenses, family composition or rent, or any other information that the PHA or HUD determines is necessary in the administration of the program.

- Any family member has been evicted from federally assisted housing or abandoned the federally assisted housing in the last ~~three~~five years. (Staff would consider the date and circumstances of any past eviction or termination in determining its relevance to PHA tenancy.)
- Has a household member, regardless of age, who has been trespassed (including criminally trespassed) from a City of Chandler Public Housing site during the last three years.
- Has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program in the last three years.
- Owes rent or other amounts to any PHA in connection with HCV Section 8, public housing, or other public housing assistance under the 1937 Act, unless the family repays the full amount of the debt prior to being selected from the waiting list.
  - When denying admission due to family debts as shown in HUD’s EIV system, the PHA will provide the family with a copy of the EIV Debt Owed to PHA and Termination report.
  - If the family wishes to dispute the information in the report, the family must contact the PHA that entered the information in EIV in writing, explaining why EIV information is disputed.
  - The family must also provide a copy of the letter and all applicable verification to the PHA to support the family’s claim. The PHA will consider the information provided by the family prior to issuing a notice of denial.
- Has engaged in or threatened violent or abusive behavior toward PHA personnel:
  - *Abusive or violent behavior towards PHA personnel* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.
  - *Threatening* refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

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

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

### 3-III.~~ED~~. SCREENING ~~[24 CFR §5.855, §5.858, §5.902, §5.903]~~

#### *Screening for Eligibility*

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

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

#### PHA Policy

The PHA will perform criminal background checks through local law enforcement for all adult household members. The PHA may not pass along to the applicant the costs of a criminal records check.

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

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

#### PHA Policy

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

#### ~~*Sex Offender Registration 24 CFR §960.204 (A)(4) PIH Notice 2012-28*~~

~~The PHA must establish standards that permanently prohibit admission to the PHA's public housing program if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program.~~

~~PHAs may only create policies that permanently deny admission to sex offenders subject to lifetime registration requirements as per the regulatory requirements, and may not implement policies that automatically deny admission to applicants for the duration of their sex offender registration requirement, regardless of circumstances, if it is less than life. (Public Housing Master Book, Section 4.3: Tenant Selection and Suitability, Suitability and Selection Criteria, Mandatory Denial of Admission, Page 4.3-4)~~

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PHA Policy

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

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

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

***Obtaining Information from Drug Treatment Facilities [24 CFR §960.205]***

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

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

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

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

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



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

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

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

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

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

#### PHA Policy

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

#### *Screening for Suitability as a Tenant [24 CFR §960.203(c)] ~~§5.851-§5.861~~*

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

#### PHA Policy

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

- Payment of rent and utilities
- Caring for a unit and premises
- Respecting the rights of other residents to the peaceful enjoyment of their housing
- Criminal activity that is a threat to the health, safety, or property of others
- Behavior of all household members as related to the grounds for denial as detailed in Sections 3-III.B and C
- Compliance with any other essential conditions of tenancy

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

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

**PHA Policy**

In order to determine the suitability of applicants the PHA will examine applicant history for the past ~~three~~five years. Such background checks will include:

***Past Performance in Meeting Financial Obligations, Especially Rent***

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

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

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

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

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

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

PHA and landlord references for the past ~~three~~five years, gathering information on whether the applicant kept a unit clean, safe and sanitary; whether they violated health or safety codes; whether any damage was done by the applicant to a current or previous unit or the development, and, if so, how much the repair of the damage cost; whether the applicant's housekeeping caused insect or rodent infestation; and whether

the neighbors complained about the applicant or whether the police were ever called because of disturbances.

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

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

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

### **3-III.FE. CRITERIA FOR DECIDING TO DENY ADMISSION**

#### ***Evidence***

##### **PHA Policy**

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

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

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

The fact that an applicant or tenant was arrested for a disqualifying offense shall not be treated or regarded as proof that the applicant or tenant engaged in disqualifying criminal activity. The arrest may, however, trigger an investigation to determine whether the applicant or tenant actually engaged in disqualifying criminal activity. As part of its investigation, CCHRD may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. CCHRD may also consider any statements made by witnesses or the applicant or tenant not included in the police report; whether criminal charges were filed; whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal; and any other evidence relevant to determining whether or not the applicant or tenant engaged in disqualifying activity.

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

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

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

#### PHA Policy

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

- The seriousness of the case, especially with respect to how it would affect other residents' safety or property
- The effects that denial of admission may have on other members of the family who were not involved in the action or failure to act
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or (as discussed further in Section 3-III.F) a victim of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking.
- The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history and the likelihood of favorable conduct in the future.
- While a record or records of arrest(s) will not be used as the sole basis for denial, an arrest may trigger an investigation to determine whether the applicant actually engaged in disqualifying criminal activity. As part of its investigation, the PHA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The PHA may also consider:
  - Any statements made by witnesses, or the applicant not included in the police report
  - Whether criminal charges were filed
  - Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal
  - Any other evidence relevant to determining whether or not the applicant engaged in disqualifying activity
- Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property
- Evidence of the applicant family's participation in or willingness to participate in social service or other appropriate counseling service programs
- In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully

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

### ***Removal of a Family Member's Name from the Application***

Should the PHA's screening process reveal that an applicant's household includes an individual subject to state lifetime registered sex offender registration; the PHA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the PHA must deny admission to the family. [Notice PIH 2012-289].

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

#### **PHA Policy**

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

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

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

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

#### **PHA Policy**

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

### **3-III.GF. Prohibition Against Denial of Assistance to Victims of Domestic Violence, Dating Violence, Sexual Assault, ~~or~~ Stalking, and Human Trafficking**

The Violence against Women Act ~~of 2013~~ (VAWA) and the HUD regulations at 24 CFR §5.2005(b) prohibit PHAs from denying admission to an otherwise qualified applicant on the basis or as a direct result of the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

—Although the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror

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HUD's recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.

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

### ***Notification***

VAWA ~~requires 2013 expanded notification requirements to include the obligation for~~ PHAs to provide applicants who are denied assistance with a notice of VAWA Notice of Occupancy Rights (form HUD-5380) and a domestic violence certification form (HUD-5382) at the time the applicant is denied.

#### PHA Policy

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

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

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

~~Therefore, if the PHA makes a determination to deny admission to an applicant family, the PHA will include in its notice of denial information about the protection against denial provided by VAWA in accordance with Section 16-VII.C of this ACOP, a notice of VAWA rights, and a copy of the form HUD-5382. The PHA will request in writing that an applicant wishing to claim this protection notify the PHA within 14 business days.~~

### **Documentation**

#### ***Victim Documentation [24 CFR §5.2007]***

##### PHA Policy

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

#### ***Perpetrator Documentation***

##### PHA Policy

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

- A signed statement (1) requesting that the perpetrator be removed from the application and (2) certifying that the perpetrator will not be permitted to visit or to stay as a guest in the public housing unit
- Documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to their belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.

### **3-III.HG. NOTICE OF ELIGIBILITY OR DENIAL**

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

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



#### PHA Policy

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

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

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

### ***EXHIBIT 3-1: Detailed Definitions Related To Disabilities***

#### ***Person with Disabilities [24 CFR §5.403]***

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

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

- Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death, or which has lasted or can be expected to last for a continuous period of not less than 12 months
- In the case of an individual who has attained the age of 55 and is blind (within the meaning of “blindness” as defined in Section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.
- Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C.15002(8)], which defines developmental disability in functional terms as follows:

- (A) IN GENERAL - The term *developmental disability* means a severe, chronic disability of an individual that-
- (i) is attributable to a mental or physical impairment or combination of mental and physical impairments;
  - (ii) is manifested before the individual attains age 22;
  - (iii) is likely to continue indefinitely;
  - (iv) results in substantial functional limitations in 3 or more of the following areas of major life activity: (I) self-care, (II) receptive and expressive language, (III) learning, (IV) mobility, (V) self-direction, (VI) capacity for independent living, (VII) economic self-sufficiency; and
  - (v) reflects the individual’s need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.
- (B) INFANTS AND YOUNG CHILDREN – An individual from birth to age 9, inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting 3 or more of the criteria described in clauses (i) through (v) of subparagraph (A) if the individual, without services and supports, has a high probability of meeting those criteria later in life.
- Has a physical, mental, or emotional impairment that is expected to be of long continued and indefinite duration; substantially impedes their ability to live

independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

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

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

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

***Individual with Handicaps [24 CFR §8.3]***

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

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

## CHAPTER 4

### APPLICATIONS, WAITING LIST, AND TENANT SELECTION

#### INTRODUCTION

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

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

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

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

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

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

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

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

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## **PART I: THE APPLICATION PROCESS**

### **4-I.A. OVERVIEW**

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

### **4-I.B. APPLYING FOR ASSISTANCE**

Any family that wishes to reside in public housing must apply for admission to the program [24 CFR §1.4(b)(2)(ii), 24 CFR §960.202(a)(2)(iv), and PH Occ GB, p. 68]. HUD permits the PHA to determine the format and content of its applications, as well how such applications will be made available to interested families, and how applications will be accepted by the PHA.

However, the PHA must include Form HUD-92006, Supplement to Application for Federally Assisted Housing, as part of the PHA's application [Notice PIH 2009-36].

#### PHA Policy

Families wishing to apply will be required to complete a pre-application. No one will be denied the right to request or submit a pre-application when the waitlist is open. The PHA will utilize an online application process. Applicants may use any computer, tablet, or smart phone with internet access to apply.

Alternate formats will be available for Reasonable Accommodations. Alternate formats may include requesting a pre-application for reasonable accommodation, modification, and auxiliary aids or services by contacting the PHA office. Applicants may also submit a paper pre-application by email, by fax, by telephone, or in person at the PHA office. The PHA will also strive to accommodate those that may not have internet access to a computer at the Chandler Public Libraries.

The PHA required two-step process will be used when it is expected that a family will not be selected from the waiting list for at least 60 days from the date of pre-application. Under the two-step application process, the applicant must complete a Pre-Application.

During the Pre-Application process, the PHA initially will require families to provide only the information needed to make an initial assessment of the family's placement on the waitlist. The family will be required to provide all of the information necessary to establish family eligibility and the amount of rent the family will pay when selected from the waiting list.

Applications must be filled out completely in order to be accepted by the PHA for processing. If an application is incomplete, the PHA will notify the family of the additional information required.

#### **4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS**

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

##### ***Elderly or Disabled Populations [24 CFR §8; PH Occ GB, p. 68]***

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

The PHA will provide for alternate format pre-applications to the online application process for persons requiring a reasonable accommodation that have been approved by the City of Chandler Housing and Redevelopment Division.

##### ***Limited English Proficiency (LEP)***

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

#### **4-I.D. PLACEMENT ON THE WAITING LIST**

The PHA must accept applications from families for whom the list is open unless there is good cause for not accepting the application (such as denial of assistance) for the grounds stated in the regulations [24 CFR §982.206(b)(2)].

The PHA will accept applications only from approved methods. The PHA will not accept duplicate applications for the same program.

The PHA reserves the right to review pre-applications for an initial assessment prior to placing on the waiting list.

Where the family is determined to be ineligible, the PHA must notify the family in writing [24 CFR 960.208(a); PH Occ GB, p. 41].

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

##### ***Eligible for Placement on the Waiting List***

PHA Policy

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The PHA will utilize a random lottery selection for pre-application placement on the waitlist. All interested persons are encouraged to apply. Once the waitlist closes, all accepted pre-applications will be shuffled randomly through a computerized selection process and each pre-application will be given a sequential waitlist number based on where their pre-application fell during the shuffle. The sequential number will be the pre-application's waitlist number. Because the PHA reserves the right to limit the number of pre-applications placed on an established waitlist, only those pre-applications with a waitlist number less than, or equal to, the pre-determined number of pre-applications, will be placed on the waitlist and become part of the established waitlist. Those pre-applications with a waitlist number greater than the pre-determined number of pre-applications to be placed on the waitlist will be denied. (Note: Pre-applicants are encouraged to claim preferences for which they qualify, but these preferences will only be taken into consideration at the point when a pre-applicant is selected from the waitlist to start the eligibility process. Pre-applicants with preferences will be selected from an established waitlist before pre-applicants without preferences.)

Only pre-applicants who submitted a completed pre-application prior to the deadline will be placed on the list for selection in the random lottery selection process. The PHA reserves the right to select from the pre-applicant list a pre-determined number of pre-applications to move to the waitlist. For each public posting, the PHA will assess the needs at the time of the waitlist and the pre-determined number of waitlist spots will be posted on the public notice. Applicants will receive written notification through the mail via U.S. Postal Service that their pre-application has been placed on the waitlist or that their pre-application has been denied, notification will be done within 60 to 90 days of closing of the pre-application period.

Waitlist numbers will not be disclosed at any time while an applicant is on a waitlist. Applicants may access their online account to determine if their application is still active, or they may make inquiries at the housing office.

The PHA will assign families on the waiting list according to the bedroom size for which a family qualifies as established in its occupancy standards (see Chapter 5).

Placement on the waiting list does not indicate that the family is, in fact, eligible for assistance. A final determination of eligibility will be made when the family is selected from the waiting list.

The second phase is when the family is selected from the waiting list. This is called Eligibility, during which time the PHA will verify any preference(s) claimed and determine eligibility and suitability for admission to the program (See Chapter 3).

## **PART II: MANAGING THE WAITING LIST**

### **4-II.A. OVERVIEW**

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

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

### **4-II.B. ORGANIZATION OF THE WAITING LIST**

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

#### PHA Policy

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

- Name and identifying number of head of household;
- Unit size (family members), based on applicant information supplied on the pre-application;
- Amount annual income;
- Date and time of application/ application number;
- Race and ethnicity of the head of household;
- Disabled or Elderly status of head of household;
- Preference points, based on applicant information supplied on the pre-application
- The specific site(s) selected (only if PHA offers site-based waiting lists)

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

#### PHA Policy

The PHA will maintain one single community-wide waiting list for its developments. Within the list, the PHA will designate subparts to easily identify who should be offered the next available unit (i.e., mixed populations, general occupancy, unit size, and accessible units).



The PHA will not adopt site-based waiting lists.

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

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

#### PHA Policy

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

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

#### ***Closing the Waiting List***

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

#### PHA Policy

The PHA will disclose in the public notice the close of the waitlist. The PHA reserves the right to close the waiting list when the estimated waiting period for housing applicants on the list reaches 24 months, or the PHA will assess the needs at the time of the waitlist and the pre-determined number of waitlist spots will be posted on the public notice or for administrative reasons. Where the PHA has particular preferences or other criteria that require a specific category of family, the PHA may elect to continue to accept applications from these applicants while closing the waiting list to others.

The PHA reserved the right to select from the applicant pool a pre-determined number of applicants to move to the waitlist. For each posting, the PHA will assess the needs at the time of the waitlist and the pre-determine number of waitlist spots will be posted on the public notice.

#### ***Reopening the Waiting List***

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

#### PHA Policy

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

The PHA will give public notice by publishing the relevant information in suitable media outlets including, but not limited to:

- East Valley Tribune
- City Scope
- Chanweb
- La Voz
- All Arizona PHA's
- Local Social Service Agencies
- Channel 11 Public Service

The PHA will also publish the public notice on its website, or social media platforms and other online platforms for local housing news.

#### **4-II.D. FAMILY OUTREACH [24 CFR §903.2(D); 24 CFR §903.7(A) AND (B)]**

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

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

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

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

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

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

#### PHA Policy

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

#### **4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES**

##### PHA Policy

While the family is on the waiting list, the family must inform the PHA, within 10 business days of changes in family size or composition, preference status, or contact information, including current residence, mailing address, and phone number. The changes must be submitted in writing either through the applicant's online account or on a Change Report form. If using a Change Report form, the applicant copy of the form must be time and date stamped by the City of Chandler Housing office to be considered valid. The copy of the form will be provided to the participant.

Upon completion of the online resident system, the family will be urged to use the PHA website/online process for submitting Change Report.

Changes in an applicant's circumstances while on the waiting list may affect the family's qualification for a particular bedroom size or entitlement to a preference. When an applicant reports a change that affects their placement on the waiting list, the waiting list will be updated accordingly. Families with preferences will be selected before families not claiming a preference.

#### **4-II.F. UPDATING THE WAITING LIST**

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

##### ***Purging the Waiting List [NEW PH OCC GB 2.4]***

The decision to remove an applicant family that includes a person with disabilities from the waiting list is subject to reasonable accommodation. If the applicant did not respond to the PHA's request for information or updates because of the family member's disability, the PHA must, upon the family's request, reinstate the applicant family to their former position on the waiting list as a reasonable accommodation [24 CFR §8.4(a), 24 CFR §100.204(a), and NEW PH Occ GB, Chp. 2.4; 2.4.2]. See Chapter 2 for further information regarding reasonable accommodations.

##### PHA Policy

The waiting list will be purged every other year to ensure that all applicant information is current.

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

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

Families must respond via the online system on or before the due date or respond by mail as indicated in purge letter instructions. Responses should be postmarked or received by the PHA not later than 15 business days from the date of the PHA letter.

If the family fails to respond within 14 business days, the family will be removed from the waiting list and the notice will be mailed to the last address of record or other address provided by the applicant.

If the notice is returned by the post office with no forwarding address, the applicant will be removed from the waiting list and a notice mailed to the last address of record or other address provided by the applicant.

If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated. The family will have 14 business days to respond from the date the letter was re-sent. If the family fails to respond within this time frame, the family will be removed from the waiting list and a notice mailed to the last address of record.

Applicants' names may be withdrawn or removed either at their request or because the PHA is unable to contact them to follow up on their application.

No informal hearing is required following withdrawal of an application for non-response, although the PHA usually maintains files of withdrawn applications for three years or until the next HUD occupancy audit [NEW PH OCC GB, 2.4]

If a family is removed from the waiting list for failure to respond, management may reinstate the family if the lack of response was due to PHA error, or to circumstances beyond the family's control. If the lack of response was due to circumstances beyond the family's control, or as a result of a family member's disability, or as a direct result of status as a victim of domestic violence, dating violence, sexual assault, or stalking, including an adverse factor resulting from such abuse, the family will need to provide a written statement outlining the issue and the evidence to support the claim.

#### ***Removal from the Waiting List [NEW PH OCC GB, 2.4]***

##### **PHA Policy**

The PHA will not remove an applicant's name from the waiting list unless:.

- The applicant requests in writing to be removed from the list (no hearing required);
- The applicant does not meet either the eligibility, or suitability criteria for the program (hearing required, as this is an eligibility decision);
- The applicant has been pulled and has been offered a unit and accepts the unit (see 10.7, Offer of a Unit.) (no hearing required)
- If the PHA determines that the family is not eligible for admission (see Chapter 3) at any time while the family is on the waiting list, the family will be removed from the waiting list (hearing required);
- If the family is removed from the waiting list for a non-response to a request for information (no hearing required).

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

#### PHA Policy

If the PHA receives no response from the applicant within the specified time frame, the applicant shall be removed from the waiting list. If the applicant responds within 60 calendar days of the due date, the PHA will review for return to the waiting list.

This will be allowed only once during the time a family is on the waiting list.

#### ***Notice and Right to Dispute Denial [NEW PH OCC GB 10.1.1]***

PHAs must send a formal notice of rejection to an applicant who is rejected for admission.

The notice can be worded so that rejections for eligibility and for screening can be handled on the same form. If the household is rejected because of criminal activity, the notice should include language that offers the applicant a copy of the criminal records and an opportunity to dispute the accuracy and relevance of the record.

The informal hearing for rejected applicants is not a Grievance Hearing. Only PHA residents are entitled to grievance hearings.

#### **Informal Hearing for Rejected Applicants [NEW PH OCC GB, 10.1.1]**

The purpose of the hearing is to permit the applicant to hear the details of the reasons for rejection, present evidence to the contrary if available, and claim mitigating circumstances if possible. The person who made the original decision to reject, or a subordinate of that person, may not conduct the hearing. A written record of the hearing decision should be mailed to the

applicant and placed in the applicant's file. If the hearing decision overturns the rejection, processing for admission should resume (24 CFR § 960.208)

This is not a hearing for a non-responsive applicant dropped during the update or during any other time the applicant did not respond to a request for information. A non-responsive applicant does not get a hearing.

## **PART III: TENANT SELECTION**

### **4-III.A. OVERVIEW**

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

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

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

#### **PHA Policy**

When an applicant or resident family requests a copy of the PHA's tenant selection policies, the PHA will provide copies to them free of charge.

### **4-III.B. SELECTION METHOD**

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

#### ***Local Preferences [24 CFR §960.206]***

PHAs are permitted to establish local preferences and to give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits the PHA to establish other local preferences, at its discretion.

Any local preferences established must be consistent with the PHA plan and the consolidated plan and must be based on local housing needs and priorities that can be documented by generally accepted data sources [24 CFR §960.206(a)].

These preferences will not have the purpose or effect of delaying or otherwise denying admission to the program based on the race, color, ethnic origin, gender, religion, disability, or age of any member of an applicant family [24 CFR §960.206].

#### PHA Policy

Families will be selected from the waitlist in numeric order, based on a family's assigned sequential number with consideration provided for eligible preferences. Families with a preference will be selected before families without a preference. Preferences will be calculated in a "lumping" order, whereby, a family with one preference will have the same number of points as a family with multiple preferences.

The PHA uses the following Local Preferences:

- A. Displaced person(s): Individuals or families displaced by local government action or whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.
- B. Living or Working in Chandler: Applicant must physically live, work, or hired to work in City of Chandler.
- C. Chronically Homeless: The following definition must be met. A chronically homeless person as defined by the U.S. Department of HUD (24 CFR§ 570.3): (1) A "homeless individual with a disability," as defined in Section 401(9) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360(9)), who: (i) Lives in a place not meant for human habitation, a safe haven, or in an emergency shelter; and ii) Has been homeless and living as described in paragraph (1)(i) of this definition continuously for at least 12 months or on at least 4 separate occasions in the last 3 years, as long as the combined occasions equal at least 12 months and each break in homelessness separating the occasions included at least 7 consecutive nights of not living as described in paragraph (1)(i). Stays in institutional care facilities for fewer than 90 days will not constitute as a break in homelessness, but rather such stays are included in the 12-month total, as long as the individual was living or residing in a place not meant for human habitation, a safe haven, or an emergency shelter immediately before entering the institutional care facility; (2) An individual who has been residing in an institutional care facility, including a jail, substance abuse or mental health treatment facility, hospital, or other similar facility, for fewer than 90 days and met all of the criteria in paragraph (1) of this definition, before entering that facility; or (3) A family with an adult head of household (or if there is no adult in the family, a minor head of household) who meets all of the criteria in paragraph (1) or (2) of this definition, including a family whose composition has fluctuated while the head of household has been homeless.
- D. Currently Employed/Employment Program: Families whose Head, Spouse, Head, or Sole Member is employed. Applicants with an adult family member enrolled in an employment training program or currently working (20) hours a week or attending school on a full-time basis. Working hours must be attributed to only one family member. Family cannot combine work hours.
- E. Elderly families where the head of household or spouse is at least 62+ years of age.
- F. Disabled families and families with a disabled household member.



The above preferences are not weighted and will be used in a “lumping” manner so as to allow an applicant with one preference to have the same advantage as an applicant qualifying for all preferences. Applicants are encouraged to claim as many preferences for which they qualify. Verification of preferences will be conducted at the time of eligibility. Selected applicants going through the eligibility process who have claimed preferences for which they do not qualify and cannot verify will be returned to the waitlist and their pre-application will be updated with the correct preference information.

***Income Targeting Requirement [24 CFR §960.202(b)]***

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

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

**PHA Policy**

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

***Mixed Population Developments [24 CFR §960.407]***

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

offer the units that have accessibility features for families that include a person with a disability and require the accessibility features of such units. The PHA may not discriminate against elderly or disabled families that include children (Fair Housing Amendments Act of 1988).

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

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

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

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

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

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

**PHA Policy**

The PHA has designated elderly housing. The PHA's development with designated housing is as follows:

Kingston Arms, 127 North Kingston

When there are insufficient elderly families on the waiting list who wish to reside in a designated elderly development, near-elderly families will receive a preference over other families for designated elderly units.

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

The PHA's admission policy must be designed to provide for deconcentration of poverty and income-mixing by bringing higher income tenants into lower income projects and lower income

tenants into higher income projects. A statement of the PHA's deconcentration policies must be included in its annual plan [24 CFR §903.7(b)].

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

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

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

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

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

##### **PHA Policy**

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

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

##### **PHA Policy**

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

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

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

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

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

- Providing incentives to encourage families to accept units in developments where their income level is needed, including rent incentives, affirmative marketing plans, or added amenities
- Targeting investment and capital improvements toward developments with an average income below the EIR to encourage families with incomes above the EIR to accept units in those developments
- Establishing a preference for admission of working families in developments below the EIR
- Skipping a family on the waiting list to reach another family in an effort to further the goals of deconcentration
- Providing other strategies permitted by statute and determined by the PHA in consultation with the residents and the community through the annual plan process to be responsive to local needs and PHA strategic objectives

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

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

#### PHA Policy

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

The PHA's Deconcentration Policy, as described in the PHA Plan, may include skipping of families on the waiting list in order to bring families above the established income range into developments below the established income range, and to bring families below the established income range into developments above the established income range.

#### ***Order of Selection [24 CFR §960.206(e)]***

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

#### PHA Policy

The PHA will utilize a lottery system and families will be selected from the waitlist in numeric order, based on a family's assigned sequential number with consideration provided for eligible preferences. Families with a preference will be selected before families without a preference. Preferences will be calculated in a "lumping" order, whereby, a family with one preference will have the same number of points as a family with multiple preferences. The methods and formats of pre-applications will be posted in each notice and will depend upon the needs at the time the waitlist is opened.

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

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

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

#### **4-III.C. NOTIFICATION OF SELECTION**

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

#### PHA Policy

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

The notice will inform the family of the following:

- Date, time, and location of the eligibility interview, or process for obtaining an eligibility interview appointment, and any procedures for rescheduling the interview;
- Who is required to attend the interview;
- All eligibility documents that must be provided, including information about what constitutes acceptable documentation, and due dates;
- Documents that must be provided at the interview to document eligibility for a preference, if applicable; and
- Other documents and information that should be brought to the interview.

If a notification letter is returned to the PHA with no forwarding address or the online system is not updated with the current information to maintain active status on the waiting list, the family will be removed from the waiting list without further notice. Such failure to act on the part of the

applicant prevents the PHA from making an eligibility determination; however, an informal review may be requested.

#### **4-III.D. THE APPLICATION INTERVIEW**

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

Assistance cannot be provided to the family until all SSN documentation requirements are met.

However, if the PHA determines that an applicant family is otherwise eligible to participate in the program, the family may retain its place on the waiting list for a period of time determined by the PHA [Notice PIH 2018-24].

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

##### PHA Policy

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

The head of household and all adult family members will be strongly encouraged to attend the interview together. However, the head of household, the spouse, or a legal representative (documented through a legal power of attorney or guardianship) may attend the interview on behalf of the family. Verification of information pertaining to adult members of the household not present at the interview will not begin until signed release forms are returned to the PHA.

The interview will be conducted only if the head of household, or spouse, or legal representative provides appropriate documentation of legal identity (Chapter 7 provides a discussion of proper documentation of legal identity). If the family representative does not provide the required documentation at the time of the scheduled interview, they will be required to provide the documentation within 10 business days.

Pending disclosure and documentation of social security numbers, the PHA will allow the family to retain its place on the waiting list for thirty (30) days.

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

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

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

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

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

If the family is unable to attend a scheduled interview, the family should contact the PHA in advance of the interview to schedule a new appointment.

In all circumstances, if a family does not attend a scheduled interview, the PHA will send another notification letter with a new interview appointment time. Applicants who fail to attend two scheduled interviews without PHA approval will have their applications made inactive based on the family's failure to supply information needed to determine eligibility.

The second appointment letter will state that failure to appear for the appointment without a request to reschedule will be interpreted to mean that the family is no longer interested, and their application will be made inactive. Such failure to act on the part of the applicant prevents the PHA from making an eligibility determination; therefore, the PHA will not offer an informal hearing.

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

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

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

PHA Policy

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

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

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

PHA Policy

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

If the PHA uses a criminal record or sex offender registration information obtained under 24 CFR §5, Subpart J, as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before the PHA can move to deny the application. See Section 3-III.G for the PHA's policy regarding such circumstances.

Upon making an eligibility determination, the PHA must provide the family a notice of VAWA rights (form HUD-5380) as well as the HUD VAWA self-certification form (form HUD-5382) in accordance with the Violence against Women Act of 2013, and as outlined in 16-VII.C., at the time the applicant is provided assistance or at the time the applicant is denied assistance. The notice and self-certification form must accompany the written notification of eligibility determination. This notice must be provided in both of the following instances: (1) when a family actually begins receiving assistance (lease execution); or (2) when a family is notified of its ineligibility.



## CHAPTER 5

### OCCUPANCY STANDARDS AND UNIT OFFERS

#### INTRODUCTION

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

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

Policies in this chapter are organized in two parts.

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

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

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## **PART I: OCCUPANCY STANDARDS**

### **5-I.A. OVERVIEW**

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

### **5-I.B. DETERMINING UNIT SIZE**

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

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

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

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

#### PHA Policy

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

The PHA's occupancy standards are as follows:

- The PHA will assign one bedroom for each two persons within the household, except in the following circumstances:
  - Persons of the opposite sex (other than spouses/couples, and children under age 5) will not be required to share a bedroom.
  - Persons of different generations will not be required to share a bedroom (e.g., grandparents, parents) except:
    - A single pregnant woman with no other household members and a single parent with one child and no other household members will be assigned a 1-bedroom unit. Assuming no other changes in family composition, after the child reaches the age of 5 years, the family will be eligible for transfer to a 2-bedroom unit.

- An unborn child will not be counted as a person in determining unit size.
- Live-in aides will be allocated a separate bedroom. No additional bedrooms will be provided for the live-in aide's family.
- Single person families will be allocated a zero or one bedroom.
- Children related to a household member by birth, adoption, or court awarded custody will be considered when determining unit size.
- Foster children will be considered when determining unit size. The family may add foster children to the household as long as it does not overcrowd the unit based on the PHA's occupancy standard.
- Children away at school, but for whom the unit is considered the primary residence, and children temporarily placed outside the home, will be considered when determining unit size.
- Children in the process of being adopted will be considered when determining unit size.
- Children who will live in the unit less than 50 percent of the time will not be considered when determining unit size.

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

<b>OCCUPANCY STANDARDS</b>		
<b>BEDROOM SIZE</b>	<b>MINIMUM NUMBER OF PERSONS</b>	<b>MAXIMUM NUMBER OF PERSONS</b>
0	1	1
1	1	2
2	2	4
3	3	6
4	4	8
5	6	10
6	8	12

#### **5-I.C. EXCEPTIONS TO OCCUPANCY STANDARDS**

##### *Types of Exceptions*

##### PHA Policy

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

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

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

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

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

### ***Processing of Exceptions***

#### **PHA Policy**

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

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

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

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

## **PART II: UNIT OFFERS [24 CFR §1.4(b)(2)(ii); 24 CFR §960.208]**

### **5-II.A. OVERVIEW**

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

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

#### PHA Policy

The PHA will maintain a record of units offered, including location, date and circumstances of each offer, each acceptance or rejection, including the reason for the rejection.

### **5-II.B. NUMBER OF OFFERS**

#### PHA Policy

Under this plan, the PHA will determine how many locations within its jurisdiction have available units of suitable size and type in the appropriate type of project. Applicants from the appropriate waiting list will be offered two (2) suitable vacant units for occupancy.

The offers will be made in sequence and the applicant must refuse the first offer before the second offer is made. If both offers are rejected, unless there is a good cause for refusing the offers, the applicant will be removed from the waiting list and will be required to complete a new application when the waiting list is open.

If the applicant is on the waiting list for the Housing Choice Voucher Section 8 program, refusal of a public housing unit will not affect placement on the other list.

If the PHA offers an accessible unit to a non-disabled applicant and the offer is rejected, the offer will not count.

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

#### PHA Policy

Applicants must accept or refuse a unit offer within three (3) business days of the date of the unit offer. Offers made by telephone will be confirmed by letter.

## 5-II.D. REFUSALS OF UNIT OFFERS

### *Good Cause for Unit Refusal*

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

#### PHA Policy

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

- The family demonstrates to the PHA's satisfaction that accepting the unit offer will require an adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities.
- The family demonstrates to the PHA's satisfaction that accepting the offer will place a family member's life, health, or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders; other court orders; risk assessments related to witness protection from a law enforcement agency; or documentation of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking in accordance with Section 16-VII.D of this ACOP. Reasons offered must be specific to the family. **Refusals due to location alone do not qualify for this good cause exemption.**
- A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final application) or live-in aide necessary to the care of the principal household member.

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

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

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

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

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### ***Unit Refusal Without Good Cause***

#### **PHA Policy**

When an applicant rejects the final unit offer without good cause, the PHA will remove the applicant's name from the waiting list and send notice to the family of such removal. The notice will inform the family of their right to request an informal hearing and the process for doing so (see Chapter 14).

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

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

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

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

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

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

#### **PHA Policy**

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

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

When an applicant who does not require accessibility features for disabled persons accepts an accessible unit, the applicant acknowledges and agrees to transfer to a unit without such features should another person eligible for housing assistance need the accessible dwelling unit. The applicant further acknowledges the responsibility for all costs associated with the transfer to another dwelling unit.

## 5-II.F. DESIGNATED HOUSING

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

### Chapter 6

#### INCOME AND RENT DETERMINATIONS

[24 CFR Part 5, Subparts E and F; 24 CFR §960, Subpart C]

#### INTRODUCTION

A family's annual income is used to determine their income eligibility for the public housing program and is also used to calculate the amount of the family's rent payment. The PHA will use the policies and methods described in this chapter to ensure that only ~~income~~-eligible families receive assistance and that no family pays more or less rent than is required under the regulations. This chapter describes HUD regulations and PHA policies related to these topics in three parts as follows:

**Part I: Annual Income.** HUD regulations specify the sources of income ~~to include and which are~~ -excluded from the ~~to arrive at~~ a family's annual income. These requirements and PHA policies for calculating annual income are found in Part I.

**Part II: Assets.** HUD regulations specify the types of assets which are excluded from a family's annual income. These requirements and PHA policies for calculating income from assets are found in Part II.

**Part III: Adjusted Income.** Once annual income has been established HUD regulations require the PHA to subtract from annual income any of five mandatory deductions for which a family qualifies ~~and allow the PHA to adopt additional permissive deductions.~~ These requirements and PHA policies for calculating adjusted income are found in Part III.

**Part IVH: Calculating Rent.** This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining family rent payment. Also included here are flat rents and the family's choice ~~of~~ ~~in~~ rents.

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## PART I: ANNUAL INCOME

### 6-1.A. OVERVIEW [24 CFR 5.609]

The general regulatory definition of *annual income* shown below is from 24 CFR §5.609:

#### §5.609 Annual Income.

- (a) ~~Annual income means all amounts, monetary or not, which:~~
- ~~(1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or~~
  - ~~(2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and~~
  - ~~(3) Which are not specifically excluded in paragraph [§5.609(c)].~~
- (1) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

Annual income includes:

- All amounts, not specifically excluded in 24 CFR 5.609(b);
- All amounts 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;
- Unearned income by or on behalf of each dependent who is under 18 years of age; and
- Imputed returns of an asset based on the current passbook savings rate, as determined by HUD, when the value of net family assets exceeds \$50,000 (which amount HUD will adjust annually) and the actual returns from a given asset cannot be calculated.

In addition to this general definition, the regulations at 24 CFR 5.609(b) provide a comprehensive listing of all sources of income that are excluded from annual income. Note, unlike in previous version of the regulations, the current regulations governing annual income do not list sources of income that are to be included. Instead, HUD relies on the definition of excluded income under 24 CFR 5.609(b) to provide the scope of what is included. To that end, generally, all income is included unless it is specifically excluded by regulation.

Annual income includes “all amounts received,” not the amount that a family may be legally entitled to receive but did not receive. For example, a family’s child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders [Notice PIH 2023-27].

Annual income also includes all actual anticipated income from assets (provided the income is not otherwise excluded) even if the asset itself is excluded from net family assets [Notice PIH 2023-27]. 24 CFR 5.603(b)(1) describes HUD regulations ~~establish policies~~ for treating specific types of ~~income and~~ assets.

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~~HUD regulations establish policies for treating specific types of income and assets.~~ The full texts of those portions of the regulations are provided in exhibits at the end of this chapter as follows:

- Annual Income ~~Inclusions~~Full Definition (Exhibit 6-1)
- ~~Annual Income Exclusions (Exhibit 6-2)~~
- Treatment of Family Assets (Exhibit 6-~~23~~)
- ~~Earned Income Disallowance (Exhibit 6-4)~~
- The Effect of Welfare Benefit Reduction (Exhibit 6-~~35~~)

Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. ~~HUD regulations present income inclusions and exclusions separately [24 CFR §5.609(b) and 24 CFR §5.609(c)]. In this ACOP, however, the discussions of income inclusions and exclusions are integrated by topic (e.g., all policies affecting earned income are discussed together in Section 6-I.D).~~ Verification requirements for annual income are discussed in Chapter 7.

## 6-I.B. HOUSEHOLD COMPOSITION AND INCOME

### Overview

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Income received by all family members must be counted unless specifically excluded by the regulations. It is the responsibility of the head of household to report changes in family composition in accordance with HUD regulations and PHA policies in Chapter 9. The rules on which sources of income are counted vary somewhat by family member. The chart below summarizes how family composition affects income determinations.

Summary of Income Included and Excluded by Person	
Live-in aides	Income from all sources <del>(both earned and unearned)</del> is excluded [24 CFR §5.609( <del>be</del> )( <del>85</del> )].
Foster child or foster adult	Income from all sources <del>(both earned and unearned)</del> is excluded [24 CFR §5.609( <del>ba</del> )( <del>8+</del> )].
Head, spouse, or cohead Other adult family members	All sources of income not specifically excluded by the regulations are included <u>[24 CFR 5.609(A)]</u> .
<del>Children under 18 years of age</del> <u>Minors</u>	<del>Employment</del> <u>Earned</u> income <u>of children under 18 years of age is is</u> excluded [24 CFR §5.609( <del>eb</del> )( <del>43</del> )]. All <del>other</del> sources of <u>unearned</u> income, except those specifically excluded by the regulations, are included.
Full-time students 18 years of age or older (not head, spouse, or cohead)	<del>Employment</del> <u>Earned</u> income <u>above \$480/year in excess of the dependent deduction</u> -is excluded [24 CFR §5.609( <del>be</del> )( <del>14+</del> )]. All <del>other</del> sources of <u>unearned</u> income, except those specifically excluded by the regulations, are included.

### ***Temporarily Absent Family Members***

The current regulations governing annual income do not specifically address temporarily absent family members. The regulations also do not define “temporarily” or “permanently” absent or specify a timeframe associated with a temporary versus a permanent absence. The income of family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit [HCV GB, p. 5-18].

#### **PHA Policy**

Unless specifically excluded by the regulations, the income of all family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit.

Generally, an individual who is or is expected to be absent from the assisted unit for 30 ~~180~~~~less than 30~~ consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally, an individual who is or is expected to be absent from the assisted unit for more than ~~30~~~~30~~ consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

### ***Absent Students***

#### **PHA Policy**

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

### ***Absences Due to Placement in Foster Care***

Children temporarily absent from the home as a result of placement in foster care (as confirmed by the state child welfare agency) ~~care~~ are considered members of the family [24 CFR §5.403].

#### **PHA Policy**

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

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### ***Absent Head, Spouse, or Cohead***

#### **PHA Policy**

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

### ***~~Individuals~~Family Members -Confined for Medical Reasons***

If a family member is confined to a nursing home or hospital on a permanent basis, PHAs may determine that that person is no longer a member of the assisted household, and the income of that person is not counted [New PH OCC GB, *Income Determinations*, p. 12].

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#### **PHA Policy**

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

When an individual who has been counted as a family member is determined permanently absent, the family is eligible for the medical expense deduction only if the remaining head, spouse, or cohead qualifies as an elderly person or a person with disabilities.~~An individual confined to a nursing home or hospital on a permanent basis is not considered a family member, and the income of that person is not counted.~~

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

### ***Joint Custody of Children***

#### **PHA Policy**

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

When more than one applicant or assisted family (regardless of program) are claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a

dispute about which family should claim them, the PHA will make the determination based on available documents such as court orders, an IRS income tax return showing which family has claimed the child for income tax purposes, school records, or other credible documentation.

### *Caretakers for a Child*

#### PHA Policy

The approval of a caretaker is at the PHA's discretion and subject to the PHA's screening criteria. If neither a parent nor a designated guardian remains in a household, the PHA will take the following actions.

- If a responsible agency has determined that another adult is to be brought into the unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.
- If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases the PHA will extend the caretaker's status as an eligible visitor.
- At any time that custody or guardianship has legally been awarded to a caretaker, the lease will be transferred to the caretaker, as head of household.
- During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

### **6-I.C. ANTICIPATING-CALCULATING -ANNUAL INCOME**

The methodology used for calculating income differs depending on whether income is being calculated at initial occupancy, interim reexamination, or at annual reexamination. However, income from assets is always anticipated regardless of certification type.

#### **Anticipating Annual Income [24 CFR 5.609(c)(1)]**

At initial occupancy and for an interim reexamination of family income, the PHA is required to use anticipated income (current income) for the upcoming 12-month period following the new admission or interim reexamination effective date. The PHA is required to count all income "anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date" [24 CFR §5.609(a)(2)]. Policies related to anticipating annual income are provided below verifying income are found in Chapter 7.

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### *Use of Income Determinations from Other Programs (HOTA)*

Effective Jan. 1, 2024, HOTA allows PHAs to use income determinations made under other federal benefits programs for reexaminations.

#### **PHA Policy**

Other verification requirements apply, such as verifications must be no older than 60 days.

### *Basis of Annual Income Projection*

The PHA generally will use current circumstances to determine anticipated income for the coming 12-month period. HUD authorizes the PHA to use other than current circumstances to anticipate income when:

- An imminent change in circumstances is expected [HCV GB, p. 5-17]
- It is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal, or cyclic income) [24 CFR §5.609(d)]
- The PHA believes that past income is the best available indicator of expected future income [24 CFR §5.609(d)]

PHAs are required to use HUD's Enterprise Income Verification (EIV) system in its entirety as a third-party source to verify employment and income information, and to reduce administrative subsidy payment errors in accordance with HUD administrative guidance [24 CFR §5.233(a)(2)].

HUD allows PHAs to use tenant-provided documents (pay stubs) to project income once EIV data has been received in such cases where the family does not dispute the EIV employer data and where the PHA does not determine it is necessary to obtain additional third-party data.

#### **PHA Policy**

When EIV is obtained and the family does not dispute the EIV employer data, the PHA will use current tenant-provided documents to project annual income. When the tenant-provided documents are pay stubs, the PHA will make every effort to obtain current and consecutive pay stubs for a total of eight (8) current and consecutive paystubs, regardless of how often a person is paid.

The PHA will obtain written and/or oral third-party verification in accordance with the verification requirements and policy in Chapter 7 in the following cases:

- If EIV or other EIV data is not available,
- If the family disputes the accuracy of the EIV employer data, and/or
- If the PHA determines additional information is needed.

In such cases, the PHA will review and analyze current data to anticipate annual income.

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### PHA Policy

When the PHA cannot readily anticipate income based upon current circumstances (e.g., in the case of temporary, sporadic, or variable employment, seasonal employment, unstable working hours, or suspected fraud), the PHA will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income.

Any time current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to the PHA to show why the historic pattern does not represent the family's anticipated income.

In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how the PHA annualized projected income.

~~In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how the PHA annualized projected income.~~

~~When the PHA cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the PHA will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income.~~

~~Any time current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to the PHA to show why the historic pattern does not represent the family's anticipated income.~~

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### ***Known Changes in Income***

If the PHA verifies an upcoming increase or decrease in income, annual income will be ~~calculated~~projected by applying each income amount to the appropriate part of the 12-month period.

**Example:** An employer reports that a full-time employee who has been receiving \$8/hour will begin to receive \$8.25/hour in the eighth week after the effective date of the new admission or interim reexamination. In such a case the PHA would calculate annual income as follows:  
 $(\$8/\text{hour} \times 40 \text{ hours} \times 7 \text{ weeks}) + (\$8.25 \times 40 \text{ hours} \times 45 \text{ weeks}).$

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases the PHA will calculate annual income using current circumstances and then, should the change in income require the PHA to conduct an interim reexamination, conduct an interim reexamination in accordance with PHA

policy in Chapter 9, require an interim reexamination when the change actually occurs. This requirement will be imposed even if the PHA's policy on reexaminations does not require interim reexaminations for other types of changes.

When tenant provided third party documents are used to anticipate annual income, they will be dated within the last 60 days of the reexamination interview date.

#### **Projecting Income**

In HUD's EIV webcast of January 2008, HUD made clear that PHAs are not to use EIV quarterly wages to project annual income.

#### **Calculating Annual Income at Annual Reexamination [24 CFR.609(c)(2); Notice PIH 2023-27]**

At annual reexamination, PHAs must first determine the family's income for the previous 12-month period and use this amount as the family income for annual reexaminations; however, adjustments to reflect current income must be made. Any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination of family income in accordance with PHA policies in Chapter 9 and HUD regulations, must be considered. If, however, there have been no changes to income, then the amount of income calculated for the previous 12-month period is the amount that will be used to determine the family's rent. Income from assets is always anticipated, irrespective of the income examination type. Policies related to conducting annual reexaminations are located in Chapter 9.

### **6-I.D. EARNED INCOME**

#### ***Types of Earned Income Included in Annual Income***

##### **Wages and Related Compensation [24 CFR §5.609(~~ab~~)(1)]; Notice PIH 2023-27]**

The earned income of each member of the family who is 18 years of age or older, or who is the head of household or spouse/cohead regardless of age, is included in annual income. Income received as a day laborer or seasonal worker is also included in annual income, even if the source, date, or amount of the income varies [24 CFR 5.609 (b)(24)].

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 [24 CFR 5.100].

A day laborer is defined as an individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future [24 CFR 5.603(b)].

A seasonal worker is defined as an individual who is hired into a short-term position (e.g., for which the customary employment period for the position is six months or fewer) and the

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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 [24 CFR 5.603(b)]. Some examples of seasonal work include employment limited to holidays or agricultural seasons. Seasonal work may include but is not limited to employment as a lifeguard, ballpark vendor, or snowplow driver [Notice PIH 2023-27].

#### PHA Policy

The PHA will include in annual income the full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation.

For persons who regularly receive bonuses or commissions, the PHA will verify and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, the PHA will use the prior year amounts. In either case the family may provide, and the PHA will consider, a credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, the PHA will count only the amount estimated by the employer. The file will be documented appropriately.

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The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services is included in annual income.

#### PHA Policy

For persons who regularly receive bonuses or commissions, the PHA will verify, and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, the PHA will use the prior year amounts. In either case the family may provide, and the PHA will consider, a credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, the PHA will count only the amount estimated by the employer. The file will be documented appropriately.

#### PHA Policy

When commuting annual income, staff will convert earned income to annual income as follows:

- Multiply hourly wages by the number of hours worked/year (2080 hours for full-time employment with a 40-hour work week and no overtime).
- Multiply weekly wages by 52.
- Multiply bi-weekly wages (paid every other week) by 26.
- Multiply semi-monthly (paid twice each month) wages by 24.
- Multiply monthly wages by 12.

### ***Some Types of Military Pay***

All regular pay, special pay, and allowances of a member of the Armed Forces are counted ~~[24 CFR §5.609(b)(8)]~~ except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR §5.609(b)(11)].

### ***Types of Earned Income Not Counted in Annual Income***

#### ***Temporary, Nonrecurring, or Sporadic Income [24 CFR §5.609(e)(9)]***

~~This type of income (including gifts) is not included in annual income.~~

#### ***PHA Policy***

~~Sporadic income is income that is not received periodically and cannot be reliably predicted. For example, the income of an individual who works occasionally as a handyman would be considered sporadic if future work could not be anticipated and no historic, stable pattern of income existed.~~

#### ***Children's Earnings of a Minor [24 CFR §5.609(b)(11)]***

~~A minor is a member of the family, other than the head of household or spouse, who is under 18 years of age. Employment income earned by minor children (including foster children) under the age of 18 years is not included in annual income. (See Eligibility chapter for a definition of foster children.) All other sources of unearned income, except those specifically excluded by the regulations, are included.~~

#### ***PHA Policy***

~~Although "earned" income from a minor is excluded, minors will be required to sign employment verifications to verify actual income.~~

#### ***Certain Earned Income of Full-Time Students [24 CFR 5.609(b)(14)]***

~~Earnings in excess of \$480 for each full-time student 18 years old or older (except for the head, spouse, or cohead) are not counted [24 CFR §5.609(e)(11)]. To be considered "full time," a student must be considered "full time" by an educational institution with a degree or certificate program [HCV GB, p. 5-29]. The earned income of a dependent full-time student in excess of the amount of the dependent deduction is excluded from annual income. All sources of unearned income, except those specifically excluded by the regulations, are included.~~

~~A family member other than the head of household or spouse/cohead is considered a full-time student if they are attending school or vocational training on a full-time basis [24 CFR 5.603(b)]. Full-time status is defined by the educational or vocational institution the student is attending [New PH OCC GB, Lease Requirements, p. 5].~~

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### ***Income of a Live-in Aide***

Income earned by a live-in aide, as defined in [24 CFR §5.403], is not included in annual income [24 CFR §5.609(e)(5)]. (See Eligibility chapter for a full discussion of live-in aides.)

### **6-I.E. EARNED INCOME DISALLOWANCE [24 CFR 960.255; Streamlining Final Rule (SFR) Federal Register 3/8/16; Notice PIH 2023-27]**

HOTMA removed the statutory authority for the EID. The EID is available only to families that are eligible for and participating on the program as of December 31, 2023, or before; no new families may be added on or after January 1, 2024. If a family is receiving the EID prior to or on the effective date of December 31, 2023, they are entitled to the full amount of the benefit for a full 24-month period. The policies below are applicable only to such families. No family will still be receiving the EID after December 31, 2025. The EID will sunset on January 1, 2026, and the PHA policies below will no longer be applicable as of that date or when the last qualifying family exhausts their exclusion period, whichever is sooner.

### ***Income Earned under Certain Federal Programs [24 CFR §5.609(e)(17)]***

Income from some federal programs is specifically excluded from consideration as income, including:

- Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
- Awards under the federal work study program (20 U.S.C. 1087 uu)
- Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- Allowances, earnings, and payments to participants in programs funded under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

### ***Resident Service Stipend [24 CFR §5.600(e)(8)(iv)]***

Amounts received under a resident service stipend are not included in annual income. A resident service stipend is a modest amount (not to exceed \$200 per individual 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. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time.

#### **PHA Policy**

A resident service stipend in the amount of \$50 per month will be provided as a rent credit to a resident for performing a service as a Housing and Human Service Commissioner (HHSC) and Public Housing Authority Commissioner (PHAC). If the

~~monthly tenant account credit exceeds the balance owed on the account, the difference will be paid once a month by check.~~

~~A resident service stipend will be credited to the resident's account monthly for performing a service as a Beautification Site Representative. If the monthly tenant account credit exceeds the balance owed on the account, the difference will be paid once a month by check.~~

- ~~—The resident service stipend for 130 North Hamilton is \$200 per month~~
- ~~—The resident service stipend for 210 North McQueen is \$160 per month~~
- ~~—The resident service stipend for 73 South Hamilton is \$160 per month~~
- ~~—The resident service stipend for 660 South Palm Lane is \$160 per month~~
- ~~—The resident service stipend for 127 North Kingston is \$120 per month~~

### ***State and Local Employment Training Program***

~~Incremental earnings and benefits to any family member resulting from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program [24 CFR §5.609(e)(8)(v)].~~

#### **PHA Policy**

~~The PHA defines *training program* as “a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period of time. It is designed to lead to a higher level of proficiency, and it enhances the individual's ability to obtain employment. It may have performance standards to measure proficiency. Training may include but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education” [expired Notice PIH 98-2, p. 3].~~

~~The PHA defines *incremental earnings and benefits* as the difference between (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program [expired Notice PIH 98-2, pp. 3-4].~~

~~In calculating the incremental difference, the PHA will use as the pre-enrollment income the total annualized amount of the family member's welfare assistance and earnings reported on the family's most recently completed HUD-50058.~~

~~End of participation in a training program must be reported in accordance with the PHA's interim reporting requirements (see Chapter 9, Reexaminations).~~

### ***HUD-Funded Training Programs***

Amounts received under training programs funded in whole or in part by HUD [24 CFR §5.609(e)(8)(i)] are excluded from annual income. Eligible sources of funding for the training include operating subsidy, Section 8 administrative fees, and modernization, Community Development Block Grant (CDBG), HOME program, and other grant funds received from HUD.

#### **PHA Policy**

To qualify as a training program, the program must meet the definition of *training program* provided above for state and local employment training programs.

### ***Earned Income Tax Credit.***

Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j)), are excluded from annual income [24 CFR 5.609(e)(17)].

Although many families receive the EITC annually when they file taxes, an EITC can also be received throughout the year. The prorated share of the annual EITC is included in the employee's payroll check.

### ***Earned Income Disallowance.***

The earned income disallowance is discussed in Section 6-IE below.

### **~~6-IE. EARNED INCOME DISALLOWANCE [24 CFR §960.255, 24 CFR §5.617; STREAMLINING FINAL RULE (SFR) FEDERAL REGISTER 3/8/16, 3/8/2016 (HOTMA)]~~**

The earned income disallowance (EID) encourages people to enter the work force by not including the full value of increases in earned income for a period of time. The full text of 24 CFR §960.255 is included as Exhibit 6-4 at the end of this chapter. Eligibility criteria and limitations on the disallowance are summarized below.

#### ***Eligibility***

This disallowance applies only to individuals in qualified families already participating in the public housing program (not at initial examination). To qualify, the family must experience an increase in annual income that is the result of one of the following events:

- Employment of a family member who was previously unemployed for one or more years prior to employment. *Previously unemployed* includes a person who annually has earned not more than the minimum wage applicable to the community multiplied by 500 hours. The applicable minimum wage is the federal minimum wage unless there is a higher state or local minimum wage.

- ~~Increased earnings by a family member whose earnings increase during participation in an economic self-sufficiency or job training program. A self-sufficiency program includes a program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work to such families [24 CFR §5.603(b)].~~
- ~~New employment or increased earnings by a family member who has received benefits or services under Temporary Assistance for Needy Families (TANF), or any other state program funded under Part A of Title IV of the Social Security Act within the past six months. If the benefits are received in the form of monthly maintenance, there is no minimum amount. If the benefits or services are received in a form other than monthly maintenance, such as one-time payments, wage subsidies, or transportation assistance, the total amount received over the six-month period must be at least \$500.~~

### ***Calculation of the Disallowance***

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with their "baseline income." The family member's baseline income is their income immediately prior to qualifying for the EID. The family member's baseline income remains constant throughout the period that they ~~are~~ participating in the EID.

### ***Calculation Method***

#### ***Initial 12-Month Exclusion***

During the initial exclusion period of 12 consecutive months, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded.

#### **PHA Policy**

The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

#### ***Second 12-Month Exclusion***

During the second exclusion period of 12 consecutive months, the PHA must exclude at least 50 percent of any increase in income attributable to employment or increased earnings.

#### **PHA Policy**

During the second 12-month exclusion period, the PHA will exclude 100 percent of any increase in income attributable to new employment or increased earnings.

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### *Lifetime Limitation*

The EID has a two-year (24-month) lifetime maximum. The two-year eligibility period begins at the same time that the initial exclusion period begins and ends 24 months later. During the 24-month period, an individual remains eligible for EID even if they begin to receive assistance from a different housing agency, move between public housing and Section 8 assistance, or have breaks in assistance. The EID will sunset on January 1, 2026. In no circumstances will a family member's exclusion period continue past January 1, 2026.

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### *Individual Savings Accounts [24 CFR §960.255(d)]*

The PHA may, but is not required to, establish a policy to offer a qualified family paying income-based rent an ISA instead of being given the EID.

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#### PHA Policy

The PHA chooses not to establish a system of individual savings accounts (ISAs) for families who qualify for the EID.

~~The following rules pertaining to ISAs do not apply to this public housing program.~~

~~A qualified family paying income-based rent may choose an ISA instead of being given the EID.~~

~~The PHA must advise the family that the ISA option is available. Families who choose the ISA will pay the higher rent and the PHA will deposit the difference between the higher rent and the EID rent in the savings account.~~

~~Amounts deposited to ISAs may only be withdrawn for the following reasons:~~

- ~~• Because the family is purchasing a home~~
- ~~• To pay education costs of family members~~
- ~~• Because the family is moving out of public or assisted housing~~
- ~~• To pay any other expenses the PHA authorizes to promote economic self-sufficiency~~

~~The PHA is required to maintain ISAs in interest bearing accounts, for which the family is credited with interest earned. The PHA may not charge the family a fee for maintaining the account.~~

~~At least once each year the PHA must provide the family with a statement of the balance in their account, including any interest earned, if required by state law.~~

#### PHA Policy

~~When applicable, the PHA will provide the family with a statement of the balance in their account, including any interest earned, annually and upon request when the family makes withdrawals from the account.~~

~~If the family moves out of public housing, the PHA must return the balance in the family's ISA, less any amounts the family owes the PHA.~~

## **6-1.F. BUSINESS AND SELF-EMPLOYMENT INCOME [24 CFR §5.609(B)(28);NOTICE PIH 2023-27]**

Annual income includes “~~the~~ net income from the operation of a business or profession. Net income is gross income minus business expenses that allows the business to operate. Gross income is all income amounts received into the business, prior to the deduction of business expenses.

Expenditures for business expansion or amortization of capital indebtedness ~~shall~~may not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family” ~~[24 CFR §5.609(b)(2)].~~

### PHA Policy

To determine business expenses that may be deducted from gross income, the PHA will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses [see IRS Publication 535], unless a topic is addressed by HUD regulations or guidance as described herein.

### **Independent Contractors**

Income received as an independent contractor is included in annual income, even if the source, date, or amount of the income varies [24 CFR 2.609 (b)(24)].

An independent contractor is defined as 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 [24 CFR 5.603(b)].

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### Business Expenses

Net income is “gross income less business expense” [HCV-GB, p. 5-19].

### PHA Policy

To determine business expenses that may be deducted from gross income, the PHA will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses [see IRS Publication 535], unless a topic is addressed by HUD regulations or guidance as described below.

### **Business Expansion**

HUD regulations do not permit the PHA to deduct from gross income expenses for business expansion.



#### PHA Policy

*Business expansion* is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate the business in additional locations.

For example, purchase of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.

#### ***Capital Indebtedness***

HUD regulations do not permit the PHA to deduct from gross income the amortization of capital indebtedness.

#### PHA Policy

*Capital indebtedness* is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means the PHA will allow as a business expense interest, but not principal, paid on capital indebtedness.

#### ***Negative Business Income***

If the net income from a business is negative, no business income will be included in annual income; a negative amount will not be used to offset other family income.

#### ***Withdrawal of Cash or Assets from a Business***

HUD regulations require the PHA to include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a family member for cash or assets invested in the business by the family.

#### PHA Policy

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of a tenant family provided an up-front loan of \$2,000 to help a business get started, the PHA will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid.

Investments do not include the value of labor contributed to the business without compensation.

#### ***Co-owned Businesses***

#### PHA Policy

If a business is co-owned with someone outside the family, the family must document the share of the business it owns. If the family's share of the income is lower than its share of ownership, the family must document the reasons for the difference.

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### Assets Owned by a Business Entity

If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one-third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant) [Notice PIH 2023-27].

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### 6-I.G. STUDENT FINANCIAL ASSISTANCE ASSETS [24 CFR §5.609(B)(93) AND 24 CFR §5.603(B)]

The regulations distinguish between two categories of student financial assistance paid to both full-time and part-time students.

#### Types of Assistance

Any assistance to students under section 479B of the Higher Education Act of 1965 (Title IV of the HEA) must be excluded from the family's annual income [24 CFR 5.609(b)(9)(i)].

Examples of assistance under title IV of the HEA include:

- Federal Pell Grants;
- Teach Grants;
- Federal Work Study Programs;
- Federal Perkins Loans;
- Income earned in employment and training programs under section 134 of the Workforce Innovation and Opportunity Act (WIOA); or
- Bureau of Indian Affairs/Education student assistance programs
  - The Higher Education Tribal Grant
  - The Tribally Controlled Colleges or Universities Grant Program

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Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education not otherwise excluded by the Federally mandated income exclusions are excluded [24 CFR 5.609(b)(9)(ii)]. Actual covered costs are defined as the actual costs of:

- Tuition, books, and supplies;
  - Including supplies and equipment to support students with learning disabilities or other disabilities
- Room and board; and
- Other fees required and charged to a student by the education institution.

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For a student who is not the head of household or spouse/cohead, actual covered costs also include the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

Further, to qualify, other student financial assistance must be expressly:

- For tuition, book, supplies, room and board, or other fees required and charged to the student by the education institution;
- To assist a student with the costs of higher education; or
- To assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the educational institution and not residing in an assisted unit.

The student financial assistance may be paid directly to the student or to the educational institution on the student's behalf. However, any student financial assistance paid to the student must be verified by the PHA.

The financial assistance must be a grant or scholarship received from:

- The Federal government;
- A state, tribal, or local government;
- A private foundation registered as a nonprofit;
- A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- An institution of higher education.

Student financial assistance, does not include:

- Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded under section 479B of the Higher Education Act HEA);
- Gifts, including gifts from family or friends; or
- Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under the HEA, exceeds the actual covered costs of the student.

#### **Calculating Income from Student Financial Assistance [HOTMA Student Financial Assistance Resource Sheet; Notice PIH 2023-27]**

The formula for calculating the amount of other student financial assistance that is excluded from income always begins with deducting the assistance received under 479B of the HEA from the total actual covered costs, because the 479B assistance is intended to pay the student's actual covered costs. When a student receives assistance from both Title IV of the HEA and from other sources, the assistance received under Title IV of the HEA must be applied to the student's

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actual covered costs first and then other student financial assistance is applied to any remaining actual covered costs. Once actual costs are covered, any remaining student financial assistance is considered income.

#### PHA Policy

If a student only receives financial assistance under Title IV of the HEA and does not receive any other student financial assistance, the PHA will exclude the full amount of the assistance received under Title IV from the family's annual income. The PHA will not calculate actual covered costs in this case.

If the student does not receive any assistance under Title IV of the HEA but does receive assistance from another source, the PHA will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(ii). The PHA will then subtract the total amount of the student's financial assistance from the student's actual covered costs. The PHA will include any amount of financial assistance in excess of the student's actual covered costs in the family's annual income.

#### **Example 1**

- Actual covered costs: \$20,000
- Other student financial assistance: \$25,000
- Excluded income: \$20,000 (\$25,000 in financial assistance - \$20,000 in actual covered costs)
- Included income: \$5,000

When a student receives assistance from both Title IV of the HEA and from other sources, the PHA will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(ii). The assistance received under Title IV of the HEA will be applied to the student's actual covered costs first and then the other student financial assistance will be applied to any remaining actual covered costs.

If the amount of assistance excluded under Title IV of the HEA equals or exceeds the actual covered costs, none of the assistance included under other student financial assistance” would be excluded from income.

**Example 2**

- Actual covered costs: \$25,000
- Title IV HEA assistance: \$26,000
- Title IV HEA assistance covers the students entire actual covered costs.
- Other Student Financial Assistance: \$5,000
- Excluded income: The entire Title IV HEA assistance of \$26,000
- Included income: All other financial assistance of \$5,000

If the amount of assistance excluded under Title IV of the HEA is less than the actual covered costs, the PHA will exclude the amount of other student financial assistance up to the amount of the remaining actual covered costs.

### **Example 3**

- Actual covered costs: \$22,000
- Title IV HEA assistance: \$15,000
- The remaining amount not covered by Title IV HEA assistance is \$7,000 (\$22,000 in actual covered costs - \$15,000 in Title IV HEA assistance).
- Other Student Financial Assistance: \$5,000
- \$7,000 in remaining actual covered costs - \$5,000 in other financial assistance
- Excluded income: \$15,000 entire amount of the Title IV HEA Assistance + \$5,000 in other financial assistance
- Included income: \$0

### **Example 4**

- Actual covered costs: \$18,000
- Title IV HEA Assistance: \$15,000
- The remaining amount not covered by Title IV HEA assistance is \$3,000 (\$18,000 in actual covered costs - \$15,000 in Title IV HEA Assistance)
- Other student Financial Assistance: \$5,000
- When other student financial assistance is applied, financial assistance exceeds actual covered costs by \$2,000 (\$3,000 in actual covered costs - \$5,000 in other financial assistance).
- Included income: \$2,000 (the amount by which the financial aid exceeds the student's actual covered costs).

## Overview

There is no asset limitation for participation in the public housing program. However, HUD requires that the PHA include in annual income the anticipated “interest, dividends, and other net income of any kind from real or personal property” [24 CFR §5.609(b)(3)]. This section discusses how the income from various types of assets is determined. For most types of assets, the PHA must determine the value of the asset in order to compute income from the asset. Therefore, for each asset type, this section discusses:

- How the value of the asset will be determined
- How income from the asset will be calculated

Exhibit 6-1 provides the regulatory requirements for calculating income from assets [24 CFR §5.609(b)(3)], and Exhibit 6-3 provides the regulatory definition of *net family assets*. This section begins with a discussion of general policies related to assets and then provides HUD rules and PHA policies related to each type of asset.

Optional policies for family self-certification of assets are found in Chapter 7.

**Note that withdrawals from ABLE accounts (i.e., tax advantaged savings accounts under the Achieving a Better Life Experience Act) are also an exception and are excluded from income. (Notice PIH 2019-09)**

## General Policies

### Income from Assets

The PHA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, HUD authorizes the PHA to use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected (2) it is not feasible to anticipate a level of income over 12 months or (3) the PHA believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income, but the property is currently vacant, the PHA can take into consideration past rental income along with the prospects of obtaining a new tenant.

#### PHA Policy

Any time current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases the family may present information and documentation to the PHA to show why the asset income determination does not represent the family's anticipated asset income.

### Valuing Assets

The calculation of asset income sometimes requires the PHA to make a distinction between an asset's market value and its cash value.

- The market value of an asset is its worth in the market (e.g., the amount a buyer would pay for real estate or the total value of an investment account).
- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.

#### PHA Policy

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions [HCV GB, p. 5-28 and PH Occ GB, p. 121].

#### ***Lump-Sum Receipts***

Payments that are received in a single lump sum, such as inheritances, capital gains, lottery winnings, insurance settlements, and proceeds from the sale of property, are generally considered assets, not income. However, such lump sum receipts are counted as assets only if they are retained by a family in a form recognizable as an asset (e.g., deposited in a savings or checking account) [RHIP FAQs]. (For a discussion of lump sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see Sections 6-I.H and 6-I.I.)

#### ***Imputing Income from Assets [24 CFR §5.609(b)(3), Notice PHH 2012-29, HOTMA]***

- When net family assets are \$5,000 or less, the PHA will include in annual income the actual income anticipated to be derived from the assets. When the family has net family assets in excess of \$5,000, the PHA will include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income. Imputed income from assets is calculated by multiplying the total cash value of all family assets by an average passbook savings rate as determined by the PHA.
- Effective Jan. 1, 2024, when net family assets are \$5,000 or less, the PHA will include in annual income the actual income anticipated to be derived from the assets and a self-declaration is allowed. When the family has net family assets in excess of \$50,000, the PHA will include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income. Imputed income from assets is calculated by multiplying the total cash value of all family assets by an average passbook savings rate as determined by the PHA.

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~~\*\*Note: The HUD field office no longer provides an interest rate for imputed asset income. The “safe harbor” is now for the PHA to establish a passbook rate within 0.75 percent of a national average.~~

- The PHA must review its passbook rate annually to ensure that it remains within 0.75 percent of the national average.



### ***Determining Actual Anticipated Income from Assets***

It may or may not be necessary for the PHA to use the value of an asset to compute the actual anticipated income from the asset. When the value is required to compute the anticipated income from an asset, the market value of the asset is used. For example, if the asset is a property for which a family receives rental income, the anticipated income is determined by annualizing the actual monthly rental amount received for the property; it is not based on the property's market value. However, if the asset is a savings account, the anticipated income is determined by multiplying the market value of the account by the interest rate on the account.

### ***Withdrawal of Cash or Liquidation of Investments***

Any withdrawal of cash or assets from an investment will be included in income except to the extent that the withdrawal reimburses amounts invested by the family. For example, when a family member retires, the amount received by the family from a retirement investment plan is not counted as income until the family has received payments equal to the amount the family member deposited into the retirement investment plan.

### ***Jointly Owned Assets***

The regulation at 24 CFR §5.609(a)(4) specifies that annual income includes "amounts derived (during the 12-month period) from assets to which any member of the family has access."

#### **PHA Policy**

If an asset is owned by more than one person and any family member has unrestricted access to the asset, the PHA will count the full value of the asset. A family member has unrestricted access to an asset when they can legally dispose of the asset without the consent of any of the other owners.

If an asset is owned by more than one person, including a family member, but the family member does not have unrestricted access to the asset, the PHA will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, the PHA will prorate the asset evenly among all owners.

### ***Assets Disposed of for Less than Fair Market Value [24 CFR §5.603(b)]***

HUD regulations require the PHA to count as a current asset any business or family asset that was disposed of for less than fair market value during the two years prior to the effective date of the examination/reexamination, except as noted below:

### ***Minimum Threshold***

The PHA may set a threshold below which assets disposed of for less than fair market value will not be counted [HCV-GB, p. 5-27].

#### **PHA Policy**

The PHA will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than \$1,000.

When the two-year period expires, the income assigned to the disposed asset(s) also expires. If the two-year period ends between annual recertifications, the family may request an interim recertification to eliminate consideration of the asset(s).

Assets placed by the family in non-revocable trusts are considered assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgments.

### ***Separation or Divorce***

The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement and the applicant or tenant receives important consideration not measurable in dollar terms.

#### **PHA Policy**

All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

### ***Foreclosure or Bankruptcy***

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale.

### ***Family Declaration***

#### **PHA Policy**

Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value.

The PHA may verify the value of the assets disposed of if other information available to the PHA does not appear to agree with the information reported by the family.

### ***Types of Assets***

#### ***Checking and Savings Accounts***

For regular checking accounts and savings accounts, *cash value* has the same meaning as *market value*. If a checking account does not bear interest, the anticipated income from the account is zero.

#### PHA Policy

For families with net assets totaling \$5,000 or less, the PHA may accept the family's declaration of asset value and anticipated asset income (Notice PIH 2016-05). However, the PHA is required to obtain third-party verification of all assets regardless of the amount during the intake process, whenever a family member is added, and at least every three years thereafter.

When third-party verification is required, the PHA will do the following:

In determining the value of a checking account, the PHA will use the average monthly balance for the last three (3) months if the asset is equal to or greater than \$5,000 (Notice PIH 2016-05).

In determining the value of a savings account, the PHA will use the current balance provided on the family's declaration if it equals to or is less than \$5,000.

In determining the anticipated income from an interest-bearing checking or savings account, the PHA will multiply the value of the account by the current rate of interest paid on the account.

**HOTMA:** Effective Jan. 1, 2024, for families with net assets totaling \$50,000 or less, the PHA may accept the family's declaration of asset value and anticipated asset income (Notice PIH 2016-05). However, the PHA is required to obtain third-party verification of all assets regardless of the amount during the intake process, whenever a family member is added, and at least every three years thereafter.

When third-party verification is required, the PHA will do the following:

In determining the value of a checking account, the PHA will use the average monthly balance for the last three (3) months if the asset is equal to or greater than \$50,000 (Notice PIH 2016-05).

In determining the value of a savings account, the PHA will use the current balance provided on the family's declaration if it equals to or is less than \$50,000.

In determining the anticipated income from an interest-bearing checking or savings account, the PHA will multiply the value of the account by the current rate of interest paid on the account.

### ***Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds***

Interest or dividends earned by investment accounts are counted as actual income from assets even when the earnings are reinvested. The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

#### **PHA Policy**

In determining the market value of an investment account, the PHA will use the value of the account on the most recent investment report.

How anticipated income from an investment account will be calculated depends on whether the rate of return is known.

- For assets that are held in an investment account with a known rate of return (e.g., savings certificates), asset income will be calculated based on that known rate (market value multiplied by rate of earnings).
- When the anticipated rate of return is not known (e.g., stocks), the PHA will calculate asset income based on the earnings for the most recent reporting period.

### ***Equity in Real Property or Other Capital Investments***

Equity (cash value) in a property or other capital asset is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset [HCV GB, p. 5-25 and PH, p. 121].

Equity in real property and other capital investments is considered in the calculation of asset income except for the following types of assets:

- Equity accounts in HUD homeownership programs [24 CFR §5.603(b)]
- Equity in real property when a family member's main occupation is real estate [HCV GB, p. 5-25]. This real estate is considered a business asset, and income related to this asset will be calculated as described in Section 6 I.F.
- Interests in Indian Trust lands [24 CFR §5.603(b)]
- Real property and capital assets that are part of an active business or farming operation [HCV GB, p. 5-25]

A family may have real property as an asset in two ways: (1) owning the property itself and (2) holding a mortgage or deed of trust on the property. In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

In the case of a mortgage or deed of trust held by a family member, the outstanding balance (unpaid principal) is the cash value of the asset. The interest portion only of payments made to the family in accordance with the terms of the mortgage or deed of trust is counted as anticipated asset income.

#### PHA Policy

In the case of capital investments owned jointly with others not living in a family's unit, a prorated share of the property's cash value will be counted as an asset unless the PHA determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

#### *Trusts*

A *trust* is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

#### *Revocable Trusts*

If any member of a family has the right to withdraw the funds in a trust, the value of the trust is considered an asset [HCV GB, p. 5-25]. Any income earned as a result of investment of trust funds is counted as actual asset income, whether the income is paid to the family or deposited in the trust.

#### *Non-revocable Trusts*

In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is counted as a periodic payment or a lump-sum receipt, as appropriate [24 CFR §5.603(b)]. (Periodic payments are covered in Section 6 I.H. Lump-sum receipts are discussed earlier in this section.)

## ***Retirement Accounts***

### ***Company Retirement/Pension Accounts***

In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, the PHA must know whether the money is accessible before retirement [HCV GB, p. 5-26].

While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset [HCV GB, p. 5-26].

After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump sum receipt, as appropriate [HCV GB, p. 5-26], except to the extent that it represents funds invested in the account by the family member. (For more on periodic payments, see Section 6 I.H.) The balance in the account is counted as an asset only if it remains accessible to the family member.

### ***IRA, Keogh, and Similar Retirement Savings Accounts***

IRA, Keogh, and similar retirement savings accounts are counted as assets even though early withdrawal would result in a penalty [HCV GB, p. 5-25].

HOTMA: Effective Jan. 1, 2024, retirement and educational savings accounts will be excluded as an asset only. Income from a retirement account will be handled according to policy.

### ***Personal Property***

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset [HCV GB, p. 5-25].

#### **PHA Policy**

In determining the value of personal property held as an investment, the PHA will use the family's estimate of the value. The PHA may obtain an appraisal if there is reason to believe that the family's estimated value is off by \$50 or more. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.

Generally, personal property held as an investment generates no income until it is disposed of. If regular income is generated (e.g., income from renting the personal property), the amount that is expected to be earned in the coming year is counted as actual income from the asset.

Necessary items of personal property are not considered assets [24 CFR §5.603(b)].

#### **PHA Policy**

Necessary personal property consists of only those items not held as an investment. It may include clothing, furniture, household furnishings, jewelry, and vehicles, including those specially equipped for persons with disabilities.

### ***Life Insurance***

~~The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets [HCV GB 5-25]. The cash value is the surrender value. If such a policy earns dividends or interest that the family could elect to receive, the anticipated amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.~~

### **6-I.H. PERIODIC PAYMENTS [NOTICE PIH 2023-27]**

Periodic payments are forms of income received on a regular basis. HUD regulations specify periodic payments that ~~are and~~ are not included in annual income. Regulations do not specify which types of periodic payments are included in annual income.

Income that has a discrete end date and will not be repeated beyond the coming year is excluded from a family's annual income because it is nonrecurring income. However, this does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended. For example, a family receives income from a guaranteed income program in their city that has a discrete beginning and end date. While the guaranteed income will be repeated in the coming year, it will end before the family's next annual reexamination. This income is fully excluded from annual income.

Insurance payments and settlements for personal or property losses, including but not limited to payments under health insurance, motor vehicle insurance, and workers' compensation, are excluded from annual income. However, 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 are included in annual income. Payments received in lieu of wages for worker's compensation are excluded, even if paid in periodic payments, if the income will last for a period of less than one year.

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### ***Periodic Payments Included in Annual Income***

- ~~• Periodic payments from sources such as social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions. However, periodic payments from retirement accounts, annuities, and similar forms of investments are counted only after they exceed the amount contributed by the family [24 CFR §5.609(b)(4) and (b)(3)].~~
- ~~• Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum [24 CFR §5.609(b)(4) and HCV, p. 5-14]~~

### ***Lump-Sum Payments for the Delayed Start of a Periodic Payment [24 CFR 5.609(b)(16)]***

Deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any

~~deferred Department of Veterans Affairs (VA) disability benefits that are received in a lump sum amount or in prospective monthly amounts are excluded from annual income. Most lump sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income. Additionally, any deferred disability benefits that are received in a lump sum or in prospective monthly amounts from the Department of Veterans Affairs are to exclude from annual income [24 CFR §5.609 (e)(14)].~~

#### PHA Policy

~~The PHA will include in annual income lump sums received as a result of delays in processing periodic payments (other than those specifically excluded by the regulation), such as unemployment or welfare assistance.~~

~~When a delayed-start payment is received that is to be included and the family and report see this -during the period in which the PHA is processing an annual reexamination, the PHA will adjust the family's tenant-rent retroactively for the period the payment was intended to cover. The family may pay in full any amount due or request to enter into a repayment agreement with the PHA.~~

~~If the delayed-start payment is received outside of the time the PHA is processing an annual reexamination, then the PHA will consider whether the amount meets the threshold to conduct an interim reexamination. If so, the PHA will conduct an interim in accordance with PHA policies in Chapter 9. If not, the PHA will consider the amount when processing the family's next annual recertification.~~

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~~See the chapter on reexaminations for information about a family's obligation to report lump-sum receipts between annual reexaminations.~~

#### **Retirement Accounts [24 CFR 5.609(b)(26); Notice PIH 2023-27]**

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 is not considered actual income from assets.

However, any distribution of periodic payments from such accounts is included in annual income at the time they are received by the family.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value.

#### **Treatment of Overpayment Deductions from Social Security Benefits [Notice PIH 2023-27]**

The PHA is required to use the gross benefit amount to calculate annual income from Social Security benefits.

Annually in October, the Social Security Administration (SSA) announces the cost-of-living adjustment (COLA) by which federal Social Security and SSI benefits are adjusted to reflect the increase, if any, in the cost of living. The federal COLA does not apply to state-paid disability benefits. Effective the day after the SSA has announced the COLA, PHAs are required to factor in the COLA when determining Social Security and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1 or later of the upcoming year [Notice PIH 2023-27]. When a family member's benefits are garnished, levied, or withheld to pay restitution, child support, tax debt, student loan debt, or other debts, the PHA must use the gross amount of the income, prior to the reduction, to determine a family's annual income.

~~The PHA must make a special calculation of annual income when the Social Security Administration (SSA) overpays an individual, resulting in a withholding or deduction from their benefit amount until the overpayment is paid in full. The amount and duration of the withholding will vary depending on the amount of the overpayment and the percent of the benefit rate withheld. Regardless of the amount withheld or the length of the withholding period, the PHA must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount [Notice PIH 2018-24].~~

#### **PHA Policy**

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. When the {SSA} overpays an individual, resulting in a withholding or deduction from their benefit amount until the

overpayment is paid in full, the PHA must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount.

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### ***Applying SSA COLA to Current Annual and Interim Reexaminations***

Effective the day after SSA has announced the COLA, PHAs are required to factor in the COLA when determining Social Security and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1st or later of the upcoming year [Notice PIH 2018-24].

### **Alimony and Child Support**

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. For example, a family's child-support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders [Notice PIH 2023-27].

#### **PHA Policy**

The PHA will count all regular payments of alimony or child support awarded as part of a divorce or separation agreement.

The PHA will count court-awarded amounts for alimony and child support unless the family certifies and the PHA verifies that the payments are not being made.

In order to verify that payments are not being made, the PHA will review child support payments over the last three months.

If payments are being made regularly, the PHA will use the amount received during the last 12 months (excluding any lump sums received). If payments have been made for a period less than 12 months, the PHA will average all payments that have been made.

At new admission or interim recertification, if any lump sum payments were made in the past 12 months, the PHA will determine the likelihood of the family receiving another similar payment within the next 12 months before deciding whether or not this amount will be included in the calculation of annual income.

If the PHA determines and can appropriately verify that the family in all likelihood will not receive a similar payment, then the amount will not be considered when projecting annual income.

If the PHA determines that it is likely that the family will receive a similar payment and can appropriately verify it, the amount will be included when projecting annual income.

If no payments have been made in the past three months and there are no lump sums, the PHA will not include alimony or child support in annual income

#### ***Periodic Payments ~~Excluded from Annual Income~~***

~~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) [24 CFR §5.609(e)(2)].~~

~~Kinship care payments are considered equivalent to foster care payments and are also excluded from annual income [Notice PIH 2008-40].~~

#### **PHA Policy**

The PHA will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency [HCV GB, p. 5-18].

- ~~Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR §5.609(e)(16)]~~
- ~~Amounts received under the Low Income Home Energy Assistance Program (42 U.S.C. 1626(e)) [24 CFR §5.609(e)(17)]~~
- ~~Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858g) [24 CFR §5.609(e)(17)]~~
- ~~Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR §5.609(e)(17)]. *Note:* EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.~~
- ~~Lump sums received as a result of delays in processing Social Security and SSI payments (see Section 6 I.H.) [24 CFR §5.609(e)(14)].~~
- ~~Lump sums or prospective monthly amounts received as deferred disability benefits from the Department of Veterans Affairs (VA) [24 CFR §5.609(e)(14)].~~

#### **6-I.I. NONRECURRING INCOME [24 CFR 5.609(b)(24) and Notice PIH 2023-27]**

Nonrecurring income, which is income that will not be repeated beyond the coming year (e.g., 12 months following the effective date of the certification) based on information provided by the family, is excluded from annual income. The PHA may accept a self-certification from the family stating that the income will not be repeated in the coming year. See Chapter 7 for PHA policies related to verification of nonrecurring income.

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

Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from a family's annual income as nonrecurring income. This exclusion does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended.

Income amounts excluded under this category may include, but are not limited to:

- Nonrecurring payments made to the family or to a third party on behalf of the family to assist with utilities;
- Payments for eviction prevention;
- Security deposits to secure housing;
- Payments for participation in research studies (depending on the duration); and
- General one-time payments received by or on behalf of the family.

Nonrecurring income that is excluded under the regulations includes:

- 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 [24 CFR 5.609(b)(24)(i)].
- Direct federal or state payments intended for economic stimulus or recovery [24 CFR 5.609(b)(24)(ii)].
- Amounts directly received by the family as a result of state refundable tax credits or state or federal tax refunds at the time they are received [24 CFR 5.609(b)(24)(iii) and (iv)].
- Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries) [24 CFR 5.609(b)(24)(v)].
- Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization [24 CFR 5.609(b)(24)(vi)]. When calculating annual income, PHAs are prohibited from assigning monetary value to non-monetary in-kind donations received by the family [Notice PIH 2023-27]. Non-recurring, non-monetary in-kind donations from friends and family are excluded as non-recurring income.
- Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings [24 CFR 5.609(b)(24)(vii)].

## **6.I.I. PAYMENTS IN LIEU OF EARNINGS**

Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay, are counted as income [24 CFR §5.609(b)(5)] if they are received either in the form of periodic payments or in the form of a lump sum amount or prospective monthly amounts for the delayed start of a periodic payment. If they are received in a one-time lump sum (as a settlement, for instance), they are treated as lump sum receipts [24 CFR §5.609(c)(3)]. (See also the discussion of periodic payments in Section 6.I.H and the discussion of lump sum receipts in Section 6.I.G.)

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## 6-I.J. WELFARE ASSISTANCE

### *Overview*

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments ~~[24 CFR §5.603(b)]~~.

### *Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR §5.615]*

The PHA must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR §5.615 is provided as Exhibit 6-~~35~~. The requirements are summarized below. This rule applies only if a family was a public housing resident at the time the sanction was imposed.

### *Covered Families*

The families covered by 24 CFR §5.615 are those “who receive welfare assistance or other public assistance benefits (‘welfare benefits’) from a State or other public agency (‘welfare 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 for such assistance.” [24 CFR §5.615(b)]

### *Imputed Income*

When a welfare agency imposes a sanction that reduces a family’s welfare income because the family commits fraud or fails to comply with the agency’s economic self-sufficiency program or work activities requirement, the PHA must include in annual income “imputed” welfare income. The PHA must request that the welfare agency provide the reason for the reduction of benefits and the amount of the reduction of benefits. The imputed welfare income is the amount that the benefits were reduced as a result of the sanction.

This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits, (2) if a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements, or (3) because a family member has not complied with other welfare agency requirements [24 CFR §5.615(b)(2)].

~~For special procedures related to grievance hearings based upon the PHA’s denial of a family’s request to lower rent when the family experiences a welfare benefit reduction, see Chapter 14, Grievances and Appeals.~~

### *Offsets*

The amount of the imputed welfare income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero [24 CFR §5.615(c)(4)].

### ~~6-I.K. PERIODIC AND DETERMINABLE ALLOWANCES [24 CFR §5.609(B)(7)]~~

~~Annual income includes periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing with a tenant family.~~

#### ~~*Alimony and Child Support*~~

~~The PHA must count alimony or child support amounts awarded as part of a divorce or separation agreement.~~

#### PHA Policy

~~The PHA will count court-awarded amounts for alimony and child support unless the PHA verifies that (1) the payments are not being made and (2) the family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments [HCV GB, pp. 5-23 and 5-47].~~

~~Families who do not have court-awarded alimony and child support awards are not required to seek a court award and are not required to take independent legal action to obtain collection.~~

#### ~~*Regular Contributions or Gifts*~~

~~The PHA must count as income regular monetary and nonmonetary contributions or gifts from persons not residing with a tenant family [24 CFR §5.609(b)(7)]. Temporary, nonrecurring, or sporadic income and gifts are not counted [24 CFR §5.609(e)(9)].~~

#### PHA Policy

~~Examples of regular contributions include: (1) regular payment of a family's bills (e.g., utilities, telephone, rent, credit cards, and car payments), (2) cash or other liquid assets provided to any family member on a regular basis, and (3) "in-kind" contributions such as groceries and clothing provided to a family on a regular basis.~~

~~Nonmonetary contributions will be valued at the cost of purchasing the items, as determined by the PHA. For contributions that may vary from month to month (e.g., utility payments), the PHA will include an average amount based upon past history.~~

**6-I.K. STATE PAYMENTS TO ALLOW INDIVIDUALS WITH DISABILITIES TO LIVE AT HOME [24 CFR 5.609(b)(19)]**

Payments made by or authorized by a state Medicaid agency (including through a managed care entity) or other state or federal agency to an assisted family to enable a member of the assisted family who has a disability to reside in the family's assisted unit are excluded.

Authorized payments may include payments to a member of the assisted family through state Medicaid-managed care systems, other state agencies, federal agencies or other authorized entities.

The payments must be received for caregiving services a family member provides to enable another member of the assisted family who has a disability to reside in the family's assisted unit. Payments to a family member for caregiving services for someone who is not a member of the assisted family (such as for a relative that resides elsewhere) are not excluded from income.

Furthermore, if the agency is making payments for caregiving services to the family member for an assisted family member and for a person outside of the assisted family, only the payments attributable to the caregiving services for the caregiver's assisted family member would be excluded from income.

**6-I.L. CIVIL RIGHTS SETTLEMENTS [24 CFR 5.609(b)(25); FR Notice 2/14/23]**

Regardless of how the settlement or judgment is structured, civil rights settlements or judgments, including settlements or judgments for back pay, are excluded from annual income. This may include amounts received because of litigation or other actions, such as conciliation agreements, voluntary compliance agreements, consent orders, other forms of settlement agreements, or administrative or judicial orders under the Fair Housing Act, Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act (Section 504), the Americans with Disabilities Act, or any other civil rights or fair housing statute or requirement.

While these civil rights settlement or judgment amounts are excluded from income, the settlement or judgment amounts will generally be counted toward the family's net family assets (e.g., if the funds are deposited into the family's savings account or a revocable trust under the control of the family or some other asset that is not excluded from the definition of *net family assets*). Income generated on the settlement or judgment amount after it has become a net family asset is not excluded from income. For example, if the family received a settlement or back pay and deposited the money in an interest-bearing savings account, the interest from that account would be income at the time the interest is received.

Furthermore, if a civil rights settlement or judgment increases the family's net family assets such that they exceed \$50,000 (as annually adjusted by an inflationary factor), then income will be imputed on the net family assets pursuant to 24 CFR 5.609(a)(2). If the imputed income, which HUD considers unearned income, increases the family's annual adjusted income by 10 percent or more, then an interim reexamination of income will be required unless the addition to the family's net family assets occurs within the last three months of the family's income certification period and the PHA or owner chooses not to conduct the examination.

#### **6-I.~~ML~~. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME [24CFR 5.609(B)]**

Other exclusions contained in 24 CFR §5.609(~~be~~) ~~and updated by FR Notice 05/20/14~~ that have not been discussed earlier in this chapter include the following:

- Payments received for the care of foster children or foster adults or state or tribal kinship or guardianship care payments [24 CFR 5.609(b)(4)].
- 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)] However, 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 are included in annual income [Notice PIH 2023-27].
- 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)].
- 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)].
- 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 [24 CFR 5.609(b)(10)].
- 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)].
- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11)].
- Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance [24 CFR 5.609(b)(17)]. 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 [Notice PIH 2023-27].
- 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) [24 CFR 5.609(b)(20)]. The loan borrower or co-borrower must be a member of the family for this income exclusion to be applicable [Notice PIH 2023-27].

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- ~~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 or other federal law [24 CFR 5.609(b)(21)]. Generally, payments received by tribal members in excess of the first \$2,000 of per capita shares are included in a family's annual income for purposes of determining eligibility. However, as explained in Notice PIH 2023-27, payments made under the Cobell Settlement, and certain per capita payments under the recent Tribal Trust Settlements, must be excluded from annual income in HUD programs that adopt the definitions of *annual income* in 24 CFR 5.609, the Census Long Form, and the IRS Form 1040, including the programs affected by Notice PIH 2023-27.~~
- ~~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)].~~
- ~~Income earned on amounts placed in a family's Family Self-Sufficiency account [24 CFR 5.609(b)(27)].~~
  - ~~Reimbursement of medical expenses [24 CFR §5.609(c)(4)]~~
  - ~~The full amount of student financial assistance paid directly to the student or to the educational institution [24 CFR §5.609(c)(6)], except that in accordance with Section 224 of the FY 2005 Appropriations Act, the portion of any athletic scholarship assistance available for housing costs must be included in annual income [PIH Notice 2005-16].~~

PHA Policy

~~Regular financial support from parents or guardians to students for food, clothing, personal items, and entertainment is not considered student financial assistance and is included in annual income.~~

- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (e.g., special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(~~12~~)(ii)].
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR §5.609(~~be~~)~~12~~(8)(ii))].
- Amounts received under a resident service stipend not to exceed \$200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development [24 CFR 5.600(b)(12)(iii).

Amounts received under a resident service stipend are not included in annual income. A resident service stipend is a modest amount (not to exceed \$200 per individual 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. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time.

#### PHA Policy

A resident service stipend in the amount of \$50 per month will be provided as a rent credit to a resident for performing a service as a Housing and Human Service Commissioner (HHSC) and Public Housing Authority Commissioner (PHAC). If the monthly tenant account credit exceeds the balance owed on the account, the difference will be paid once a month by check.

A resident service stipend will be credited to the resident's account monthly for performing a service as a Beautification Site Representative. If the monthly tenant account credit exceeds the balance owed on the account, the difference will be paid once a month by check.

- The resident service stipend for 130 North Hamilton is \$200 per month
- The resident service stipend for 210 North McQueen is \$160 per month
- The resident service stipend for 73 South Hamilton is \$160 per month
- The resident service stipend for 660 South Palm Lane is \$160 per month
- The resident service stipend for 127 North Kingston is \$120 per month

- Incremental earnings and benefits to any family member resulting from participation in qualifying training program 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 are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program unless those amounts are excluded under 24 CFR 5.609(b)(9)(i) [24 CFR 5.609(b)(12)(iv)].

#### PHA Policy

The PHA defines *training program* as “a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period of time. It is designed to lead to a higher level of proficiency, and it enhances the individual's ability to obtain employment. It may have performance standards to measure proficiency. Training may include but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education” [expired Notice PIH 98-2, p. 3].

The PHA defines *incremental earnings and benefits* as the difference between (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program and (2) the total amount of welfare assistance

and earnings of the family member after enrollment in the program [expired Notice PIH 98-2, pp. 3-4].

In calculating the incremental difference, the PHA will use as the pre-enrollment income the total annualized amount of the family member's welfare assistance and earnings reported on the family's most recently completed HUD-50058.

End of participation in a training program must be reported in accordance with the PHA's interim reporting requirements (see Chapter 11).

- 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~~(be)~~(1~~39~~)].
- Adoption assistance payments for a child in excess of ~~\$480~~the amount of the dependent deduction -per adopted child [24 CFR §5.609~~(be)~~(1~~52~~)].
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR §5.609~~(be)~~(20~~45~~)].
- ~~Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR §5.609(e)(16)]~~
- Amounts that HUD is required by federal statute to exclude 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. HUD will publish a notice in the *Federal Register* to identify the benefits that qualify for this exclusion. Updates will be published when necessary [24 CFR 5.609(b)(22)].
- ~~Amounts specifically excluded by any other federal statute [24 CFR §5.609(e)(17)]. FR Notice 5/20/2014. HUD publishes an updated list of these exclusions periodically. The most recent list of exclusions was published in the *Federal Register* on May 20, 2014. It includes:~~
  - (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))
  - (b) Benefits under Section 1780 of the School Lunch Act and Child Nutrition Act of 1966, including WIC
  - (c) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
  - (d) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))
  - (e) Income derived from certain sub-marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)

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- (f) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))
- (g) Payments received under programs funded in whole or in part under the Workforce Investment Act of 1998 (29 U.S.C. 2931)
- (h) Deferred disability benefits from the Department of Veterans Affairs, whether received as a lump sum or in monthly prospective amounts.
- (i) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)
- (j) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b))
- (k) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled *Elouise Cobell et al. v Ken Salazar et al.*, for a period of one year from the time of receipt of that payment in the Claims Resolution Act of 2010
- (l) The first \$2,000 of per capita shares received 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 (25 U.S.C. 1407-1408)
- (m) Benefits under the Indian Veterans Housing Opportunity Act of 2010 (only applies to Native American housing programs)
- (n) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- (o) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent Orange-product liability litigation*, M.D.L. No. 381 (E.D.N.Y.)
- (p) Payments received under 38 U.S.C. 18339(c) to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain defects, and children of certain Korean service veterans born with spinal bifida
- (q) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)
- (r) 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)

- (s) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))
- (t) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433)
- (u) Amounts of scholarship funded under Title IV of the Higher Education Act of 1965, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 108.7uu). For Section 8 programs, the exception found in § 237 of Public Law 109-249 applies and requires that the amount of financial assistance in excess of tuition and mandatory fees shall be considered income in accordance with the provisions codified at 24 CFR §5.609(b)(9), except for those persons with disabilities as defined by 42 U.S.C. 1437 a(b)(3)(E) (Pub. L. 109-249) (See Section 6-I.L. for exceptions.)
- (v) Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- (w) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602)
- (x) Any amounts in an “individual development account” as provided by the Assets for Independence Act, as amended in 2002
- (y) Payments made from the proceeds of Indian tribal trust cases as described in Notice PIH 2013-30, “Exclusion from Income of Payments under Recent Tribal Trust Settlements” (25 U.S.C. 117b(a)).
- (z) Major disaster and emergency assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organizations.
- (aa) Distributions from an ABLE account, and actual or imputed interest on the ABLE account balance [See also Notice PIH 2019-09](Achieving a Better Life Experience Act of 2014).

## **PART II: ASSETS**

### **6-II.A. OVERVIEW**

Annual income includes all actual anticipated income from assets (unless otherwise excluded by the regulations) even if the asset itself is excluded from net family assets [Notice PIH 2023-27].

The regulation at 24 CFR 5.603(b)(3) provides a list of items that are excluded from the calculation of net family assets. Note, unlike previous versions of the regulations, the current regulations do not list types of assets that are included in annual income. Instead, HUD relies on the definition of items excluded from assets to provide the scope of what is included. Exhibit 6-2 provides the regulatory definition of *net family assets*.

Optional policies for family self-certification of assets are found in Chapter 7. Policies related to the asset limitation may be found in Chapter 3.

Income from assets is always anticipated, irrespective of the income examination type.

#### PHA Policy

The PHA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. The PHA will use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected, (2) it is not feasible to anticipate a level of income over 12 months, or (3) the PHA believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income, but the property is currently vacant, the PHA can take into consideration past rental income along with the prospects of obtaining a new tenant.

Any time current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases, the family may present information and documentation to the PHA to show why the asset income determination does not represent the family's anticipated asset income.

**6-II.B. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE**  
**[24 CFR 5.603(b)(2)]**

PHAs must include the value of any business or family assets disposed of by an applicant or participant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application or reexamination, as applicable, in excess of the consideration received for the asset.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value. [Notice PIH 2023-27].

**Minimum Threshold**

HUD does not specify a minimum threshold for counting assets disposed of for less than fair market value. A PHA may establish a policy to ignore small amounts such as charitable contributions [New PH OCC GB, *Income Determinations*, p. 24].

PHA Policy

The PHA will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than \$1,000.

**Separation or Divorce**

The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement and the applicant or tenant receives important consideration not measurable in dollar terms.

PHA Policy

All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

**Foreclosure or Bankruptcy**

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

**Asset Owned by a Business Entity**

If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's

assets. However, if the family holds the assets in their own name (e.g., they own one third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant) [Notice PIH 2023-27].



### **Family Declaration**

#### **PHA Policy**

Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. The PHA may verify the value of the assets disposed of if other information available to the PHA does not appear to agree with the information reported by the family.

## 6-II.C. ASSET INCLUSIONS AND EXCLUSIONS

### Checking and Savings Accounts [Notice PIH 2023-27]

HUD considers bank accounts as non-necessary items of personal property. Whether or not non-necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.

- When the combined value of net family assets is greater than \$50,000, as adjusted by inflation, checking and/or savings accounts would be counted toward net family assets.
- When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's checking and/or savings accounts would not be considered when calculating net family assets.

However, actual income from checking and savings accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded.

### ABLE Accounts [24 CFR 5.609(b)(10); Notice PIH 2019-09]

An Achieving a Better Life Experience (ABLE) account is a type of tax-advantaged savings account that an eligible individual can use to pay for qualified disability expenses. Section 103 of the ABLE Act mandates that an individual's ABLE account (specifically, its account balance, contributions to the account, and distributions from the account) is excluded when determining the designated beneficiary's eligibility and continued occupancy under certain federal means-tested programs. The PHA must exclude the entire value of the individual's ABLE account from the household's assets. Distributions from the ABLE account are also not considered income. However, all wage income received, regardless of which account the money is paid to, is included as income.

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*Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds*  
[24 CFR 5.603(b)(1)]

HUD considers financial investments such as stocks and bonds non-necessary items of personal property. Whether non-necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.

- When the combined value of net family assets is greater than \$50,000, as adjusted by inflation, financial investments such as stocks and bonds are considered part of net family assets. In this case, the value of the family's financial investments such as stocks and bonds would be counted toward net family assets.
- When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's financial investments such as stocks and bonds would not be considered when calculating net family assets.

However, actual income from financial accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, but when no dividend is issued, the actual return is \$0. When the stock never issues dividends, the actual return is \$0.

PHA Policy

The PHA will include interest or dividends earned by investment accounts as actual income from assets even when the earnings are reinvested.

The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

In determining the market value of an investment account, the PHA will use the value of the account on the most recent investment report.

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**Necessary and Non-Necessary Personal Property [24 CFR 5.603(b)(3)(i)]**

All assets are categorized as either *real property* (e.g., land, a home) or *personal property*.

*Personal property* includes tangible items, like boats, as well as intangible items, like bank accounts.

The value of necessary items of personal property is excluded from the calculation of net family assets. Necessary items of personal property include a car used for commuting or medical devices.

HUD defines *necessary personal property* as items essential to the family for the maintenance, use, and occupancy of the premises as a home; or they are necessary for employment, education, or health and wellness. Necessary personal property includes more than merely items that are indispensable to the bare existence of the family. It may include personal effects (such as items that are ordinarily worn or utilized by the individual), items that are convenient or useful to a reasonable existence, and items that support and facilitate daily life within the family's home. Necessary personal property also includes items that assist a household member with a disability, including any items related to disability-related needs, or that may be required for a reasonable accommodation for a person with a disability. Necessary personal property does not include bank accounts, other financial investments, or luxury items. Items of personal property that do not qualify as necessary personal property are classified as non-necessary personal property.

The combined value of all non-necessary items of personal property is only included in annual income when the combined total value exceeds \$50,000 (adjusted annually). When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets.

While not an exhaustive list, the following table from Notice PIH 2023-27 provides examples of necessary and non-necessary personal property.

<u>Necessary Personal Property</u>	<u>Non-Necessary Personal Property</u>
<u>Car(s)/vehicle(s) that a family relies on for transportation for personal or business use (e.g., bike, motorcycle, skateboard, scooter)</u>	<u>Recreational car/vehicle not needed for day-to-day transportation for personal or business use (campers, motorhomes, traveling trailers, all-terrain vehicles (ATVs))</u>
<u>Furniture, carpets, linens, kitchenware</u>	<u>Bank accounts or other financial investments (e.g., checking account, savings account, stocks/bonds)</u>
<u>Common appliances</u>	<u>Recreational boat/watercraft</u>
<u>Common electronics (e.g., radio, television, DVD player, gaming system)</u>	<u>Expensive jewelry without religious or cultural value, or which does not hold family significance</u>
<u>Clothing</u>	<u>Collectibles (e.g., coins/stamps)</u>
<u>Personal effects that are not luxury items (e.g., toys, books)</u>	<u>Equipment/machinery that is not used to generate income for a business</u>
<u>Wedding and engagement rings</u>	<u>Items such as gems/precious metals, antique cars, artwork, etc.</u>
<u>Jewelry used in religious/cultural celebrations and ceremonies</u>	
<u>Religious and cultural items</u>	
<u>Medical equipment and supplies</u>	
<u>Health care–related supplies</u>	
<u>Musical instruments used by the family</u>	
<u>Personal computers, phones, tablets, and related equipment</u>	
<u>Professional tools of trade of the family, for example professional books</u>	
<u>Educational materials and equipment used by the family, including equipment to accommodate persons with disabilities</u>	
<u>Equipment used for exercising (e.g., treadmill, stationary bike, kayak, paddleboard, ski equipment)</u>	

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#### PHA Policy

In determining the value of non-necessary personal property, the PHA will use the family's estimate of the value. The PHA may obtain an appraisal if there is reason to believe that the family's estimated value is off by \$50 or more. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.

**Lump-Sum Additions to Net Family Assets [24 CFR 5.609(b)(24)(viii); Notice PIH 2023-27]**

The regulations exclude income from lump-sum additions to family assets, including lottery or other contest winnings as a type of nonrecurring income.

In addition, lump sums from insurance payments, settlements for personal or property losses, and recoveries from civil actions or settlements based on claims of malpractice, negligence, or other breach of duty owed to a family member arising out of law that resulted in a member of the family becoming a family member with a disability are excluded from income.

Further, deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts are also excluded from income.

However, these amounts may count toward net family assets. The PHA must consider any actual or imputed returns from assets as income at the next applicable income examination. In the case where the lump sum addition to assets would lead to imputed income, which is unearned income, that increases the family's annual adjusted income by 10 percent or more, then the addition of the lump sum to the family's assets will trigger an immediate interim reexamination of income in accordance with Chapter 9. This reexamination of income must take place as soon as the lump sum is added to the family's net family assets unless the addition takes place in the last three months of family's income certification period and the PHA chooses not to conduct the examination.

For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see sections 6-I.H and 6-I.I.

PHA Policy

Any lump-sum receipts are only counted as assets if they are retained by a family in a form recognizable as an asset. [RHIIP FAQs]. For example, if the family receives a \$1,000 lump sum for lottery winnings, and the family immediately spends the entire amount, the lump sum will not be counted toward net family assets.

### Jointly Owned Assets [Notice PIH 2023-27]

For assets owned jointly by the family and one or more individuals outside of the assisted family, the PHA must include the total value of the asset in the calculation of net family assets, unless:

- The asset is otherwise excluded;
- The family can demonstrate that the asset is inaccessible to them; or
- The family cannot dispose of any portion of the asset without the consent of another owner who refuses to comply.

If the family demonstrates that they can only access a portion of an asset, then only that portion's value is included in the calculation of net family assets for the family.

Any income from a jointly owned asset must be included in annual income, unless:

- The income is specifically excluded;
- The family demonstrates that they do not have access to the income from that asset; or
- The family only has access to a portion of the income from that asset.

#### PHA Policy

If the family demonstrates that they can only access a portion of the income from an asset, then only that portion's value is included in the calculation of income from assets.

If an individual is a beneficiary who is entitled to access the account's funds only upon the death of the account's owner, and may not otherwise withdraw funds from an account, then the account is not an asset to the assisted family, and the family should provide proper documentation demonstrating that they are only a beneficiary on the account.

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### Trusts [24 CFR 5.609(b)(2) and 5.603(b)(4)]

A trust is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

The following types of trust distributions are excluded from annual income:

- Distributions of the principal or corpus of the trust; and
- Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.

The basis for determining how to treat trusts relies on information about who has access to either the principal in the account or the income from the account. There are two types of trusts, revocable and irrevocable.

When the creator sets up an *irrevocable trust*, the creator has no access to the funds in the account. Irrevocable trusts not under the control of any member of the family or household are not assets. Typically, special needs trusts are considered irrevocable. The value of the trust is not included in net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household [24 CFR 5.603(b)(4)]. Where an irrevocable trust is excluded from net family assets, the PHA must not consider actual income earned by the trust (e.g., interest earned, rental income if property is held in the trust) for so long as the income from the trust is not distributed. If the value of the trust is not considered part of the family's net assets, then distributions from the trust are treated as follows:

- All distributions from the trust's principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

A *revocable trust* is a trust that the creator of the trust may amend or end (revoke). When there is a revocable trust, the creator has access to the funds in the trust account.

The value of revocable trusts that are not under the control of the family are excluded from net family assets. This happens 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. In this case the beneficiary does not "own" the revocable trust, and the value of the trust is excluded from net family assets. For the revocable trust to be considered excluded from net family assets, no family or household member may be the account's trustee. If this is the case, then distributions from the trust are treated as follows:

- All distributions from the trust's principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

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Revocable trusts under the control of the family or household (e.g., the grantor is a member of the assisted family or household) are considered assets and must be included in 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. The PHA must count all actual returns (e.g., interest earned) from the trust as income or, if the trust has no actual returns (e.g., if the trust is comprised of farmland that is not in use) and the total value of the combined net family assets exceeds \$50,000 (as that amount is updated for inflation), as imputed returns, as applicable.

**Life Insurance [FR Notice 2/14/23 and Notice PIH 2023-27]**

Net family assets do not include the value of term life insurance, which has no cash value to the individual before death.

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets. The cash value is the surrender value. While the cash value of an insurance policy is considered an asset, the face value of any policy is not. If such a policy earns dividends or interest that the family could elect to receive, the amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

**Tax Refunds [24 CFR 5.603(b)(3)(xi) and Notice PIH 2023-27]**

All amounts received by a family in the form of federal tax refunds or refundable tax credits are excluded from a family's net family assets for a period of 12 months after receipt by the family.

At the time of an annual or interim reexamination of income, if the federal tax refund was received during the 12 months preceding the effective date of the reexamination, then the amount of the refund that was received by the family is subtracted from the total value of the account in which the federal tax refund or refundable tax credits were deposited. When the subtraction results in a negative number, then the balance of the asset is considered \$0.

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).

### Asset Exclusions [24 CFR 5.603(b)]

The following are excluded from the calculations of net family assets:

- The value of 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 [24 CFR 5.603(b)(3)(iii)].
- 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 [24 CFR 5.603(b)(3)(iv)].
  - Real property as used in this part has the same meaning as that provided under the law of the state in which the property is located [24 CFR 5.100].
  - Examples of this include but are not limited to co-ownership situations (including situations where one owner is a victim of domestic violence), where one party cannot unilaterally sell the real property; property that is tied up in litigation; and inherited property in dispute [Notice PIH 2023-27].
- 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 family member being a person with a disability [24 CFR 5.603(b)(3)(v)].
- The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 [24 CFR 5.603(b)(3)(vi)].
- The value of any qualified tuition program under Section 529 of such Code [24 CFR 5.603(b)(3)(vi)].
- The value of any “baby bond” account created, authorized, or funded by federal, state, or local government [24 CFR 5.603(b)(3)(vi)].
- Interests in Indian trust land [24 CFR 5.603(b)(3)(vii)].
- Equity in a manufactured home where the family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(viii)].
- Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(ix)].
- Family Self-Sufficiency accounts [24 CFR 5.603(b)(3)(x)].
- Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family [24 CFR 5.603(b)(3)(xi)].
- The full amount of assets held in an irrevocable trust [Notice PIH 2023-27]; and
- The full amount of assets held in a revocable trust where a member of the family is the beneficiary, but the grantor/owner and trustee of the trust is not a member of the participant family or household [Notice PIH 2023-27].

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## **6-II.D. DETERMINING INCOME FROM ASSETS**

In some cases, amounts that are excluded from net family assets may be included as annual income when disbursements are made to a family from an asset. In other cases, amounts are excluded from annual income as a lump-sum addition to net family assets, but those funds are then considered a net family asset if held in an account or other investment that is considered part of net family assets [Notice PIH 2023-27].

### **Net Family Assets**

Net family assets are defined as the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment.

#### PHA Policy

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions such as settlement costs and transfer taxes [New PH OCC GB, *Income Determinations*, p. 24].

The calculation of asset income sometimes requires the PHA to make a distinction between an asset's market value and its cash value.

- The market value of an asset is its worth in the market (e.g., the amount a buyer would pay for real estate or the total value of an investment account).
- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.

The cash value of real property or other assets with negative equity would be considered \$0 for the purposes of calculating net family assets. Negative equity in real property or other investments does not prohibit the family from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets [Notice PIH 2023-27].

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### **Actual Income from Assets**

Income from assets must be included on the Form HUD-50058 regardless of the amount of income. Actual income from assets is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded by 24 CFR 5.609(b).

Income or returns from assets are generally considered to be interest, dividend payments, and other actual income earned on the asset, and not the increase in market value of the asset. The increase in market value is relevant to the cash value of the asset for the purpose of determining total net family assets and imputing income.

The PHA may determine the net assets of a family based on a self-certification by the family that the net family assets do not exceed \$50,000 (adjusted annually by HUD), without taking additional steps to verify the accuracy of the declaration [24 CFR 5.618(b)]. Policies related to verification of assets are found in Chapter 7 of this policy.

The PHA may not calculate or include any imputed income from assets when net family assets total \$50,000 or less [24 CFR 5.609(b)(1)]. The actual income from assets must be included on the Form HUD-50058.

### **Imputed Income from Assets**

When net family assets exceed \$50,000 (adjusted annually by HUD), the PHA may not rely on self-certification. If actual returns can be calculated, the PHA must include actual income from the asset on the Form HUD-50058 (for example, a savings account or CD where the rate of return is known). If actual returns cannot be calculated, the PHA must calculate imputed returns using the HUD-determined passbook rate (for example, real property or a non-necessary item of personal property such as a recreational boat). If the PHA can compute actual income from some but not all assets, the PHA must compute actual returns where possible and use the HUD-determined passbook rate for assets where actual income cannot be calculated [24 CFR 5.609(a)(2)].

An asset with an actual return of \$0 (such as a non-interest-bearing checking account), is not the same as an asset for which an actual return cannot be computed (such as non-necessary personal property). If the asset is a financial asset and there is no income generated (for example, a bank account with a zero percent interest rate or a stock that does not issue cash dividends), then the asset generates zero actual asset income, and imputed income is not calculated. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, and when no dividend is issued, the actual return is \$0. When the stock never issues dividends, the actual return is consistently \$0.

## PART III: ADJUSTED INCOME

### 6-III.A. INTRODUCTION

#### Overview

HUD regulations require PHAs to deduct from annual income any of five mandatory deductions for which a family qualifies and allow the PHA to deduct other permissive deductions in accordance with PHA policy. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR §5.611 ~~and HOTMA requirements~~.

5.611 Adjusted income 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:

(a) Mandatory deductions

(1) \$480 for each dependent (adjusted annually by HUD, rounded to the next lowest multiple of \$25);

(2) \$525 for any elderly family or disabled family (adjusted annually by HUD, rounded to the next lowest multiple of \$25);

(3) The sum of the following, to the extent the sum exceeds ten percent of annual income:

(i) Unreimbursed health and medical care expenses of any elderly family or disabled family;

(ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed; and

(4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

~~24 CFR §5.611(a) Mandatory deductions. In determining adjusted income, the responsible entity (PHA) must deduct the following amounts from annual income:~~

~~(1) \$480 for each dependent;~~

~~(2) \$550 for any elderly family or disabled family;~~

~~(3) The sum of the following, to the extent the sum exceeds three percent of annual income:~~

~~(i) Unreimbursed medical expenses of any elderly family or disabled family;~~

~~(ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and~~

~~(4)(i) Any reasonable childcare expenses necessary to enable a member of the family to be employed or to further their education.~~

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This part covers policies related to these mandatory deductions. Verification requirements related to these deductions are found in Chapter 7, ~~Verifications~~.

### ***Anticipating Expenses***

#### **PHA Policy**

Generally, the PHA will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., childcare during school and non-school periods and cyclical medical expenses), the PHA will estimate costs based on historic data and known future costs.

If a family has an accumulated debt for medical or disability assistance expenses, the PHA will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. The PHA may require the family to provide documentation of payments made in the preceding year.

When calculating health and medical care expenses, the PHA will include those expenses anticipated to be incurred during the 12 months following the certification date reexam which are not covered by an outside source, such as insurance. The allowance is not intended to give a family an allowance equal to last year's expenses, but to anticipate regular ongoing and anticipated expenses during the coming year. Since these expenses are anticipated, the PH Occupancy Guidebook states "it is likely that actual expenses will not match what was anticipated. Typically, this would not be considered an underpayment as long as at the time of the annual reexamination, the expenses were calculated based on the appropriate verification" [New PH OCC GB, *Income Determinations*, p. 30]. For annual reexaminations, the PHA will use information for the previous 12-month period.

### **6-II.B. DEPENDENT DEDUCTION**

An allowance of \$480 is deducted from annual income 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) [24 CFR §5.611(a)(1)]. *Dependent* is defined as any family member other than the head, spouse, or cohead who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR §5.603(b)].

### **6-III.C. ELDERLY OR DISABLED FAMILY DEDUCTION**

A single deduction of \$~~2550~~ is taken for any elderly 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) [24 CFR §5.611(a)(2).<sup>3</sup>

~~[HOTMA].~~ An *elderly family* is a family whose head, spouse, cohead, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, cohead, or sole member is a person with disabilities [24 CFR §5.403].

#### **6-III.D. HEALTH AND MEDICAL CARE EXPENSES DEDUCTION [24 CFR §5.611(A)(3)(I)]**

Unreimbursed health and medical care expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed ten ~~free~~ percent of annual income.

This ~~e-medical-expense~~ deduction is permitted only for families in which the head, spouse, or cohead is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted ~~[VG, p. 28]~~.

#### ***Definition of Medical Expenses***

HUD regulations define health and medical care expenses at 24 CFR §5.603(b) to mean “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.”

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Medical insurance premiums continue to be eligible health and medical care expenses. Health and medical care expenses may be deducted from annual income only if they are eligible and not otherwise reimbursed and may only be deducted for elderly or disabled families.

Although HUD revised the definition of health and medical care expenses to reflect the Internal Revenue Service (IRS) general definition of medical expenses, HUD is not permitting PHAs to specifically align their policies with IRS Publication 502 for determining which expenses are included in HUD’s mandatory deduction for health and medical care expenses. PHAs must review each expense to determine whether it is eligible in accordance with HUD’s definition of health and medical care expenses. ...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.”

#### **PHA Policy**

The most current IRS Publication 502, *Medical and Dental Expenses*, will be used as a reference to determine the costs that qualify as medical expenses.



### Summary of Allowable Medical Expenses from IRS Publication 502

- |  |   |
|--|---|
| <ul style="list-style-type: none"> <li>• Services of medical professionals</li> <li>• Surgery and medical procedures that are necessary, legal, non-cosmetic</li> <li>• Services of medical facilities</li> <li>• Hospitalization, long-term care, and in-home nursing services</li> <li>• Prescription medicines and insulin, but not nonprescription medicines even if recommended by a doctor</li> <li>• Improvements to housing directly related to medical needs (e.g., ramps for a wheelchair, handrails)</li> <li>• Substance abuse treatment programs</li> </ul> | <ul style="list-style-type: none"> <li>• Psychiatric treatment</li> <li>• Ambulance services and some costs of transportation related to medical expenses</li> <li>• The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth)</li> <li>• Cost and continuing care of necessary service animals</li> <li>• Medical insurance premiums or the cost of a health maintenance organization (HMO)</li> </ul> |
|--|---|

**Note:** This chart provides a summary of eligible medical expenses only. Detailed information is provided in IRS Publication 502. Medical expenses are considered only to the extent they are not reimbursed by insurance or some other source.

#### PHA Policy

The cost of medical marijuana is not considered a deductible medical expense.

#### *Families that Qualify for Both Health and Medical and Disability Assistance Expenses*

#### PHA Policy

This policy applies only to families in which the head, spouse, or cohead is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either a health and medical care or disability assistance expenses, the PHA will consider them health and medical care expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

#### **6-III.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR §5.603(B) AND 24 CFR §5.611(A)(3)(II)]**

Unreimbursed Reasonable expenses for attendant care and auxiliary apparatus for each member of the family who is a person with disabilities ~~a disabled family member~~ may be deducted if they: (1) are necessary to enable a family member 18 years or older to work, (2) are not paid to a family member or reimbursed by an outside source, (3) in combination with any medical

expenses, exceed ~~threeten~~ -percent of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.

#### ***Earned Income Limit on the Disability Assistance Expense Deduction***

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR §5.603(b)].

The disability expense deduction is capped by the amount of “earned income received by family members who are 18 years of age or older and who are able to work” because of the expense [24 CFR §5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

##### PHA Policy

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family’s request, the PHA will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

When the PHA determines that the disability assistance expenses enable more than one family member to work, the disability assistance expenses will be capped by the sum of the family members’ incomes [~~New PH Occ GB, Income Determination, -p. 28]124].~~

#### ***Eligible Disability Expenses***

~~Examples of auxiliary apparatus are provided in the PH Occupancy Guidebook as follows: “Auxiliary apparatus: Including wheelchairs, walkers, scooters, reading devices for persons with visual disabilities, equipment added to cars and vans to permit their use by the family member with a disability, or service animals” [PH Occ GB, p. 124], but only if these items are directly related to permitting the disabled person or other family member to work [HCV GB, p. 5-30].~~

~~HUD advises PHAs to further define and describe auxiliary apparatus [VG, p. 30].~~

#### ***Eligible Auxiliary Apparatus*** [~~Notice PIH 2023-27]~~

Auxiliary apparatus items may include expenses for wheelchairs, ramps, adaptations to vehicles, guide dogs, assistance animals, or special equipment to enable a person who is blind or has low vision to read or type, or special equipment to assist a person who is deaf or hard of hearing.

##### PHA Policy

~~Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost of service animals~~

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~~trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.~~

#### ***Eligible Attendant Care*** [Notice PIH 2023-27]

Examples of attendant care expenses can include teaching a person with disabilities how to perform day-to-day tasks independently like cleaning, bathing, doing laundry, and cooking. Attendant care can be 24-hour care, or care during sporadic periods throughout the day. The family determines the type of attendant care that is appropriate for the person with disabilities.

#### ***PHA Policy***

~~Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.~~

Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. However, if the person enabled to work is the person with disabilities, personal services necessary to enable the person with disabilities to work are eligible.

If the care attendant also provides other services to the family, the PHA will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For example, if the care provider also cares for a child who is not the person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

#### ***Payments to Family Members***

No disability expenses may be deducted for payments to a member of a tenant family [23 CFR §5.603(b)]. However, expenses paid to a relative who is not a member of the tenant family may be deducted if they are not reimbursed by an outside source.

#### ***Necessary and Reasonable Expenses***

The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.

#### ***PHA Policy***

The PHA determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, the PHA will collect information from organizations that provide services and support to persons with disabilities. A

family may present, and the PHA will consider, the family's justification for costs that exceed typical costs in the area.

#### ***Families that Qualify for Both Health and Medical and Disability Assistance Expenses***

##### **PHA Policy**

This policy applies only to families in which the head or spouse, ~~or co-head~~ is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either health and medical care or disability assistance expenses, the PHA will consider them health and medical care expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

#### **6-III.F. CHILD CARE EXPENSE DEDUCTION**

HUD defines *childcare expenses* at 24 CFR §5.603(b) as "amounts anticipated to be paid by the family for the care of children under 13 years of age (including foster children) during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further their education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for childcare.

In the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income."

~~Childcare expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household [VG, p. 26]. However, childcare expenses for foster children that are living in the assisted family's household are included when determining the family's childcare expenses.~~

##### **Clarifying the Meaning of Child for This Deduction**

Child care expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household [VG, p. 26]. However, child care expenses for foster children that are living in the assisted family's household are included when determining the family's child care expenses [HCV GB, p. 5-29].

##### ***Qualifying for the Deduction***

##### ***Determining Who is Enabled to Pursue an Eligible Activity***

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#### PHA Policy

The family must identify the family member(s) enabled to pursue an eligible activity. The term *eligible activity* in this section means any of the activities that may make the family eligible for a childcare deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family's request, the PHA will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

#### ***Seeking Work***

##### PHA Policy

If the childcare expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member's job search efforts are not commensurate with the childcare expense being allowed by the PHA.

#### ***Furthering Education***

##### PHA Policy

If the childcare expense being claimed is to enable a family member to further their education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the childcare claimed.

#### ***Being Gainfully Employed***

##### PHA Policy

If the childcare expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that childcare is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

#### ***Earned Income Limit on Child Care Expense Deduction***

When a family member looks for work or furthers their education, there is no cap on the amount that may be deducted for childcare – although the care must still be necessary and reasonable. However, when childcare enables a family member to work, the deduction is capped by “the amount of employment income that is included in annual income” [24 CFR §5.603(b)].

The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

When the person who is enabled to work is a person with disabilities who receives the earned income disallowance (EID) or a full-time student whose earned income above \$480 is excluded, childcare costs related to enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes \$15,000 but because of the EID only \$5,000 is included in annual income, childcare expenses are limited to \$5,000.

The PHA must not limit the deduction to the least expensive type of childcare. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HCV GB, p. 5-30].

#### PHA Policy

When the childcare expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, the PHA generally will limit allowable childcare expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

#### ***Eligible Child Care Expense***

The type of care to be provided is determined by the tenant family. The PHA may not refuse to give a family the childcare expense deduction because there is an adult family member in the household that may be available to provide childcare [VG, p. 26].

#### ***Allowable Child Care Activities***

##### PHA Policy

For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of childcare.

The costs of general housekeeping and personal services are not eligible. Likewise, childcare expenses paid to a family member who lives in the family's unit are not eligible; however, payments for childcare to relatives who do not live in the unit are eligible.

If a childcare provider also renders other services to a family or childcare is used to enable a family member to conduct activities that are not eligible for consideration, the PHA will prorate the costs and allow only that portion of the expenses that is attributable to childcare for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated. Unless otherwise

specified by the childcare provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

### ***Necessary and Reasonable Costs***

Childcare expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further their education, and (2) the family certifies, and the childcare provider verifies, that the expenses are not paid or reimbursed by any other source.

#### **PHA Policy**

Childcare expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For childcare that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

To establish the reasonableness of childcare costs, the PHA will use the schedule of childcare costs from a qualified -the local entity welfare agency- that either subsidizes child care costs or licenses child care providers. Families may present, and the PHA will consider, justification for costs that exceed typical costs in the area.

### **6-III.G. HARDSHIP EXEMPTIONS [24 CFR 5.611(c), (d), and (e)]**

#### **Health and Medical Care and Disability Assistance Expenses [24 CFR 5.611(c); Notice PIH 2023-27]**

The regulations provide for two types of hardship exemption categories for families that qualify for unreimbursed health and medical care expenses and/or disability assistance expenses. A family will benefit from this hardship exemption only if the family has eligible expenses that can be deducted in excess of five percent of annual income. In order to claim unreimbursed health and medical care expenses, the family must have a head, cohead, or spouse that is elderly or a person with a disability. In order to claim unreimbursed reasonable attendant care and auxiliary apparatus expenses, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed.

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Families may be eligible for relief under one of two categories: phased-in relief or general relief, as defined below.

#### **Phased-In Relief**

The first category is applicable to all families who received a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based on their most recent income review. The family must receive phased-in relief if they are determined to be eligible. These families will begin receiving a 24-month phased-in relief at their next annual or interim reexamination, whichever occurs first.

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For these families, the threshold amount is phased-in as follows:

- The family is eligible for a deduction totaling the sum of expenses that exceeds 5 percent of annual income for the first 12 months.
- At the conclusion of 12 months, the family is eligible for a deduction totaling the sum of their expenses that exceed 7.5 percent of annual income for another 12 months.
- At the conclusion of 24 months, the standard threshold amount of 10 percent would be used, unless the family qualifies for relief under the general hardship relief category.
  - When an eligible family's phased-in relief begins at an interim reexamination, the PHA will need to process another transaction one year later to move the family along to the next phase. The transaction can be either an interim reexamination if triggered, or a non-interim reexamination transaction.

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Prior to the end of the 24-month period, the family may request a hardship exemption under the second category as described below. If the family is found eligible under the second category, the hardship exemption under the first category ends, and the family's hardship is administered in accordance with the requirements listed below. Once a family requests general relief, the family may no longer receive phased-in relief.

PHAs must track the 24-month phase-period for each eligible family, even if a family's expenses go below the appropriate phase-in percentage, during the first or second 12-month phase-in period. The phase-in must continue for families who move to another public housing unit at the same PHA. When the family is treated as a new admission under a different property/program (e.g., the family moves from public housing to the HCV program), unless the PHA has a written policy to continue the phased-in relief upon admission, the family's expense deduction will be calculated using the 10-percent threshold unless request for general relief is approved by the PHA.

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#### PHA Policy

The PHA will not continue the phased-in relief for families who move from the HCV program to public housing. These families will be treated as new admissions and the sum of expenses that exceeds 10 percent of annual income will be used to calculate their adjusted income.

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#### General Relief

The second category is for families that can demonstrate:

- Their health and medical and/or disability assistance expenses increased (other than the transition to the higher threshold); or
- The family's financial hardship is a result of a change in circumstances (as defined in PHA policy) that would not otherwise trigger an interim reexamination.

The family may request a hardship exemption under the second category regardless of whether the family previously received the health and medical and/or disability assistance deductions or



are currently or were previously receiving relief under the phased-in relief category above. HUD requires that PHAs develop policies defining what constitutes a hardship for purposes of this exemption.

The PHA must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. PHAs must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

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#### PHA Policy

To qualify for a hardship exemption, a family must submit a request in writing. The request must show that the family's health and medical and/or disability assistance expenses have increased (other than the transition to the higher threshold) or that the family's financial hardship is a result of a change in circumstances. The PHA defines a change in circumstances as a decrease in income or increase in other expenses that has resulted in the family's financial hardship but does not, on its own, trigger an interim reexam in accordance with PHA policies.

Examples of circumstances constituting a financial hardship may include the following situations:

The family is awaiting an eligibility determination for a federal, state, or local assistance program, such as a determination for unemployment compensation or disability benefits;

The family's income decreased because of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster; or

Other circumstances as determined by the PHA.

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, the PHA will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

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The PHA must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions. The notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)].

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#### PHA Policy

The PHA will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

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If the PHA denies the hardship exemption request, the PHA notice will also state that if the family does not agree with the PHA determination, the family may request a hearing.

If the family qualifies for an exemption, the PHA will include the date the hardship exemption will begin and the date it will expire as well as information on how to request a 90-day extension based on family circumstances.

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If the family qualifies, the family will receive a deduction for the sum of eligible expenses that exceed five percent of annual income.

The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever is earlier. However, the PHA may, at its discretion, extend the relief for one or more additional 90-day periods while the family's hardship condition continues. PHAs are not limited to a maximum number of 90-day extensions. PHAs must establish written policies regarding the types of circumstances that will allow a family to qualify for a financial hardship and when such deductions may be eligible for additional 90-day extensions. PHAs must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

#### PHA Policy

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The PHA will extend relief for an additional 90-days if the family demonstrates to the PHA's satisfaction that the family continues to qualify for the hardship exemption based on circumstances described above. The PHA will require updated verification based on the family's current circumstances. Additional extension may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, the PHA may terminate the hardship exemption if the PHA determines that the family no longer qualifies for the exemption.

#### *Child Care Expense Hardship Exemption [24 CFR 5.611(d) and Notice PIH 2023-27]*

A family whose eligibility for the child care expense deduction is ending may request a financial hardship exemption to continue receiving the deduction. If the family demonstrates to the PHA's satisfaction that the family is unable to pay their rent because of the loss of the child care expense deduction, and that the child care expense is still necessary even though the family member is not working, looking for work, or seeking to further their education, the PHA must recalculate the family's adjusted income and continue the child care deduction.

The PHA must develop a policy to define what constitutes a hardship, which includes the family's inability to pay rent. The PHA must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. PHAs must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

#### PHA Policy

For a family to qualify, they must demonstrate that their inability to pay rent would be as a result of the loss of this deduction. The PHA defines this hardship as a potential decrease in income or increase in other expenses that would result from the loss of the child care expense and such loss would impact the family's ability to pay their rent.

Some factors to consider when determining if the family is unable to pay rent may include determining that the rent, utility payment, and applicable expenses (child care expenses or health and medical expenses) are more than 40 percent of the family's adjusted income, or verifying whether the family has experienced unanticipated expenses, such as large medical bills, that have affected their ability to pay their rent.

The family must also demonstrate that the child care expense is still necessary even though the family member is no longer employed or furthering their education. The PHA will consider qualification under this criterion on a case-by case basis (for example, if the family member who was employed has left their job in order to provide uncompensated care to an elderly friend or family member who is severely ill and lives across town).

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, the PHA will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

The PHA must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions.

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If the PHA denies the request, the notice must specifically state the reason for the denial. PHAs must provide families 30 days' notice of any increase in rent.

If the PHA approves the request, the notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)]. The notice must also state the requirement for the family to report to the PHA if the circumstances that made the family eligible for relief are no longer applicable and that the family's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption [Notice PIH 2023-27].

#### PHA Policy

The PHA will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

If the PHA denies the hardship exemption request, the PHA notice will also state that if the family does not agree with the PHA determination, the family may request a grievance hearing.

If the family qualifies for an exemption, the PHA will include all required information listed above as well as information on how to request a 90-day extension based on family circumstances.

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If the family qualifies, the hardship exemption and the resulting alternative adjusted income calculation must remain in place for a period of up to 90 days.

The PHA may, at its discretion, extend the hardship exemptions for additional 90-day periods based on family circumstances and as stated in PHA policies. PHAs are not limited to a maximum number of 90-day extensions. . PHAs must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

PHAs must promptly notify families in writing if they are denied either an initial hardship exemption or an additional 90-day extension of the exemption. If the PHA denies the request, the notice must specifically state the reason for the denial.

PHAs must notify the family if the hardship exemption is no longer necessary and the hardship exemption will be terminated because the circumstances that made the family eligible for the exemption are no longer applicable. The notice must state the termination date and provide 30 days' notice of rent increase, if applicable.

#### PHA Policy

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The PHA will extend relief for an additional 90-days if the family demonstrates to the PHA's satisfaction that the family continues to qualify for the hardship exemption. The PHA will require updated verification based on the family's current circumstances. Additional extensions may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, the PHA may terminate the hardship exemption if the PHA determines that the family no longer qualifies for the exemption.

6-II.HG. PERMISSIVE DEDUCTIONS~~Permissive Deductions~~ [24 CFR §5.611(b)(1)(i)]

The PHA may adopt additional permissive deductions from annual income if they establish a policy in the ACOP. Permissive deductions are additional, optional deductions that may be applied to annual income. As with mandatory deductions, permissive deductions must be based on need or family circumstance and deductions must be designed to encourage self-sufficiency or other economic purpose. If the PHA offers permissive deductions, they must be granted to all families that qualify for them and should complement existing income exclusions and deductions [PH Occ GB, p. 128]. Permissive deductions may be used to incentivize or encourage self-sufficiency and economic mobility.

If the PHA chooses to adopt permissive deductions, the PHA is not eligible for an increase in Capital Fund and Operating Fund formula grants based on the application of those deductions. The PHA must establish a written policy for such deductions.

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The *Form HUD-50058 Instruction Booklet* states that the maximum allowable amount for total permissive deductions is less than \$90,000 per year.

PHA Policy

The PHA has opted not to use permissive deductions.

## PART **IVH**: CALCULATING RENT

### 6-**IVH**.A. OVERVIEW OF INCOME-BASED RENT CALCULATIONS

The first step in calculating income-based rent is to determine each family's total tenant payment (TTP). Then, if the family is occupying a unit that has tenant-paid utilities, the utility allowance is subtracted from the TTP. The result of this calculation, if a positive number, is the tenant rent. If the TTP is less than the utility allowance, the result of this calculation is a negative number, and is called the utility reimbursement, which may be paid to the family or directly to the utility company by the PHA.

#### ***TTP Formula [24 CFR §5.628]***

HUD regulations specify the formula for calculating the total tenant payment (TTP) for a tenant family. TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- The welfare rent (in as-paid states only)
- A minimum rent between \$0 and \$50 that is established by the PHA

The PHA has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in Section 6-**IVH**.B.

#### ***Welfare Rent [24 CFR §5.628]***

##### PHA Policy

Welfare rent does not apply in this locality.

#### ***Minimum Rent [24 CFR §5.630]***

##### PHA Policy

The minimum rent for this locality is \$50.

#### ***Optional Changes to Income-Based Rents [24 CFR §960.253(c)(2) and PH Occ GB, pp. 131-134]***

PHAs have been given very broad flexibility to establish their own, unique rent calculation systems as long as the rent produced is not higher than that calculated using the TTP and mandatory deductions. At the discretion of the PHA, rent policies may structure a system that uses combinations of permissive deductions, escrow accounts, income-based rents, and the required flat and minimum rents.

The PHA's minimum rent and rent choice policies still apply to affected families. Utility allowances are applied to PHA designed income-based rents in the same manner as they are applied to the regulatory income-based rents.

The choices are limited only by the requirement that the method used not produce a TTP or tenant rent greater than the TTP or tenant rent produced under the regulatory formula.

PHA Policy

The PHA chooses not to adopt optional changes to income-based rents.

***Ceiling Rents / Flat Rents [24 CFR §960.253(c)(2) and (d)]***

Ceiling rents are used to cap income-based rents. They are part of the income-based formula. If the calculated TTP exceeds the ceiling rent for the unit, the ceiling rent is used to calculate tenant rent (ceiling rent/TTP minus utility allowance). Increases in income do not affect the family since the rent is capped. The use of ceiling rents fosters upward mobility and income mixing.

Because of the mandatory use of flat rents, the primary function of ceiling rents now is to assist families who cannot switch back to flat rent between annual reexaminations and would otherwise be paying an income-based tenant rent that is higher than the flat rent.

Ceiling rents must be set to the level required for flat rents (which will require the addition of the utility allowance to the flat rent for properties with tenant-paid utilities) [PH Occ GB, p. 135].

PHA Policy

The PHA chooses not to use ceiling rents.

~~For additional information regarding Flat Rents, see Chapter 6, Section 6-III.E, Chapter 9 Part II, and Chapter 16 Part II.~~

***Utility Reimbursement [24 CFR §~~982.60, 514.253~~(be); ~~982.514~~(3)]***

Utility reimbursement occurs when any applicable utility allowance for tenant-paid utilities exceeds the TTP. HUD permits the PHA to pay the reimbursement to the family or directly to the utility provider.

PHA Policy

The PHA will make all utility reimbursement payments to qualifying families ~~on a monthly basis~~ to the electric utility company(s) of their choice, ~~and the family will be notified in writing.~~

~~The PHA may make all utility reimbursement payments to qualifying families on a monthly basis or may make quarterly payments when the monthly reimbursement amount is \$15.00 or less. Reimbursements must be made once per calendar-year quarter, either prospectively or retroactively, and must be prorated if the family leaves the program in advance of its next quarterly reimbursement. The PHA must also adopt hardship policies for families for whom~~

receiving quarterly reimbursement would create a financial hardship. The PHA must issue reimbursements that exceed \$15.00 per month on a monthly basis.

PHA Policy

The PHA will issue all utility reimbursements monthly.



### ***Partial Month Calculations***

The partial month calculation for move-ins, move-outs and transfers are by dividing the monthly tenant rent amount by the actual number of days in the month and multiplying the result by actual number of days the resident lived in the unit.

## **6-IV.H.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR §5.630]**

### ***Overview***

If the PHA establishes a minimum rent greater than zero, the PHA must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the PHA determines that a hardship exists, the TTP is the highest of the remaining components of the family's calculated TTP.

### ***HUD-Defined Financial Hardship***

Financial hardship includes the following situations:

- (1) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

#### **PHA Policy**

A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.

For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

- (2) The family would be evicted because it is unable to pay the minimum rent.

#### **PHA Policy**

For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent or tenant-paid utilities.

- (3) Family income has decreased because of changed family circumstances, including the loss of employment.
- (4) A death has occurred in the family.

PHA Policy

In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).

- (5) The family has experienced other circumstances determined by the PHA.

PHA Policy

The PHA has not established any additional hardship criteria.

***Implementation of Hardship Exemption***

***Determination of Hardship***

When a family requests a financial hardship exemption, the PHA must suspend the minimum rent requirement beginning the first of the month following the family's request.

The PHA then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

PHA Policy

The PHA defines temporary hardship as a hardship expected to last 90 days or less. Long term hardship is defined as a hardship expected to last more than 90 days.

~~The PHA may not evict the family for nonpayment of minimum rent during the 90-day period beginning the month following the family's request for a hardship exemption.~~

~~When the minimum rent is suspended, the TTP reverts to the highest of the remaining components of the calculated TTP. The example in the following table demonstrates the effect of the minimum rent exemption.~~

When the minimum rent is suspended, the family share reverts to the highest of the remaining components of the calculated TTP. The example below demonstrates the effect of the minimum rent exemption.

**Example: Impact of Minimum Rent Exemption**

Assume the PHA has established a minimum rent of \$50.

TTP – No Hardship		TTP – With Hardship	
\$0	30% of monthly adjusted income	\$0	30% of monthly adjusted income
\$15	10% of monthly gross income	\$15	10% of monthly gross income
N/A	Welfare rent	N/A	Welfare rent
\$50	Minimum rent	\$50	Minimum rent
Minimum rent applies TTP = <del>\$50</del> \$5		Hardship exemption granted TTP = \$15	

**PHA Policy**

To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay the minimum rent.

The PHA will make the determination of hardship within 30 calendar days.

***No Financial Hardship***

If the PHA determines there is no financial hardship, the PHA will reinstate the minimum rent and require the family to repay the amounts suspended.

For procedures pertaining to grievance hearing requests based upon the PHA's denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

**PHA Policy**

The PHA will require the family to repay the suspended amount within 30 calendar days of the PHA's notice that a hardship exemption has not been granted.

***Temporary Hardship***

If the PHA determines that a qualifying financial hardship is temporary, the PHA must suspend ~~reinstate~~ the minimum rent for the 90-day period from the beginning of ~~the first of the month~~ following the date of the family's request for a hardship exemption.

At the end of the 90-day suspension period, ~~t~~he family must resume payment of the minimum rent and must repay the PHA the amounts suspended. HUD requires the PHA to offer a reasonable repayment agreement, on terms and conditions established by the PHA. The PHA also may determine that circumstances have changed, and the hardship is now a long-term hardship.

For procedures pertaining to grievance hearing requests based upon the PHA's denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

#### PHA Policy

The PHA will enter into a repayment agreement in accordance with the PHA's repayment agreement policy (see Chapter 16).

#### ***Long-Term Hardship***

If the PHA determines that the financial hardship is long-term, the PHA must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

#### PHA Policy

The hardship period ends when any of the following circumstances apply:

- (1) At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.
- (2) For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a \$60/month child support payment, the hardship will continue to exist until the family receives at least \$60/month in income from another source or once again begins to receive the child support.
- (3) For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

### **6-IV.H.C. UTILITY ALLOWANCES [24 CFR§ 965, SUBPART E]**

#### ***Overview***

Utility allowances are provided to families paying income-based rents when the cost of utilities is not included in the rent. When determining a family's income-based rent, the PHA must use the utility allowance applicable to the type of dwelling unit leased by the family.

For policies on establishing and updating utility allowances, see Chapter 16.

#### ***Reasonable Accommodation and Individual Relief ~~24 CFR §8; 24 CFR §965.508~~***

On request from a family, PHAs must approve a utility allowance that is higher than the applicable amount for the dwelling unit if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family with a disability [~~24~~ CFR 8 and 100, PH Occ GB, p. 172].

Likewise, rResidents with disabilities may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability [PH Occ GB, p. 172].

See Chapter 2 for policies related to reasonable accommodations.

Further, the PHA may grant requests for relief from charges in excess of the utility allowance on reasonable grounds, such as special needs of the elderly, ill, or residents with disabilities, or special factors not within control of the resident, as the PHA deems appropriate. The family must request the higher allowance and provide the PHA with an explanation about the additional allowance required.

PHAs should develop criteria for granting individual relief, notify residents about the availability of individual relief, and notify participants about the availability of individual relief programs (sometimes referred to as "Medical Baseline discounts") offered by the local utility company [Utility Allowance GB, p. 19; 24 CFR §965.508].

#### PHA Policy

The family must request the higher allowance and provide the PHA with information about the amount of additional allowance required.

The PHA will consider the following criteria as valid reasons for granting individual relief:

The family's consumption was mistakenly portrayed as excessive due to defects in the meter or errors in the meter reading.

The excessive consumption is caused by a characteristic of the unit or owner-supplied equipment that is beyond the family's control, such as a particularly inefficient refrigerator or inadequate insulation. The allowance should be adjusted to reflect the higher consumption needs associated with the unit until the situation is remedied. The resident should be granted individual relief until the allowance is adjusted.

The excessive consumption is due to special needs of the family that are beyond their control, such as the need for specialized equipment in the case of a family member who is ill, elderly, or who has a disability.

In determining the amount of the reasonable accommodation or individual relief, the PHA will allow a reasonable measure of additional usage as necessary. To arrive at the amount of additional utility cost of specific equipment, the family may provide information from the manufacturer of the equipment, or the family or PHA may conduct an internet search for an estimate of usage or additional monthly cost.

Information on reasonable accommodation and individual relief for charges in excess of the utility allowance will be provided to all residents at move-in and with any notice of proposed allowances, schedule surcharges, and revisions. The PHA will also provide

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information on utility relief programs or medical discounts (sometimes referred to as “Medical Baseline discounts”) that may be available through local utility providers.

The family must request the higher allowance and provide the PHA with information about the amount of additional allowance required.

At its discretion, the PHA may reevaluate the need for the increased utility allowance as a reasonable accommodation at any regular reexamination.

If the excessive consumption is caused by a characteristic of the unit or PHA-supplied equipment that is beyond the family’s control, such as a particularly inefficient refrigerator or inadequate insulation, the individual relief to the resident will cease when the situation is remedied.

#### **Utility Allowance Revisions [24 CFR §965.507~~5~~, §965.507]**

The PHA must review at least annually the basis on which its schedule of utility allowances have been established and, if reasonably required in order to continue adherence to standards described in 24 CFR 965.505, must establish revised allowances.

~~each year. Between annual reviews,~~ The PHA must revise the utility allowance schedule if there is a rate change that by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rates on which such allowances were based.

Adjustments to resident payments as a result of such changes must be retroactive to the first day of the month following the month in which the last rate change taken into account in such revision became effective. Such rate changes are not subject to the 60-day notice [24 CFR §965.507(b)].

The tenant rent calculations must reflect any changes in the PHA's utility allowance schedule [24 CFR §960.253(c)(3)].

##### PHA Policy

Between annual reviews of utility allowances, the PHA will only revise its utility allowances due to a rate change, when required to by the regulation.

#### **6-IV~~H~~.D. PRORATED RENT FOR MIXED FAMILIES [24 CFR §5.520]**

HUD regulations prohibit assistance to ineligible family members. A *mixed family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. Except for non-public housing over income families, The PHA must prorate the assistance provided to a mixed family. The PHA will first determine TTP as if all family members were eligible and then prorate the rent based upon the number of family members that actually are eligible. To do this, the PHA must:

- (1) Subtract the TTP from the flat rent applicable to the unit. The result is the maximum subsidy for which the family could qualify if all members were eligible.
- (2) Divide the family maximum subsidy by the number of persons in the family to determine the maximum subsidy per each family member who is eligible (member maximum subsidy).
- (3) Multiply the member maximum subsidy by the number of eligible family members.
- (4) Subtract the subsidy calculated in the last step from the flat rent. This is the prorated TTP.
- (5) Subtract the utility allowance for the unit from the prorated TTP. This is the prorated rent for the mixed family.

PHA Policy

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Revised public housing flat rents will be applied to a mixed family's rent calculation at the first annual reexamination after the revision is adopted.

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- (6) When the mixed family's TTP is greater than the applicable flat rent, use the TTP as the prorated TTP. The prorated TTP minus the utility allowance is the prorated rent for the mixed family.

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**6-IV.H.E. FLAT RENTS AND FAMILY CHOICE IN RENTS [24 CFR §960.253]; ~~PHH 2021-27~~**

***Flat Rents [24 CFR §960.253(b)]***

The flat rent is designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient.

Changes in family income, expenses, or composition will not affect the flat rent amount because it is outside the income-based formula.

Policies related to the reexamination of families paying flat rent are contained in Chapter 9, and policies related to the establishment and ~~the~~ review of flat rents are contained in Chapter 16.

**Family Choice in Rents [24 CFR 960.253(a) and (e)]**

With the exception of non-public housing over income families, once each year, the PHA must offer families the choice between a flat rent and an income-based rent. The family may not be offered this choice more than once a year. The PHA must document that flat rents were offered to families under the methods used to determine flat rents for the PHA.

PHA Policy

The annual PHA offer to a family of the choice between flat and income-based rent will be conducted upon admission and upon each subsequent annual reexamination.

The PHA will require families to submit their choice of flat or income-based rent in writing and will maintain such requests in the tenant file as part of the admission or annual reexamination process.

The PHA must provide sufficient information for families to make an informed choice. This information must include the PHA's policy on switching from flat rent to income-based rent due to financial hardship and the dollar amount of the rent under each option. However, if the family chose the flat rent for the previous year the PHA is required to provide an income-based rent



amount only in the year that a reexamination of income is conducted or if the family specifically requests it and submits updated income information.

***Annual Review of Rent Options (Family Choice) [24 CFR §960.253(a); §960.253(e); §960.253(f)]***

24 CFR §960.253(a) requires PHAs to annually offer families the option to choose between paying a flat rent or an income-based rent.

The regulations also stipulate that a family may not be offered this choice more than once a year, except in the case that the family has chosen the flat rent and experiences a financial hardship.

The PHA must document that flat rents were offered to families under the methods used to determine flat rents for the PHA.

24 CFR §960.253(e), ***Information for families***, stipulates the PHA must provide sufficient information for families to make an informed choice regarding rent options. This information must include the following written information:

- PHA's policy on switching from flat rent to income-based rent due to financial hardship, and
- the dollar amount of the rent under each option.

For families who choose to pay flat rents, PHAs are provided the flexibility not to conduct income reexaminations annually.

24 CFR §960.253(f) and §960.257(a)(2) provide that families must be offered the choice of rent type annually, and for families that chose to pay flat rents PHAs must conduct reexaminations of family income at least once every 3 years, not annually.

In years when a PHA does not conduct a full reexamination of family income, **PHAs are not released** from the requirement to give the family the option of paying the flat rent or the income-based rent as calculated from the most recent examination of family income and composition.

In order to comply with the requirements to review rent options annually with families, and to provide families with sufficient information to make an informed choice, PHAs must do the following:

***Initial Occupancy***

At initial occupancy, or in any year where a current program participating family is paying the income-based rent:

1. Conduct a full examination 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 examination of family income and composition;

3. ~~Inform the family of the PHA's policies on switching rent types due to financial hardship; and~~

4. ~~Apply the family's rent decision at the next lease renewal.~~

### ***Second and Third Annual Reexaminations—Flat Rents***

~~At the second and third annual rent options, for families that choose to switch from income-based rent to pay the flat rent:~~

- ~~1. PHAs may, but are not required to, conduct a full examination of family income and composition for the second and third annual rent options. If a PHA chooses not to conduct an examination of family income for these annual rent options, PHAs must use the income information from the examination of family income and composition from the first annual rent option;~~
- ~~2. PHAs must inform the family of the updated flat rent amount, and the rent amount determined by the most recent examination of family income and composition;~~
- ~~3. PHAs must inform the family of the PHA's policies on switching rent types due to financial hardship; and;~~
- ~~4. PHAs must apply the family's rent decision at the next lease renewal.~~

### **PHA Policy**

~~The annual PHA offer to a family of the choice between flat and income-based rent will be conducted upon admission and upon each subsequent annual reexamination.~~

~~The PHA will require families to submit their choice of flat or income-based rent in writing and will maintain such requests in the tenant file as part of the admission or annual reexamination process.~~

~~If a tenant has paid the flat rent for the previous three years, and during this same three years, if the PHA has not conducted an annual reexamination of income and composition in those three years, the PHA must complete a full reexamination in order to update the income-based rent amount. For families paying the flat rent, the PHA will conduct a full reexamination after year 3.~~

~~The flat rent amount is not locked in for the three-year period without an annual reexamination.~~

~~The PHA must revise the flat rent amount every year based on FMR updates. The flat rent amount offered to a tenant will be based on the new FMR updated flat rent calculation.~~

### ***Switching from Flat Rent to Income-Based Rent Due to Hardship [24 CFR §960.253(fg)]***

~~With the exception of non-public housing over-income families, a family can opt to that is paying a flat rent may at any time request a switch from flat rent to income-based rent at any time if they are unable to pay the flat rent due to financial hardship. to payment of income-based rent (before the next annual option to select the type of rent) if the family is unable to pay flat rent because of financial hardship.~~ If the PHA determines that a financial hardship exists, the PHA must immediately allow the family to switch from flat rent to the income-based rent.

#### **PHA Policy**

Upon determination by the PHA that a financial hardship exists, the PHA will allow a family to switch from flat rent to income-based rent effective the first of the month following the family's request.

There is no regulatory authority to allow a switch from income-based to flat rent at any time for a hardship. The family can only switch to flat rent at the annual review.

Reasons for financial hardship include:

- The family has experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings or other assistance
- The family has experienced an increase in expenses, because of changed circumstances, for medical costs, childcare, transportation, education, or similar items
- Such other situations determined by the PHA to be appropriate

#### **PHA Policy**

The PHA considers payment of flat rent to be a financial hardship whenever the switch to income-based rent would be lower than the flat rent [PH Occ GB, p. 137].

### ***Phasing In Flat Rents [Notice PIH 2021-27; 2022-33; 24 CFR §960.253(b); NEW PH OCC GB, 2.4]***

~~When new flat rents requirements were implemented in 2014, HUD limited the increase for existing residents paying flat rent at that time to no more than 35 percent of the current tenant rent per year. In some cases, this meant that some residents had or will have their flat rents phased in at the time of their annual recertification. To do this, PHAs conduct a flat rent impact analysis to determine whether a phase-in is or was necessary. For families whose flat rent is being phased in, the PHA must multiply the family's current rent amount by 1.35 and compare the result to the flat rent under the PHA's policies.~~

~~If an existing flat rent tenant's rental payment prior to any applicable adjustments for utilities payments increases by more than 35 percent 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 percent.~~

To determine how to phase in increases in rental payments, PHAs must on a case-by-case basis, at the family's next annual rent option, 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:

- If the new flat rent amount would not increase a family's rental payment by more than 35 percent, the family may choose to pay either the updated flat rent amount or the previously calculated income-based rent; OR
- If the PHA determines that the updated flat rent amount would increase a household's rental payment by more than 35 percent, 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.

in:

Notices PHH 2021-27 and 2022-33 requires that flat rents must be phased in at the full 35 percent per year. PHAs do not have the option of phasing in flat rent increases at less than 35 percent per year.

**Example:** A family was paying a flat rent of \$500 per month. At their annual recertification, the PHA has increased the flat rent for their unit size to comply with the new requirements to \$700. The PHA conducted a flat rent impact analysis as follows:

$$\$500 \times 1.35 = \$675$$

Since the PHA's increased flat rent of \$700 resulted in a rent increase of more than 35 percent, the PHA offered the family the choice to pay either \$675 per month or an income-based rent. The flat rent increase was phased in. At their next annual recertification in November 2015, the PHA will again multiply the family's current flat rent by 1.35 and compare the results to the PHA's current flat rent.

#### ***Flat Rents and Earned Income Disallowance [A&O FAQs]***

Because the EID is a function of income-based rents, a family paying flat rent cannot qualify for the EID even if a family member experiences an event that would qualify the family for the EID.

If the family later chooses to pay income-based rent, they would only qualify for the EID if a new qualifying event occurred.

Under the EID original calculation method, a family currently paying flat rent that previously qualified for the EID while paying income-based rent and is currently within their exclusion period would have the exclusion period continue while paying flat rent as long as the employment that is the subject of the exclusion continues. A family paying flat rent could therefore see a family member's exclusion period expire while the family is paying flat rent.

Under the EID revised calculation method, a family currently paying flat rent that previously qualified for the EID while paying income-based rent and is currently within their exclusion

period would have the exclusion period continue while paying flat rent regardless whether the employment that is the subject of the exclusion continues. A family paying flat rent could therefore see a family member's exclusion period expire while the family is paying flat rent.

EXHIBIT 6-1: Annual Income Inclusions

**24 CFR §5.609a) Annual income means all amounts, monetary or not, which:**

- (1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
  - (2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
  - (3) Which are not specifically excluded in paragraph (c) of this section.
- (4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

**(b) Annual income includes, but is not limited to:**

- (1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
- (2) The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;
- (3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital

- indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;
- (4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);
  - (5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);
  - (6) Welfare assistance payments:
    - (i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:
      - (A) Qualify as assistance under the TANF program definition at 45 CFR 260.311; and
      - (B) Are not otherwise excluded under paragraph (c) of this section.

<sup>1</sup>Text of 45 CFR 260.31 follows (next page).

(ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

(A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or 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 calculated under this paragraph shall be the amount resulting from one application of the percentage.

(7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;

(8) All regular pay, special pay, and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section)

(9) For section 8 programs only and as provided in 24 CFR §5.612, any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 *et seq.*), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, "financial assistance" does not include loan proceeds for the purpose of determining income.

**HHS DEFINITION OF  
"ASSISTANCE"**

**45 CFR: GENERAL TEMPORARY ASSISTANCE  
FOR NEEDY FAMILIES**

**§260.31 What does the term "assistance"  
mean?**

(a)(1) 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).

(2) It includes such benefits even when they are:

(i) Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and

(ii) Conditioned on participation in work experience or community service (or any other work activity under 261.30 of this chapter).

(3) Except where excluded under paragraph (b) of this section, it also includes supportive services such as transportation and childcare provided to families who are not employed.

(b) [The definition of "assistance"] excludes:

(1) Nonrecurring, short-term benefits that:

(i) Are designed to deal with a specific crisis situation or episode of need;

(ii) Are not intended to meet recurrent or ongoing needs; and

(iii) Will not extend beyond four months.

(2) Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);

(3) Supportive services such as childcare and transportation provided to families who are employed;

(4) Refundable earned-income tax credits;

(5) Contributions to, and distributions from, Individual Development Accounts;

(6) Services such as counseling, case management, peer support, childcare information and referral, transitional services, job retention, job advancement, and other



~~employment-related services that do not provide basic income support; and~~  
~~(7) Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of [the Social Security] Act, to an individual who is not otherwise receiving assistance.~~

**EXHIBIT 6-12: ANNUAL INCOME Annual Income-FULL DEFINITION Exclusions**

**24 CFR §5.609**

(a) Annual income includes, with respect to the family:

(1) All amounts, not specifically excluded in paragraph (b) of this section, 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

(2) 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.

(b) Annual income does not include the following:

(1) Any imputed return on an asset when net family assets total \$50,000 or less (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and no actual income from the net family assets can be determined.

(2) The following types of trust distributions:

(i) For an irrevocable trust or a revocable trust outside the control of the family or household excluded from the definition of net family assets under § 5.603(b):

(A) Distributions of the principal or corpus of the trust; and

(B) Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.

(ii) 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.

(3) Earned income of children under the 18 years of age.

(4) Payments received for the care of foster children or foster adults, or State or Tribal kinship or guardianship care payments.

(5) Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation.

(6) 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.

(7) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled.

(8) Income of a live-in aide, foster child, or foster adult as defined in §§ 5.403 and 5.603, respectively.

(9)

(i) Any assistance that section 479B of the Higher Education Act of 1965, as amended (20 U.S.C. 1087uu), requires be excluded from a family's income; and

(ii) Student financial assistance for tuition, books, and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and other fees required and charged to a student by an institution of higher education (as defined under Section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) 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.

(A) Student financial assistance, for purposes of this paragraph (9)(ii), means a grant or scholarship received from—

(1) The Federal government;

(2) A State, 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.

(B) Student financial assistance, for purposes of this paragraph (9)(ii), does not include—

(1) Any assistance that is excluded pursuant to paragraph (b)(9)(i) of this section;

(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 pursuant to paragraph (b)(9)(i) of this section);

(3) Gifts, including gifts from family or friends; or

(4) Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under this paragraph or paragraph (b)(9)(i), exceeds the actual covered costs of the student. The actual covered costs of the student are the actual costs of tuition, books and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, or other fees required and charged to a student by the education institution, 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. This calculation is described further in paragraph (b)(9)(ii) of this section.

(C) Student financial assistance, for purposes of this paragraph (b)(9)(ii) must be:

(1) Expressly for tuition, books, room and board, or other fees required and charged to a student by the education institution;

(2) Expressly to assist a student with the costs of higher education; or

(3) 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.

(D) Student financial assistance, for purposes of this paragraph (b)(9)(ii), may be paid directly to the student or to the educational institution on the student's behalf. Student financial assistance paid to the student must be verified by the responsible entity as student financial assistance consistent with this paragraph (b)(9)(ii).

(E) When the student is also receiving assistance excluded under paragraph (b)(9)(i) of this section, the amount of student financial assistance under this paragraph (b)(9)(ii) is determined as follows:

(1) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is equal to or exceeds the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, none of the assistance described in this paragraph (b)(9)(ii) of this section is considered student financial assistance excluded from income under this paragraph (b)(9)(ii)(E).

(2) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is less than the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, the amount of assistance described in paragraph (b)(9)(ii) of this section that is considered student financial assistance excluded under this paragraph is the lower of:

(i) the total amount of student financial assistance received under this paragraph (b)(9)(ii) of this section, or

(ii) the amount by which the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section exceeds the assistance excluded under paragraph (b)(9)(i) of this section.

(10) Income and distributions from any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and income earned by government contributions to, and distributions from, "baby bond" accounts created, authorized, or funded by Federal, State, or local government.

(11) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.

(12)

(i) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

(ii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (e.g., special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;

(iii) Amounts received under a resident service stipend not to exceed \$200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development.

(iv) 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. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the employment training program unless those amounts are excluded under paragraph (b)(9)(i) of this section.

(13) 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.

(14) Earned income of dependent fulltime students in excess of the amount of the deduction for a dependent in § 5.611.

(15) Adoption assistance payments for a child in excess of the amount of the deduction for a dependent in § 5.611.

(16) Deferred periodic amounts from Supplemental Security Income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts.

(17) Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance.

(18) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit.

(19) Payments made by or authorized by a State Medicaid agency (including through a managed care entity) or other State or Federal agency to a family to enable a family member who has a disability to reside in the family's assisted unit. 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.

(20) 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).

(21) Payments received by Tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other Federal law.

(22) Amounts that HUD is required by Federal statute to exclude 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 paragraph (b) of this section apply. HUD will publish a notice in the Federal Register to identify the benefits that qualify for this exclusion. Updates will be published when necessary.

(23) 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) Nonrecurring income, which is income that will not be repeated in the coming year based on information provided by the family. Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under this paragraph, even if the source, date, or amount of the income varies. Nonrecurring income includes:

(i) 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.

(ii) Direct Federal or State payments intended for economic stimulus or recovery.

(iii) Amounts directly received by the family as a result of State refundable tax credits or State tax refunds at the time they are received.

(iv) Amounts directly received by the family as a result of Federal refundable tax credits and Federal tax refunds at the time they are received.

(v) Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries).

(vi) Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization.

(vii) Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings.

(25) Civil rights settlements or judgments, including settlements or judgments for back pay.

(26) Income received from any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; except that any distribution of periodic payments from such accounts shall be income at the time they are received by the family.

(27) Income earned on amounts placed in a family's Family Self Sufficiency Account.

(28) 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:

(i) Net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations; and

(ii) 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.

(e) Annual income does not include the following:

(1) Income from employment of children (including foster children) under the age of 18 years;

(2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);

(3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section);

(4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;

(5) Income of a live-in aide, as defined in Sec. 5.403;

(6) Subject to paragraph (b)(9) of this section, the full amount of student financial assistance paid directly to the student or to the educational institution;

(7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;

(8) (i) Amounts received under training programs funded by HUD;

(ii) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self Sufficiency (PASS);

(iii) 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;

(iv) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time;

(v) Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program;

(9) Temporary, nonrecurring, or sporadic income (including gifts);

(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;

(11) Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);

(12) Adoption assistance payments in excess of \$480 per adopted child;

(13) [Reserved]

(14) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or prospective monthly amounts.

(15) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;

(16) Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or

(17) 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(e) apply. A notice will be published in the Federal Register and distributed to PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary. [See the following chart for a list of benefits that qualify for this exclusion.]

**EXHIBIT 6-23: Treatment of Family Assets**

**24 CFR §5.603(b) Net Family Assets**

(1) 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.

(2) In determining net family assets, PHAs or owners, as applicable, must include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

(3) Excluded from the calculation of net family assets are: (i) The value of necessary items of personal property; (ii) The combined value of all nonnecessary items of personal property if the combined total value does not exceed \$50,000 (which amount will be adjusted by HUD in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers); (iii) The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; (iv) 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; (v) 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 family member being a person with a disability; (vi) The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986, the value of any qualified tuition program under section 529 of such Code, the value of any Achieving a Better Life Experience (ABLE) account authorized under Section 529A of such Code, and the value of any "baby bond" account created, authorized, or funded by Federal, State, or local government. (vii) Interests in Indian trust land; (viii) Equity in a manufactured home where the family receives assistance under 24 CFR part 982; (ix) Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982; (x) Family Self-Sufficiency Accounts; and (xi) Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family.

(4) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the trust fund is not a family asset and the value of the trust is not included in the calculation of net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household. (1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land, and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

(2) In cases where a trust fund has been established and the trust is not revocable by, or



under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under Sec. 5.609.

(3) In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

(4) For purposes of determining annual income under Sec. 5.609, the term "net family assets" does not include the value of a home currently being purchased with assistance under part 982, subpart M of this title. This exclusion is limited to the first 10 years after the purchase date of the home.

#### ***EXHIBIT 6-4: Earned Income Disallowance***

##### **24 CFR §960.255 Self-sufficiency incentive— Disallowance of increase in annual income.**

(a) *Definitions.* The following definitions apply for purposes of this section:

*Baseline income.* The annual income immediately prior to implementation of the disallowance described in paragraph (c)(1) of this section of a person who is a member of a qualified family.

*Disallowance.* Exclusion from annual income.

*Previously unemployed* includes a person who has earned, in the twelve 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.

*Qualified family.* A family residing in public housing:

(i) Whose annual income increases as a result of employment of a family member who was unemployed for one or more years previous to employment;

(ii) 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

(iii) Whose annual income increases, as a result of new employment or increased earnings of a family member, during or within six months after receiving assistance, benefits, or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the PHA in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare to Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies, and transportation assistance—provided that the total amount over a six-month period is at least \$500.

(b) *Disallowance of increase in annual income.*

(1) *Initial twelve-month exclusion.* During the 12-month period beginning on the date on which

a member of a qualified family is first employed, or the family first experiences an increase in annual income attributable to employment, the PHA must exclude from the annual income (as defined in §5.609 of this title) of a qualified family any increase in the income of the family member as a result of employment over the baseline income of that family member.

(2) *Phase-in of rent increase.* Upon the expiration of the 12-month period defined in paragraph (b)(1) of this section and for the subsequent 12-month period, the PHA must exclude from the annual income of a qualified family at least 50 percent of any increase in income of such family member as a result of employment over the family member's baseline income.

(3) *Maximum 2-year disallowance.* The disallowance of increased income of an individual family member as provided in paragraph (b)(1) or (b)(2) of this section is limited to a lifetime 24-month period. It applies for a maximum of 12 months for disallowance under paragraph (b)(1) of this section and a maximum of 12 months for disallowance under paragraph (b)(2) of this section, during the 24-month period starting from the initial exclusion under paragraph (b)(1) of this section.

(4) *Effect of changes on currently participating families.* Families eligible for and participating in the disallowance of earned income under this section prior to May 9, 2016, will continue to be governed by this section in effect as it existed immediately prior to that date.

(c) *Inapplicability to admission.* The disallowance of increases in income as a result of employment under this section does not apply for purposes of admission to the program (including the determination of income eligibility and income targeting).

~~(d) *Individual Savings Accounts.* As an alternative to the disallowance of increases in income as a result of employment described in paragraph (b) of this section, a PHA may choose to provide for individual savings accounts for public housing residents who pay an income-based rent, in accordance with a written policy, which must include the following provisions:~~

~~(1) The PHA must advise the family that the savings account option is available;~~

~~(2) At the option of the family, the PHA must deposit in the savings account the total amount that would have been included in tenant rent payable to the PHA as a result of increased income that is disallowed in accordance with paragraph (b) of this section;~~

~~(3) Amounts deposited in a savings account may be withdrawn only for the purpose of:~~

~~(i) Purchasing a home;~~

~~(ii) Paying education costs of family members;~~

~~(iii) Moving out of public or assisted housing; or~~

~~(iv) Paying any other expense authorized by the PHA for the purpose of promoting the economic self-sufficiency of residents of public housing;~~

~~(4) The PHA must maintain the account in an interest-bearing investment and must credit the family with the net interest income, and the PHA may not charge a fee for maintaining the account;~~

~~(5) At least annually the PHA must provide the family with a report on the status of the account; and~~

~~(6) If the family moves out of public housing, the PHA shall pay the tenant any balance in the account, minus any amounts owed to the PHA~~

***EXHIBIT 6-35: The Effect of Welfare Benefit Reduction***

**24 CFR §5.615 - Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.**

*(a) Applicability.* This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

*(b) Definitions.* The following definitions apply for purposes of this section:

*Covered families.* Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare 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 for such assistance.

*Economic self-sufficiency program.* See definition at Sec. 5.603.

*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.

*Specified welfare benefit reduction.*

(1) 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 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.

(2) "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:

(i) at expiration of a lifetime or other time limit on the payment of welfare benefits;

(ii) 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

(iii) because a family member has not complied with other welfare agency requirements.

*(c) Imputed welfare income.*

(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to the PHA by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.

(2) At the request of the PHA, the welfare agency will inform the PHA in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform the PHA of any subsequent changes in the term or amount of such specified welfare benefit reduction. The PHA will use this information to determine the amount of imputed welfare income for a family.

(3) A family's annual income includes imputed welfare income in family annual income, as determined at the PHA's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to the PHA by the welfare agency).

(4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed

(5) The PHA may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

*(d) Review of PHA decision.*

(1) Public housing. If a public housing tenant claims that the PHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the tenant written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. The PHA notice shall also state that if the tenant does not agree with the PHA determination, the tenant may request a

grievance hearing in accordance with part 966, subpart B of this title to review the PHA determination. The tenant is not required to pay an escrow deposit pursuant to Sec. 966.55(e) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on the PHA determination.

(2) Section 8 participant. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the PHA determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the family written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the PHA determination, the family may request an informal hearing on the determination under the PHA hearing procedure.

*(e) PHA relation with welfare agency.*

(1) The PHA must ask welfare agencies to inform the PHA of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting

the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the PHA written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(2) The PHA is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency and specified in the notice by the welfare agency to the PHA. However, the PHA is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

(3) Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The PHA shall be entitled to rely on the welfare agency notice to the PHA of the welfare agency's determination of a specified welfare benefits reduction

## Chapter 7

### **VERIFICATION**

[24 CFR §960.259, 24 CFR §5.230 Notice PIH 2023~~18~~-27~~18~~]

#### **INTRODUCTION**

The PHA must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain written authorization from the family in order to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. The PHA must not pass on the cost of verification to the family.

The PHA must follow the verification guidance provided by ~~will follow the verification guidance provided by~~ HUD in Notice PIH ~~Notice~~ 2023-27~~202318-2718~~ and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary PHA policies.

Part I describes the general verification process. Part II provides more detailed requirements related to family information. Part III provides information on income and assets, and Part IV covers mandatory deductions.

**Part I: General Verification Requirements.** ~~Part I describes the general verification requirements for the Public Housing program.~~

**Part II: Verifying Family Information.** ~~This part provides more detailed requirements related to family information.~~

**Part III: Verifying Income and Assets.** ~~This part provides information on income and assets.~~

**Part IV: Verifying Mandatory Deductions.** ~~This part provides additional information regarding mandatory deductions.~~

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies established by the PHA.

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## PART I: GENERAL VERIFICATION REQUIREMENTS

### 7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR §960.259, 24 CFR §5.230; **AND NOTICE PIH 2023-27**]

~~The family must supply any information that the PHA or HUD determines is necessary to the administration of the program and must consent to PHA verification of that information [24 CFR §960.259(a)(1)].~~

#### **Consent Forms**

The family must supply any information that the PHA or HUD determines is necessary to the administration of the program and must consent to PHA verification of that information [24 CFR 960.259(a)(1)]. All adult family members must sign consent forms as needed to collect information relevant to the family's eligibility and level of assistance. While PHAs must use form HUD-9886, this form does not release all the information necessary to the administration of the program. The PHA must also develop its own release forms to cover all other necessary information.

~~It is required that all adult applicants and tenants sign form HUD-9886, Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the PHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.~~

#### **Form HUD-9886 [24 CFR 5.230(b)(1), (b)(2), (c)(4), and (c)(5); Notice PIH 2023-27]**

All adult applicants and tenants must sign form HUD-9886, Authorization for Release of Information. All adult family members (and the head and spouse/cohead regardless of age) are required to sign the Form HUD-9886 at admission. Participants, prior to January 1, 2024, signed and submitted Form HUD-9886 at each annual reexamination. HOTMA eliminated this requirement and instead required that the Form HUD-9886 be signed only once. On or after January 1, 2024 (regardless of the PHA's HOTMA compliance date), current program participants must sign and submit a new Form HUD-9886 at their next interim or annual reexamination. This form will only be signed once. Another Form HUD-9886 will not be submitted to the PHA except under the following circumstances:

- When any person 18 years or older becomes a member of the family;
- When a current member of the family turns 18; or
- As required by HUD or the PHA in administrative instructions.

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The PHA has the discretion to establish policies around when family members must sign consent forms when they turn 18. PHAs must establish these policies stating when family members will be required to sign consent forms at intervals other than at reexamination.

#### PHA Policy

Family members turning 18 years of age between annual recertifications will be notified in writing that they are required to sign the required Consent to the Release of Information Form HUD-9886 at the family's next annual or interim reexamination, whichever is earlier.

The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the PHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA).

The PHA may 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 [24 CFR 5.230(c)(4)].

The executed form will remain effective until the family is denied assistance, assistance is terminated, or the family provides written notification to the PHA to revoke consent.

#### ***Penalties for Failing to Consent [24 CFR §5.232]***

If any family member who is required to sign a consent form fails to do so, the PHA will deny admission to applicants and terminate the lease of tenants [24 CFR 5.232(a)]. The family may request a hearing in accordance with the PHA's grievance procedures.

However, this does not apply if the applicant, participant, or any member of their family, revokes their consent with respect to the ability of the PHA to access financial records from financial institutions, unless the PHA establishes a policy that revocation of consent to access financial records will result in denial or termination of assistance or admission [24 CFR 5.232(c)]. PHAs may not process interim or annual reexaminations of income without the family's executed consent forms.

#### PHA Policy

The PHA has established a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance in accordance with PHA policy.

In order for a family to revoke their consent, the family must provide written notice to the PHA.



Within 10 business days of the date the family provides written notice, the PHA will send the family a notice acknowledging receipt of the request and explaining that revocation of consent will result in denial or termination of assistance, as applicable. At the same time, the PHA will notify the local HUD office.

**7-I.B. USE OF OTHER PROGRAMS' INCOME DETERMINATIONS [24 CFR 5.609(C)(3) AND NOTICE PIH 2023-27] OVERVIEW OF VERIFICATION REQUIREMENTS**

PHAs may, but are not required to, determine a family's annual income, including income from assets, prior to the application of any deductions, based on income determinations made within the previous 12-month period, using income determinations from means-tested federal public assistance programs. PHAs are not required to accept or use determinations of income from other federal means-tested forms of assistance. If the PHA adopts a policy to accept this type of verification, the PHA must establish in policy when they will accept Safe Harbor income determinations and from which programs. PHAs must also create policies that outline the course of action when families present multiple verifications from the same or different acceptable Safe Harbor programs. Means-tested federal public assistance programs include:

- Temporary Assistance for Needy Families (TANF) (42 U.S.C. 601, et seq.);
- Medicaid (42 U.S.C. 1396 et seq.);
- Supplemental Nutrition Assistance Program (SNAP) (42 U.S.C. 2011 et seq.);
- Earned Income Tax Credit (EITC) (26 U.S.C. 32);
- Low-Income Housing Credit (LIHTC) program (26 U.S.C. 42);
- Special Supplemental Nutrition Program for Woman, Infants, and Children (WIC) (42 U.S.C. 1786);
- Supplemental Security Income (SSI) (42 U.S.C. 1381 et seq.);
- Other programs administered by the HUD Secretary;
- Other means-tested forms of federal public assistance for which HUD has established a memorandum of understanding; and
- 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*.

If the PHA elects to use the annual income determination from one of the above-listed forms of means-tested federal public assistance, then they must obtain the income information by means of a third-party verification. The third-party verification must state the family size, must be for the entire family, and must state the amount of the family's annual income. The annual income need not be broken down by family member or income type. Annual income includes income earned from assets, therefore when using Safe Harbor to verify a family's income, PHAs will neither further inquire about a family's net family assets, nor about the income earned from those assets, except with respect to whether or not the family owns assets that exceed the asset limitation in 24 CFR 5.618. The Safe Harbor documentation will be considered acceptable if any of the following dates fall into the 12-month period prior to the receipt of the documentation by the PHA:

- Income determination effective date;
- Program administrator's signature date;
- Family's signature date;
- Report effective date; or
- Other report-specific dates that verify the income determination date.

The only information that PHAs are permitted to use to determine income under this method is the total income determination made by the federal means-tested program administrator. Other federal programs may provide additional information about income inclusions and exclusions in their award letters; however, these determinations and any other information must not be considered by the PHA. PHAs are not permitted to mix and match Safe Harbor income determinations and other income verifications.

If the PHA is unable to obtain Safe Harbor documentation or if the family disputes the other program's income determination, the PHA must calculate the family's annual income using traditional methods as outlined in Notice PIH 2023-27 and this chapter.

If the PHA uses a Safe Harbor determination to determine the family's income, the family is obligated to report changes in income that meet the PHA's reporting requirement and occur after the effective date of the transaction.

The amounts of unreimbursed reasonable attendant care expenses and child-care expenses deducted from a family's annual income, except for when a family is approved for a child-care expense hardship exemption, must still be capped by the amount earned by any family member who is enabled to work as a result of the expense. PHAs are therefore required to obtain third-party verification of the applicable employment income and cap the respective expense deductions accordingly.

#### PHA Policy

When available and applicable, the PHA will accept other programs' Safe Harbor determinations of income at annual reexamination to determine the family's total annual income. The PHA will still require third-party verification of all deductions such as the health and medical care expense or child care expense deductions. Further, if the family is eligible for and claims the disability assistance expense or child care expense deductions, where applicable, the PHA will obtain third-party verification of the amount of employment income of the individual(s) enabled to work in order to cap the respective expenses as required.

Prior to using any Safe Harbor determination from another program, the PHA will ask the family if they agree with the income amounts listed. If the family disputes the income amounts on the Safe Harbor determination, the PHA will obtain third-party verification of all sources of income and assets (as applicable).

The PHA will not accept other programs' determinations of income for any new admission or interim reexamination.

With the exception of income determinations made under the Low-Income Housing Tax Credit (LIHTC) program, the PHA will accept Safe Harbor determinations from any of the programs listed above.

In order to be acceptable, the income determination must:

Be dated within 12 months of the dates listed above;

State the family size;

Be for the entire family (i.e., the family members listed in the documentation must match the family's composition in the assisted unit, except for household members); and

Must state the amount of the family's annual income.

The determination need not list each source of income individually. If the PHA does not receive any acceptable income determination documentation or is unable to obtain documentation, then the PHA will revert to third-party verification of income for the family.

When families present multiple verifications from the same or different acceptable Safe Harbor programs, the PHA will use the most recent income determination, unless the family presents acceptable evidence that the PHA should consider an alternative verification from a different Safe Harbor source.

When the PHA uses a Safe Harbor income determination from another program, and the family's income subsequently changes, the family is required to report the change to the PHA. Depending on when the change occurred, the change may or may not impact the PHA's calculation of the family's total annual income. Changes that occur between the time the PHA receives the Safe Harbor documentation and the effective date of the family's annual reexam will not be considered. If the family has a change in income that occurs after the annual reexam effective date, the PHA will conduct an interim reexam if the change meets the requirements for performing an interim reexamination as outlined in Chapter 9. In this case, the PHA will use third-party verification to verify the change.

#### **7-I.C. STREAMLINED INCOME DETERMINATIONS [24 CFR 960.257(c); Notice PIH 2023-27]**

HUD permits PHAs to streamline the income determination process for family members with fixed sources of income. While third-party verification of all income sources must be obtained during the intake process and every three years thereafter, in the intervening years, the PHA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or other inflationary adjustment factor. Streamlining policies are optional. The PHA may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the PHA must perform third-party verification of all income sources.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

Two streamlining options are available, depending upon the percentage of the family's income that is received from fixed sources.

When 90 percent or more of a family's unadjusted income is from fixed sources, the PHA may apply the inflationary adjustment factor to the family's fixed-income sources, provided that the family certifies both that 90 percent or more of their unadjusted income is fixed and that their sources of fixed income have not changed from the previous year. Sources of non-fixed income are not required to be adjusted and must not be adjusted by a COLA, but PHAs may choose to adjust sources of non-fixed income based on third-party verification. PHAs have the discretion to either adjust the non-fixed income or carry over the calculation of non-fixed income from the first year to years two and three.

When less than 90 percent of a family's unadjusted income consists of fixed income, PHAs may apply a COLA to each of the family's sources of fixed income. PHAs must determine all other income using standard verification requirements as outlined in Notice PIH 2023-27.

## PHA Policy

When the PHA does not use a Safe Harbor income determination from a federal assistance program to determine the family's annual income as outlined above, then PHA will use a streamlined income determinations where applicable.

If 90 percent or more of a family's unadjusted income is from fixed income sources:

The PHA will streamline the annual reexamination process by applying the verified inflationary adjustment factor to fixed-income sources.

The family will be required to sign a self-certification stating that 90 percent or more of their unadjusted income is fixed income and that their sources of fixed income have not changed from the previous year.

The PHA will document in the file how the determination that a source of income was fixed was made.

Third-party verification of non-fixed income will be obtained annually regardless of the percentage of family income received from fixed sources.

If the family's sources of fixed income have changed from the previous year, the PHA will obtain third-party verification of any new sources of fixed income.

When less than 90 percent 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.

All other income will be verified using third-party verification as outlined in Notice PIH 2023-27 and Chapter 7 of this policy.

In the following circumstances, regardless of the percentage of income received from fixed sources, the PHA will obtain third-party verification as outlined in Notice PIH 2023-27 and Chapter 7 of this policy:

Of all assets when net family assets exceed \$50,000;

Of all deductions and allowances from annual income;

If a family member with a fixed source of income is added;

If verification of the COLA or rate of interest is not available;

During the intake process and at least once every three years thereafter.

#### **7-1.D. HUD'S VERIFICATION HIERARCHY [NOTICE PIH 2023-2748-48]**

When the PHA does not use a streamlined determination of income or an income determination from a means-tested federal assistance program, HUD requires the PHA to obtain third-party verification of:

- Reported family annual income;
- The value of net family assets when the net value exceeds \$50,000 (as adjusted annually);
- Expenses related to deductions from annual income; and
- Other factors that affect the determination of adjusted income.

HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general, HUD requires the PHA to use the most reliable form of verification that is available and to document the reasons when the PHA uses a lesser form of verification.

HUD developed a hierarchy that described verification documentation from most acceptable to least acceptable. The PHA must demonstrate efforts to obtain third party verification prior to accepting self-certification except instances when self-certification is explicitly allowed.

In order of priority, the hierarchy is:

HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the PHA to use the most reliable form of verification that is available and to document the reasons when the PHA uses a lesser form of verification.

PHAs should begin with the highest level of verification techniques.

- Highest: Level 6: Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system
- Highest: Level 5: Up-front Income Verification (UIV) using a non-EIV system
- High: Level 4:
  - Written third-party verification from the source, also known as "tenant-provided verification"
  - Or EIV plus self-certification
- Medium: Level 3: Written third-party verification form
- Medium: Level 2: Oral third-party verification
- Low: Level 1: Self-certification (not third-party verification)

Each of the verification methods is discussed in subsequent sections below.

Level	Verification Technique	Ranking
6	Upfront Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system (not available for income verifications of new admissions/applicants)	Highest (Mandatory)
5	Upfront Income Verification (UIV) using non HUD system	Highest (optional)
4	Written Third Party Verification	High—(Mandatory to supplement EIV-reported income sources and when EIV has no data; -Mandatory for non EIV-reported income sources; -Mandatory when tenant disputes EIV-reported employment and income information <b>and</b> is unable to provide acceptable documentation to support dispute
3	Written Third Party Verification Form	Medium-Low (Mandatory if written third party verification documents are not available or rejected by the PHA; and when the applicant or tenant is unable to provide acceptable documentation)
2	Oral Third Party Verification	Low (Mandatory if written third party verification is not available)
1	Tenant Declaration	Low (Use as a last resort when unable to obtain any type of third party verification)

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**Note:** This verification hierarchy applies to income determinations for applicants and participants. However, EIV is not available for verifying income of applicants.

Each of the verification methods is discussed in subsequent sections below.

#### ***Requirements for Acceptable Documents***

##### PHA Policy

Any documents used for verification must be the original (not photocopies) and generally must be dated within 60 days of the PHA request. The documents must not be damaged, altered or in any way illegible.

Printouts from web pages are considered original documents.

~~The PHA staff member who views the original document must make a photocopy, annotate the copy with the name of the person who provided the document and the date the original was viewed, and sign the copy.~~

~~Any family self-certifications must be made in a format acceptable to the PHA and must be signed by the family member whose information or status is being verified in the presence of a PHA representative.~~

- ~~• The PHA staff member who views the original document must make a photocopy, annotate the copy with the name of the person who provided the document and the date the original was viewed, and sign the copy.~~

### ***File Documentation***

The PHA must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that the PHA has followed all of the verification policies set forth in this ACOP. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

#### PHA Policy

The PHA will document, in the family file, the following:

- ~~• Reported family annual income~~
- ~~• Value of assets~~
- ~~• Expenses related to deductions from annual income~~
- ~~• Other factors influencing the adjusted income or income-based rent determination~~

~~When the PHA is unable to obtain third-party verification, the PHA will document in the family file the reason that third-party verification was not available [24 CFR §960.259(c)(1); Notice PIH-2018-18].~~

### **7-I.E. LEVEL 5 AND 6 VERIFICATION: UP-FRONT INCOME VERIFICATION (UIV)**

Up-front income verification (UIV) refers to the PHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits for a number of individuals. PHAs may use UIV sources before or during a family reexamination.

UIV will be used to the extent that these systems are available to the PHA.

There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until the PHA has independently verified the UIV information and the family has been granted the opportunity to contest any adverse findings through the PHA's informal review/hearing processes.



### **Upfront Income Verification Using HUD's Enterprise Income Verification (EIV) System**

PHAs must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during annual and streamlined reexaminations of family composition and income in accordance with 24 CFR 5.236 and Notice PIH 2023-27.

HUD's EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families.

The income validation tool (IVT) in EIV provides projections of discrepant income for wages, unemployment compensation, and SSA benefits pursuant to HUD's data sharing agreements with other departments.

The following policies apply to the use of HUD's EIV system.

#### **EIV Income and IVT Reports**

PHAs are required to obtain an EIV Income and IVT report for each family any time the PHA conducts an annual reexamination. However, PHAs are not required to use the EIV Income and IVT reports:

- At annual reexamination if the PHA used Safe Harbor verification from another means-test federal assistance program to determine the family's income; or
- During any interim reexaminations.

The EIV Income and IVT Reports are also not available for program applicants at admission.

When required to use the EIV Income Report, in order for the report to be considered current, the PHA must pull the report within 120 days of the effective date of the annual reexamination.

The EIV Income Report may be used to verify and calculate income at annual reexamination if the family self-certifies that the amount is accurate and representative of current income. The family must be provided with the information in EIV.

#### PHA Policy

Except for when Safe Harbor verification from another means-tested federal assistance program is used to determine the family's annual income, the PHA will obtain EIV Income and IVT reports for all annual reexaminations for all families on a monthly basis. Reports will be generated as part of the regular reexamination process. The PHA will ensure that all EIV Income Reports are pulled within 120 days of the effective date of the annual reexamination.

Income and IVT reports will only be used for interim reexaminations as necessary. For example, EIV may be used to verify that families claiming zero income are not receiving income from any sources listed in EIV.

Income and IVT reports will be retained in resident files with the applicable annual documents or interim reexamination documents (if applicable) for the duration of tenancy.

When the PHA determines through EIV reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 15, Program Integrity.

#### **New Hires Report [Notice PIH 2023-27]**

The New Hires Report identifies participant families who have new employment within the last six months. The report is updated monthly.

PHAs must review this information at annual reexamination except when the PHA uses Safe Harbor verification from another means-tested federal assistance program to determine the family's income.

PHAs that do not require families to undergo interim reexaminations for earned income increases after an interim decrease are not required to review this report between a family's annual reexamination. If the PHA requires an interim for increases in earned income after an interim decrease, then the PHA must review the report quarterly after the family's interim decrease.

#### PHA Policy

In accordance with PHA policies in Chapter 9, the PHA does not process interim reexaminations for families who have increases in earned income. Except for instances in which the PHA uses Safe Harbor income determinations to determine a family's annual income, the PHA will only review the New Hires Report at annual reexamination.

### **No Income Reported by HHS or SSA Report**

This report is a tool for PHAs to identify participants who passed the SSA identity test, but no income information was reported by either HHS or SSA records. This scenario does not mean that they tenant does not have any income. PHAs obtain written, third-party verification of any income reported by the tenant. The PHA must identify in its policies and procedures when this report will be pulled [Notice PIH 2023-27].

#### **PHA Policy**

The PHA will generate the No Income Reported by HHS or SSA Report quarterly and will retain the report.

The PHA will re-verify the status of tenants identified on the report quarterly. Based on the information provided by the family and in EIV, the PHA may require that family members provide verifications or sign release forms in order to obtain additional verification.

When the PHA determines through this report and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 15, Program Integrity.

### **EIV Identity Verification Report**

The EIV system verifies resident identities against Social Security Administration (SSA) records. These records are compared to HUD data for a match on social security number, name, and date of birth.

PHAs are required to use EIV's Identity Verification Report on a monthly basis to improve the availability of income information in EIV [Notice PIH 2023-27].

When identity verification for a resident fails, a message will be displayed within the EIV system and no income information will be displayed.

#### **PHA Policy**

The PHA will identify residents whose identity verification has failed by reviewing EIV's Identity Verification Report on a monthly basis.

The PHA will attempt to resolve discrepancies by obtaining appropriate documentation from the tenant. When the PHA determines that discrepancies exist as a result of PHA errors, such as spelling errors or incorrect birth dates, it will correct the errors promptly.

**Deceased Tenants Reports [Notice PIH 2012-4 and Notice PIH 2023-27]**

The Deceased Tenant Report identifies residents that have been reported by the SSA as deceased. The PHA is required to review the report at least quarterly.

**PHA Policy**

The PHA will review the Deceased Tenants Report on a monthly basis.

When the Deceased Tenants Report identifies an individual as being deceased, PHAs must 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. The PHA must conduct a home visit to determine if anyone is residing in the unit.

PHAs are required to list the move-out date for the family as of the date on which the family or designee of the deceased tenant's estate returned the keys and signed a vacate notice; the date the public housing lease was terminated; or the date the PHA legally regained possession of the unit, whichever occurs first.

When the only remaining household member is the live-in aide, the live-in aide is not entitled or eligible for continued occupancy. The PHA may not designate the live-in aide as the new head of household or change the relation code on the Form HUD-50058.

**Other EIV Reports [Notice PIH 2023-27]**

The PHA is required to review the Multiple Subsidy Report at least quarterly and the Failed EIV Pre-Screening and Failed Verification (Failed SSA Identity Test) reports at least monthly.

**Upfront Income Verification Using Non-HUD Systems**

HUD encourages PHAs to utilize other upfront verification sources such as the Work Number and web-based state benefits systems.

**PHA Policy**

The PHA will inform all applicants and residents of its use of the following UIV resources:

The Work Number

#### **7-I.F. LEVEL 4 VERIFICATION [Notice PIH 2023-27]**

HUD identifies two types of Level 4 verification: written-third party verification from the source and EIV + self-certification.

##### **EIV + Self-Certification**

EIV may be used as written third-party verification and may be used to calculate income if the family agrees with the information in EIV and self-certifies that the amount is accurate and representative of current income. This practice is known as *EIV + self-certification*. When calculating income using this method, the PHA may use its discretion to determine which method of calculation is reasonable: the last four quarters combined or an average of any number of quarters. The family must be provided with the information from EIV.

##### **PHA Policy**

At annual reexamination, if the PHA is unable to use a determination of income from a means-tested federal assistance program and if there are no reported changes to an income source, the PHA will use EIV + self-certification as verification of employment income, provided the family agrees with the amounts listed in EIV.

The PHA will use an average of the last two quarters of income listed in EIV to determine income from employment. The PHA will provide the family with the information in EIV. The family will be required to sign a self-certification stating that the amount listed in EIV is accurate and representative of current income. If the family disagrees with the amount in EIV, the amount is not reflective of current income, or if less than two quarters are available in EIV, the PHA will use written third-party verification from the source as outlined below.

The PHA will not use this method of verification at new admission since EIV is not available for applicant families or at interim reexamination since the income information in EIV is not current.

##### **Written Third-Party Verification from the Source**

Written, third-party verification from the source is also known as “tenant-provided verification.” In order to qualify as written-third party verification from the source, the documents must be original or authentic and (generally) dated within 120 days of the date received by the PHA. For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation. Documents may be supplied by the family or received from a third-party source.

Examples of acceptable tenant-provided documents include, but are not limited to pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices. Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer’s transmittal receipt, summary of transmittal from online source, etc.) are an acceptable form of written, third-party verification.

The PHA is required to obtain, at minimum, two current and consecutive pay stubs when calculating income using third-party verification from the source. For new income sources or when two pay stubs are not available, the PHA should determine income based on the information from a traditional written, third-party verification form or the best available information.

When the family disputes EIV-reported employment income, the PHA uses written third-party verification.

When verification of assets is required, PHAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

#### PHA Policy

In general, the PHA will use third-party verification from the source in the following circumstances:

At annual reexamination when EIV + self-certification is not used;

For all new admissions; and

For all interim reexaminations.

The PHA will not use this method if the PHA is able to use an income determination from a means-tested federal assistance program or if the PHA uses EIV + self-certification as outlined above.

In general, third-party documents provided by the family or the source must be dated within 120 days of the date received by the PHA. However, for fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation.

The PHA may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible. If the PHA determines that third-party documents provided by the family are not acceptable, the PHA will explain the reason to the family and request additional documentation from the family or will use a lower form of verification such as a written third-party verification form.

When verification of assets held by a banking or financial institution is required, the PHA will obtain one statement that reflects the current balance of the account.

When pay stubs are used, the PHA will require the family to provide the two most current, consecutive pay stubs. At the PHA's discretion, if additional paystubs are needed due to the family's circumstances (e.g., sporadic income, fluctuating schedule, etc.), the PHA may request additional paystubs or a payroll record.

**7-I.G. LEVEL 3 VERIFICATION: WRITTEN, THIRD-PARTY FORM**  
**[Notice PIH 2023-27]**

This type of verification is a form developed by the PHA and used uniformly for all families when needed to collect information from a third-party source. This is known as “traditional third-party verification.” PHAs send a PHA-developed form directly to the third-party source by mail, fax, or email and the source completes the form by hand (in writing or typeset).

The PHA may use this method when higher forms are unavailable or are rejected by the PHA or when the family is unable to provide acceptable verification. The PHA may skip this level of verification and may instead substitute oral third-party verification before moving to self-certification.

PHA Policy

Typically, the PHA will attempt to send written third-party verification forms to the verification source whenever higher forms of verification are unavailable.

However, on a case-by-case basis, the PHA may choose to obtain oral third-party verification without first attempting, and in lieu of, a written-third party verification form.

#### **7-I.H. LEVEL 2: ORAL THIRD-PARTY VERIFICATION [Notice PIH 2023-27]**

For third-party oral verification, PHAs contact sources, identified by UIV techniques or by the family, by telephone or in person.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 10 business days.

PHAs must document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

The PHA may skip this level of verification if they attempted written third-party verification via a form and the source did not respond and move directly to self-certification.

##### **PHA Policy**

In general, the PHA will attempt to obtain written third-party verification via a form from the verification source. If written third-party verification forms are not returned within 10 business days, the PHA will accept self-certification from the family without attempting to obtain oral third-party verification.

However, if the PHA chooses to obtain oral third-party verification, the PHA will document in the file the date and time of the telephone call or visit, the name of the person contacted and the telephone number, as well as the information confirmed.

#### **When Third-Party Verification is Not Required [Notice PIH 2023-27]**

Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

##### **PHA Policy**

If the family cannot provide original documents, the PHA will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost [VG, p. 18].

#### **Primary Documents**

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.



#### **7-1.1. LEVEL 1: NON-THIRD-PARTY VERIFICATION TECHNIQUE: SELF-CERTIFICATION [Notice PIH 2023-27]**

Non-third-party verification consists of a signed statement of reported income and/or expenses. This verification method should be used as a last resort when the PHA has not been successful in obtaining information via all other required verification techniques.

Self-certification, however, is an acceptable form of verification when:

- A source of income is fully excluded;
- Net family assets total \$50,000 or less and the PHA has adopted a policy to accept self-certification;
- The family declares that they do not have any present ownership in any real property;
- A family states that they have non-recurring income that will not be repeated in the coming year; and/or
- The PHA has adopted a policy to implement streamlined annual recertifications for fixed sources of income.

When the PHA was required to obtain third-party verification but instead relies on self-certification, the family's file must be documented to explain why third-party verification was not available.

HUD does not require that a self-certification be notarized; however, HUD recommends including language on any self-certification to ensure the certifier understands the consequences of knowingly providing false information.

##### PHA Policy

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to the PHA.

The PHA may require a family to certify that a family member does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to the PHA and must be signed by the family member whose information or status is being verified.

All self-certifications will include the following language:

"I/We, the undersigned, certify under penalty of perjury that the information provided here is true and correct, to the best of my knowledge and recollection. WARNING: Anyone who knowingly submits a false claim or knowingly makes a false statement is subject to criminal and/or civil penalties, including confinement for up to five years, fines, and civil and administrative penalties (18 U.S.C. 287, 1001, 1010, 1012; 31 U.S.C. 3279, 3802)."

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### **7.I.C. UP-FRONT INCOME VERIFICATION (UIV)**

Up-front income verification (UIV) refers to the PHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. UIV will be used to the extent that these systems are available to the PHA.

The PHA must restrict access to and safeguard UIV data in accordance with HUD guidance on security procedures, as issued and made available by HUD.

There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until the PHA has independently verified the UIV information and the family has been granted an opportunity to contest any adverse findings through the PHA's informal review/hearing processes. (For more on UIV and income projection, see Section 6 I.C.)

#### ***Upfront Income Verification Using HUD's Enterprise Income Verification (EIV) System (Mandatory)***

PHAs must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during mandatory reexaminations of family composition and income in accordance with 24 CFR §5.236, and administrative guidance issued by HUD. HUD's EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families. The following policies apply to the use of HUD's EIV system:

Effective Jan. 1, 2024, PHAs must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during mandatory annual reexaminations of family composition and income in accordance with 24 CFR 5.236, HOTMA, and administrative guidance issued by HUD. EIV is not required for interim reexaminations, unless needed to provide clarification or used in the process of calculating the 10 percent threshold. The EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families. The following policies apply to the use of HUD's EIV system:

#### ***EIV Income and IVT Reports***

The data shown on income and Income Validation Tool (IVT) reports is updated quarterly. Data may be between three and six months old at the time reports are generated.

##### **PHA Policy**

The PHA will obtain income and IVT reports for annual reexaminations on a monthly basis. Reports will be generated as part of the regular reexamination process.

Income and IVT reports will be compared to family-provided information as part of the annual reexamination process. Income reports may be used in the calculation of annual

income, as described in Chapter 6.I.C. Income reports may also be used to meet the regulatory requirement for third party verification, as described above. Policies for resolving discrepancies between income and IVT reports, and family provided information will be resolved as described in Chapter 6.I.C. and in this chapter.

Income and IVT reports will be used in interim reexaminations to identify any discrepancies between reported income and income shown in the EIV system, and as necessary to verify earned income, and to verify and calculate unemployment benefits, Social Security and/or SSI benefits. EIV will also be used to verify that families claiming zero income are not receiving income from any of these sources.

Income and IVT reports will be retained in resident files with the applicable annual or interim reexamination documents for the duration of the tenancy.

When the PHA determines through EIV reports and third party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 15, Program Integrity.

#### ***EIV Identity Verification***

The EIV system verifies resident identities against Social Security Administration (SSA) records. These records are compared to Public Indian Housing Information Center (PIC) data for a match on Social Security number, name, and date of birth.

PHAs are required to use EIV's Identity Verification Report on a monthly basis to improve the availability of income information in EIV [Notice PIH 2018-18].

When identity verification for a resident fails, a message will be displayed within the EIV system, and no income information will be displayed.

##### **PHA Policy**

The PHA will identify residents whose identity verification has failed by reviewing EIV's Identity Verification Report on a monthly basis.

The PHA will attempt to resolve PIC/SSA discrepancies by obtaining appropriate documentation from the tenant. When the PHA determines that discrepancies exist due to PHA errors such as spelling errors or incorrect birth dates, the errors will be corrected promptly.

#### ***Upfront Income Verification Using Non-HUD Systems (Optional)***

In addition to mandatory use of the EIV system, HUD encourages PHAs to utilize other upfront verification sources.

##### **PHA Policy**

The PHA will inform all applicants and residents of its possible use of UIV resources that may include the following during the admission and reexamination process:

- ~~HUD's EIV system~~
- ~~Theworknumber.com~~
- ~~Verifytoday.com~~
- ~~Verifydirect.com (aka First Advantage)~~
- ~~Past Employ.com~~

#### **7.1.D. THIRD-PARTY WRITTEN AND ORAL VERIFICATION**

HUD's current verification hierarchy defines two types of written third-party verification. The more preferable form, "written third-party verification," consists of an original document generated by a third-party source, which may be received directly from a third-party source or provided to the PHA by the family. If written third-party verification is not available, the PHA must attempt to obtain a "written third-party verification form." This is a standardized form used to collect information from a third party.

##### ***Written Third-Party Verification [Notice PIH 2018-18]***

Written third-party verification documents must be original and authentic and may be supplied by the family or received from a third-party source.

Examples of acceptable tenant provided documents include, but are not limited to pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices.

The PHA is required to obtain, at minimum, two current and consecutive pay stubs for determining annual income from wages.

The PHA may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible.

##### **PHA Policy**

Third-party documents provided by the family must be dated within 60 days of the PHA request date.

If the PHA determines that third-party documents provided by the family are not acceptable, the PHA will explain the reason to the family and request additional documentation.

As verification of earned income, the PHA will require the family provide the two most current consecutive pay stubs.

- ~~Any family self-certifications must be made in a format acceptable to the PHA and must be signed by the family member whose information or status is being verified.~~

### ***Written Third-Party Verification Form***

When upfront verification is not available and the family is unable to provide written third-party documents, the PHA must request a written third-party verification form. HUD's position is that this traditional third-party verification method presents administrative burdens and risks, which may be reduced through the use of family-provided third-party documents.

PHAs may mail, fax, or e-mail third-party written verification form requests to third-party sources.

#### **PHA Policy**

The PHA will send third-party verification forms directly to the third party. Third-party verification forms will be sent when third-party verification documents are unavailable or are rejected by the PHA.

### ***Oral Third-Party Verification [Notice PIH 2018-18]***

For third-party oral verification, PHAs contact sources, identified by UIV techniques or by the family, by telephone or in person.

Oral third-party verification is mandatory if neither form of written third-party verification is available.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 10 business days.

PHAs should document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

#### **PHA Policy**

In collecting third-party oral verification, PHA staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.

When any source responds verbally to the initial written request for verification the PHA will accept the verbal response as oral verification but will also request that the source complete and return any verification forms that were provided.

### ***When Third-Party Verification is Not Required [Notice PIH 2018-18]***

Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

#### **PHA Policy**

If the family cannot provide original documents, the PHA will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost [VG, p. 18].

### ***Primary Documents***

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

The PHA may accept a self-certification from the family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28].

#### **PHA Policy**

The PHA will accept a self-certification from the family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28].

### ***Value of Assets and Asset Income [24 CFR §960.259]***

For families with net assets totaling \$5,000 or less, the PHA may accept the family's declaration of asset value and anticipated asset income. However, the PHA is required to obtain third-party verification of all assets regardless of the amount during the intake process, whenever a family member is added, and at least every three years thereafter.

#### **PHA Policy**

For families with net assets totaling \$5,000 or less, the PHA will accept the family's self-certification of the value of family assets and anticipated asset income when applicable. The family's declaration must show each asset and the amount of income expected from that asset. All family members 18 years of age and older must sign the family's declaration.

The PHA will use third-party documentation for assets as part of the intake process, whenever a family member is added to verify the individual's assets, and every three years thereafter.

HOTMA: Effective Jan. 1, 2024, for families with net assets totaling \$50,000 or less, the PHA may accept the family's declaration of asset value and anticipated asset income. However, the PHA is required to obtain third-party verification of all assets regardless of the amount during the intake process and when fraud is suspected.

#### **PHA Policy**

Effective Jan. 1, 2024, for families with net assets totaling \$50,000 or less, the PHA will accept the family's self-certification of the value of family assets and anticipated asset

income when applicable. The family's declaration must show each asset and the amount of income expected from that asset. All family members 18 years of age and older must sign the family's declaration.

The PHA will use third-party documentation for assets as part of the intake process, whenever a family member is added to verify the individual's assets, and if fraud is suspected every three years thereafter.

### **~~7-1.E. SELF-CERTIFICATION~~**

When HUD requires third-party verification, self-certification, or "tenant declaration," is used as a last resort when the PHA is unable to obtain third-party verification.

Self-certification, however, is an acceptable form of verification when:

- ~~A source of income is fully excluded~~
- ~~Net family assets total \$5,000 or less and the PHA has adopted a policy to accept self-certification at annual recertification, when applicable~~
- ~~HOTMA: Effective Jan. 1, 2024, net family assets totaling \$50,000 or less and the PHA has adopted a policy to accept self-certification at annual recertification, when applicable~~
- ~~The PHA has adopted a policy to implement streamlined annual recertifications for fixed sources of income (See Chapter 9)~~

When the PHA was required to obtain third-party verification, but instead relies on a tenant declaration for verification of income, assets, or expenses, the family's file must be documented to explain why third-party verification was not available.

#### PHA Policy

~~When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to the PHA.~~

The PHA may require a family to certify that a family member does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to the PHA and must be signed by the family member whose information or status is being verified. All self-certifications must be signed in the presence of a PHA representative. The PHA reserves the right to request the self-certification be received in different formats due to COVID, or other situations at the PHA's discretion.



## PART II: VERIFYING FAMILY INFORMATION

### 7-II.A. VERIFICATION OF LEGAL IDENTITY

#### PHA Policy

The PHA will require families to furnish verification of legal identity for each household member.

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
<ul style="list-style-type: none"><li>– Certificate of birth, naturalization papers</li><li>– Church issued baptismal certificate</li><li>– Current, valid driver's license or Department of Motor Vehicle identification card</li><li>– U.S. military discharge (DD 214)</li><li>– Current U.S. passport</li><li>– Current <u>government</u> employer identification card, with photo</li></ul>	<ul style="list-style-type: none"><li>– Certificate of birth</li><li>– Adoption papers</li><li>– Custody agreement</li><li>– Health and Human Services ID</li><li>– Certified school records</li></ul>

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If a document submitted by a family is illegible for any reason or otherwise questionable, more than one of these documents may be required.

If none of these documents can be provided and at the PHA's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to the PHA and be signed by the family member whose information or status is being verified in the presence of a PHA representative. ~~The PHA reserves the right to request the self-certification be received in different formats due to COVID, or other situations at the PHA's discretion.~~

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where the PHA has reason to doubt the identity of a person representing themselves to be a tenant or a member of a tenant family.

### 7-II.B. SOCIAL SECURITY NUMBERS [24 CFR §5.216 AND NOTICE PIH 20~~23-2718-24~~]

The family must provide documentation of a valid social security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include existing residents who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

The PHA must accept the following documentation as acceptable evidence of the social security number:

- An original SSN card issued by the Social Security Administration (SSA)

- An original SSA-issued document, which contains the name and SSN of the individual
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual, along with other identifying information of the individual
- ~~Such other evidence of the SSN as HUD may prescribe in administrative instructions~~

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While PHAs must attempt to gather third-party verification of SSNs prior to admission as listed above, PHAs also have the option of accepting a self-certification and a third-party document (such as a bank statement, utility or cell phone bill, or benefit letter) with the applicant's name printed on it to satisfy the SSN disclosure requirement if the PHA has exhausted all other attempts to obtain the required documentation. If verifying an individual's SSN using this method, the PHA must document why the other SSN documentation was not available.

If the tenant's SSN becomes verified in EIV, then no further verification is required. If the tenant's SSN fails the SSA identity match, then the PHA must obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name of the individual and the SSN of the individual, along with other identifying information of the individual. The tenant's assistance must be terminated if they fail to provide the required documentation.

The PHA may only reject documentation of an SSN provided by an applicant or resident if the document is not an original document, if the original document has been altered, mutilated, or is not legible, or if the document appears to be forged.

#### PHA Policy

The PHA will verify an individual's SSN in the situations described above using the method described above as a last resort when no other forms of verification of the individual's SSN are available.

The PHA will explain to the applicant or resident the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to the PHA within 90 days.

The PHA may only reject documentation of an SSN provided by an applicant or resident if the document is not an original document, if the original document has been altered, mutilated, is illegible, or if the document appears to be forged.

If an applicant family includes a child under 6 years of age who joined the household within the 6 months prior to the date of program admission, an otherwise eligible family may be admitted and must provide documentation of the child's SSN within 90 days. A 90 day extension will be granted if the PHA determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control.

#### PHA Policy

~~The PHA will explain to the applicant or resident the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to the PHA within 90 days. The PHA will grant one additional 90-day extension if needed for reasons beyond the applicant's control, such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.~~

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If an applicant family includes a child under 6 years of age who joined the household within the 6 months prior to the date of program admission, an otherwise eligible family may be admitted and must provide documentation of the child's SSN within 90 days. A 90-day extension will be granted if the PHA determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control.

#### PHA Policy

The PHA will grant one additional 90-day extension if needed for reasons beyond the applicant's control, such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

When the resident requests to add a new household member who is at least 6 years of age, or who is under the age of 6 and has an SSN, the resident must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. The PHA may not add the new household member until such documentation is provided.

When a resident requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the resident must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if the PHA determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control. During the period the PHA is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

#### PHA Policy

The PHA will grant one additional 90-day extension if needed for reasons beyond the resident's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

Social security numbers must be verified only once during continuously assisted occupancy.

#### PHA Policy

The PHA will verify each disclosed SSN by:

- Obtaining documentation from applicants and residents that is acceptable as evidence of social security numbers
- Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder

Once the individual's verification status is classified as "verified," the PHA ~~may, should, at its discretion,~~ remove and destroy copies of documentation accepted as evidence of social security numbers. ~~The retention of the EIV Summary Report or Income Report is adequate documentation of an individual's SSN. by no later than the next reexamination.~~

#### PHA Policy

Once an individual's status is classified as "verified" in HUD's EIV system, the PHA will not remove and destroy copies of documentation accepted as evidence of social security numbers.

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### **7-II.C. DOCUMENTATION OF AGE**

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

#### PHA Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, the PHA will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

Age must be verified only once during continuously assisted occupancy.

### **7-II.D. FAMILY RELATIONSHIPS**

Applicants and tenants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

#### PHA Policy

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

#### ***Marriage***

#### PHA Policy

Certification by the head of household is normally sufficient verification. If the PHA has reasonable doubts about a marital relationship, the PHA will require the family to

document the marriage with a marriage certificate or other documentation to verify that the couple is married.

In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

### ***Separation or Divorce***

#### **PHA Policy**

Certification by the head of household is normally sufficient verification. If the PHA has reasonable doubts about a divorce or separation, the PHA will require the family to provide documentation of the divorce, or separation with a certified copy of a divorce decree, signed by a court officer; a copy of a court-ordered maintenance or other court record; or other documentation that shows a couple is divorced or separated.

If no court document is available, documentation from a community-based agency will be accepted.

### ***Absence of Adult Member***

#### **PHA Policy**

~~If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill), if the PHA so requests.~~

~~At the PHA request, if an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill).~~

### ***Foster Children and Foster Adults***

#### **PHA Policy**

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

## **7-II.E. VERIFICATION OF STUDENT STATUS**

#### **PHA Policy**

~~The PHA requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:~~

~~The PHA requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:~~

- The family claims full-time student status for an adult other than the head, spouse, or cohead, or
- The family claims a childcare deduction to enable a family member to further their education.

## 7-III.F. DOCUMENTATION OF DISABILITY

The PHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The PHA is not permitted to inquire about the nature or extent of a person's disability [24 CFR §100.202(c)]. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA will not place this information in the tenant file. Under no circumstances will the PHA request a resident's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' website at [www.os.dhhs.gov](http://www.os.dhhs.gov).

The PHA may make the following inquiries, provided it makes them of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability
- Inquiry about whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance
- Inquiry about whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance ~~The above cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities [VG, p. 24]:~~
- ~~Inquiry into an applicant's ability to meet the requirements of ownership or tenancy~~
- ~~Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability~~
- ~~Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability~~
- ~~Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance~~
- ~~Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance~~

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### ***Family Members Receiving SSA Disability Benefits***

Verification of receipt of ~~disability SSA~~ benefits ~~from the Social Security Administration (SSA)~~ ~~or SSI based upon disability~~ is sufficient for verification of disability for the purpose of qualification for waiting list preferences or certain income disallowances and deductions [VG, p. 23].

#### **PHA Policy**

~~For family members claiming disability who receive disability payments from the SSA, the PHA will attempt to obtain information about disability benefits through HUD's Enterprise Income Verification (EIV) system. If documentation is not available through HUD's EIV system, the PHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member claiming disability status. If a family member is unable to provide the document, the PHA will ask the family to obtain a benefit verification letter either by calling SSA at 1-800-772-1213 or by requesting one from [www.ssa.gov](http://www.ssa.gov). Once the family receives the benefit verification letter, they will be required to provide the letter to the PHA.~~

~~For family members claiming disability who receive SSI or other disability payments from the SSA, the PHA will attempt to obtain information about disability benefits through the HUD Enterprise Income Verification (EIV) system when it is available, or HUD's Tenant Assessment Subsystem (TASS). If documentation from HUD's EIV System or TASS is not available, the PHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member claiming disability status. If the family is unable to provide the document(s), the PHA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from [www.ssa.gov](http://www.ssa.gov). Once the applicant or resident receives the benefit verification letter, they will be required to provide it to the PHA.~~

### ***Family Members Not Receiving SSA Disability Benefits***

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR §5.4603, necessary to qualify for waiting list preferences or certain income disallowances and deductions.

#### **PHA Policy**

For family members claiming disability who do not receive ~~SSI or other~~ disability ~~payments~~ ~~benefits~~ from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

**7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS**~~Citizenship or Eligible Immigration Status~~ [24 CFR §5.508]

**Overview**

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. See the Eligibility chapter for detailed discussion of eligibility requirements. This chapter (7) discusses HUD and PHA verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously assisted occupancy [24 CFR §5.508(g)(5)]

***U.S. Citizens and Nationals***

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

The PHA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

**PHA Policy**

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless the PHA receives information indicating that an individual's declaration may not be accurate.



### ***Eligible Immigrants***

#### ***Documents Required***

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-1 at the end of this chapter summarizes documents family members must provide.

#### ***PHA Verification [HCV GB, pp 5-3 and 5-7]***

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this ACOP. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, the PHA must verify immigration status with the U.S. Citizenship and Immigration Services (USCIS).

The PHA will follow all USCIS protocols for verification of eligible immigration status.

### **7-II.H. VERIFICATION OF PREFERENCE STATUS**

The PHA must verify any preferences claimed by an applicant that determined their placement on the waiting list.

#### **PHA Policy**

- A. Displaced person(s): Individuals or families displaced by local government action or whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.
- B. Living or Working in Chandler: Applicant must physically live, work, or hired to work in City of Chandler.
- C. Chronically Homeless: The following definition must be met. A chronically homeless person as defined by the U.S. Department of HUD (24 CFR §570.3): (1) A “homeless individual with a disability,” as defined in Section 401(9) of the McKinney–Vento Homeless Assistance Act (42 U.S.C. 11360(9)), who: (i) Lives in a place not meant for human habitation, a safe haven, or in an emergency shelter; and ii) Has been homeless and living as described in paragraph (1)(i) of this definition continuously for at least 12 months or on at least 4 separate occasions in the last 3 years, as long as the combined occasions equal at least 12 months and each break in homelessness separating the occasions included at least

7 consecutive nights of not living as described in paragraph (1)(i). Stays in institutional care facilities for fewer than 90 days will not constitute as a break in homelessness, but rather such stays are included in the 12-month total, as long as the individual was living or residing in a place not meant for human habitation, a safe haven, or an emergency shelter immediately before entering the institutional care facility; (2) An individual who has been residing in an institutional care facility, including a jail, substance abuse or mental health treatment facility, hospital, or other similar facility, for fewer than 90 days and met all of the criteria in paragraph (1) of this definition, before entering that facility; or (3) A family with an adult head of household (or if there is no adult in the family, a minor head of household) who meets all of the criteria in paragraph (1) or (2) of this definition, including a family whose composition has fluctuated while the head of household has been homeless.

D. Currently Employed/Employment Program: Families whose Head, Spouse, Head, or Sole Member is employed. Applicants with an adult family member enrolled in an employment training program or currently working (20) hours a week or attending school on a full-time basis. Working hours must be attributed to only one family members. Family cannot combine work hours.

E. Elderly families where the head of household or spouse is at least 62+ yers of age. Verification of disability may include documentation proving age.

F. Disabled families and families with a disabled household member. Verification of disability may include a letter from a medical provider or proof of receiving Social Security benefits for disability.

~~D. Elderly families where the head of household or spouse is at least 62+ years of age. Verification of disability may include documentation proving age.~~

~~E. Disabled families and families with a disabled household member. Verification of disability may include a letter from a medical provider or proof of receiving Social Security benefits for disability.~~

#### PHA Policy

The PHA offers a preference for persons or households displaced, living, or working in the City of Chandler, families currently employed or with an adult family member attending an employment training program, elderly families, and disabled families and families with a disabled household member.

~~The PHA offers a preference for persons or households displaced, living, or working in the City of Chandler, families currently employed or with an adult family member attending an employment training program, elderly families, and disabled families and families with a disabled household member.~~

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The PHA may verify that the family qualifies for Living in the City of Chandler preference based on the verification received from the landlord, driver's license, post office, or employer or other valid, third-party source.

The PHA may verify that the family qualifies for Chronically Homeless based on 1) referral letter from a non-profit organization in which the applicant is enrolled or verifying their status as an unaccompanied homeless person with a disabling condition and 2) printout from the Homeless Management Information System (HMIS).

The PHA may verify that the family qualifies for Working in the City of Chandler preference based on the verification received from the employer or the Internal Revenue Service (IRS) documents.

The PHA may verify that the family qualifies for the working family preference based on the family's submission of the working member's most recent paycheck stub indicating that the working member works at least 20 hours per week. The paycheck stub must have been issued to the working member within the last thirty days. verification received from the employer. If the employment verification is not received from the employer within a reasonable amount of time, the family's submission of the working member's most recent paycheck stub indicating that the working member works at least 20 hours per week is acceptable. The paycheck stub must have been issued to the working member within the last thirty days.

The PHA may also seek third party verification from the employer of the head, spouse, cohead or sole member of a family requesting a preference as a working family.

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The PHA may verify that the family qualifies for adult family member(s) enrolled in an employment-training program preference based on the verification received from the institution or agency that is providing the employment-training program.

The PHA may verify that the family qualifies for an adult family member(s) attending school preference based on the verification received from the school that indicates that the adult family member(s) is attending on a full-time basis.

Elderly/disabled status will be verified by birth certificate or other form of valid identification showing birth date (e.g., Social Security documents, passport, etc.). Disabled status will be verified by a Social Security Administration letter/document showing the person is disabled, or by a letter received from a disability or medical professional willing to sign under oath that the individual is disabled.

## PART III: VERIFYING INCOME AND ASSETS

Chapter 6, ~~Part I~~ of this ACOP describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any income reported by the family assets and income reported by the family must be verified. This part provides PHA policies that supplement the general verification procedures specified in Part I of this chapter.

### PHA Policy

The following policies do not apply when the PHA uses a safe harbor income determination from a means-tested federal assistance program.

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## 7-III.A. EARNED INCOME

### *Tips*

#### PHA Policy

Unless tip income is included in a family member's W-2 by the employer or in UIV verification sources, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year or and tips anticipated to be received in the coming year.

### *Wages*

#### PHA Policy

When the PHA requires third-party verification of wages, for wages other than tips, the family must provide originals of the two most current, consecutive pay stubs.  
~~For wages other than tips, the family must provide originals of the two most current, consecutive pay stubs.~~

## 7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME

The PHA must obtain written, third-party verification when the income type is not available in EIV. This includes income from self-employment.

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#### PHA Policy

Business owners and self-employed persons will be required to provide:

- Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.).
- If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

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- ~~• An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted, and the business owner or self-employed person must certify to its accuracy.~~
- ~~• All schedules completed for filing federal and local taxes in the preceding year.~~
- ~~• If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.~~

For self-employed individuals who claim they do not have to file tax returns, the PHA will obtain a completed copy of IRS Form 4506-T to verify that no return has been filed.

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For those employed in "gig employment" (i.e., those in formal agreements with on-demand companies such as Uber, Lyft, or DoorDash), the PHA will provide a format for the individual to declare their income and expenses. The PHA will also review the printed statement of monthly income from the applicable app for all hours worked and pay received as well as Schedule C of the individual's tax return and the corresponding IRS Form 1099 or 1099k.

The PHA will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations. At any reexamination the PHA may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three (3) months, the PHA will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months, the PHA will require the family to provide documentation of income and expenses for this period and use that information to project income.

The PHA will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

At any reexamination the PHA may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three months, the PHA will accept the family member's certified estimate of income and schedule an interim reexamination in three months. If the family member has been self-employed for three to 12 months, the PHA will require the family to provide documentation of income and expenses for this period and use that information to project income. The self-certification must be made in a format acceptable to the PHA and must be signed by the family member whose information or status is being verified. All self-certifications must be signed in the presence of a notary public.

### 7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

For policies governing streamlined income determinations for fixed sources of income, please see Chapter 9.

#### *Social Security/SSI Benefits*

Verification requirements for Social Security (SS) and Supplemental Security Income (SSI) benefits differ for applicants and participants ~~as applicant income/benefit information is not available in EIV.~~

For applicants, since EIV does not contain SS or SSI benefit information, the PHA must ask applicants to provide a copy of their current SS and/or SSI benefit letter (dated within the last 120 calendar days) for each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the PHA should help the applicant request a benefit verification letter from SSA's website at [www.ssa.gov](http://www.ssa.gov) or ask the family to request one by calling SSA at 1-800-772-1213. The PHA must obtain the original benefit letter from the applicant, make a photocopy of the document for the file, and return the original to the family.

For participants, the PHA must obtain information through the HUD EIV system and confirm with the participants that the current listed benefit amount is correct.

- If the participant agrees with the amount reported in EIV, the PHA must use the EIV-reported gross benefit amount to calculate annual income from Social Security. PHAs are required to use the EIV-reported SS and SSI benefit amounts when calculating income unless the tenant disputes the EIV-reported amount. For example, an SSA benefit letter may list the monthly benefit amount as \$450.80 and EIV displays the amount as \$450.00. The PHA must use the EIV-reported amount unless the participant disputes the amount.
- If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in EIV, the PHA must request a current SSA benefit

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verification letter (dated within the last 120 calendar days) from each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the PHA should help the participant request a benefit verification letter from SSA's website at [www.ssa.gov](http://www.ssa.gov) or ask the family to request one by calling SSA at 1-800-772-1213. The PHA must obtain the original benefit letter from the participant, make a photocopy of the document for the file, and return the original to the family.

- Photocopies of social security checks or bank statements are not acceptable forms of verification for SS/SSI benefits.

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### **PHA Policy**

#### **Applicants**

To verify the SS/SSI benefits of applicants, the PHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member who receives social security benefits.

If a family member is unable to provide the document, the PHA will help the applicant request a benefit verification letter from SSA's Web site at [www.socialsecurity.gov](http://www.socialsecurity.gov) or ask the family to request one by calling SSA at 1-800-772-1213.

The PHA must obtain the original benefit letter from the applicant, make a photocopy of the document for the file, and return the original to the family.

#### **Program Participants**

To verify the SS/SSI benefits of residents, the PHA will obtain information about social security/SSI benefits through HUD's EIV system, and confirm with the resident(s) that the current listed benefit amount is correct.

- If the resident agrees with the amount reported in EIV, the PHA must use the EIV-reported gross benefit amount to calculate annual income from Social Security. PHAs are required to use the EIV-reported SS and SSI benefit amounts when calculating income unless the tenant disputes the EIV-reported amount.
  - For example, an SSA benefit letter may list the monthly benefit amount as \$450.80 and EIV displays the amount as \$450.00. The PHA must use the EIV-reported amount unless the participant disputes the amount
- If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in EIV, the PHA must request a current SSA benefit verification letter (dated within the last 60 calendar days) from each family member that receives SS and/or SSI benefits.
- If a family member is unable to provide the document, the PHA will help the applicant request a benefit verification letter from SSA's Web site at

~~www.socialsecurity.gov or ask the family to request one by calling SSA at 1-800-772-1213. The PHA must obtain the original benefit letter from the participant, make a photocopy of the document for the file, and return the original to the family.~~

- ~~• Photocopies of social security checks or bank statements are not acceptable forms of verification for SS/SSI benefits~~

### 7-III.D. ALIMONY OR CHILD SUPPORT [NOTICE PIH 2023-27]

Annual income includes “all amounts received,” not the amount that a family may be legally entitled to receive but which they do not receive. For example, a family’s child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders. A copy of a court order or other written payment agreement alone may not be sufficient verification of amounts received by a family.

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#### PHA Policy

The method<sup>s</sup> the PHA will use to verify alimony and child support payments differs depending on whether the family declares that it receives regular payments.

- If the family declares that it ***receives regular payments***, verification will be obtained in the following order of priority:
  - 1) Copies of the receipts and/or payment stubs for the 12 months prior to 60 days prior to PHA request.
  - 2) Third-party verification form from the state or local child support enforcement agency.
  - 3) Third-party verification form from the person paying the support
  - ~~4) Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules~~
  - 4) Family's self-certification of amount received

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~~If the family declares that it ***receives irregular or no payments***, in addition to the verification process listed above, the family must provide evidence that it has taken all reasonable efforts to collect amounts due. This may include:~~

- ~~— A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts;~~  
~~or~~
- ~~— If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts~~



*Note:* Families are not required to undertake independent enforcement action.

7-III.E. **NONRECURRING INCOME [Notice PIH 2023-27]**

Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. PHAs may accept a self-certification from the family stating that the income will not be repeated in the coming year.

**PHA Policy**

The PHA will accept self-certification from the family stating that income will not be repeated in the coming year. However, the PHA may choose, on a case-by-case basis, to require third-party verification that income sources will not be repeated in the coming year.

**7-III.F. ASSETS AND INCOME FROM ASSETS**

**Net Family Assets [24 CFR 5.603]**

At admission and reexam, for families with net assets totaling \$50,000 or less (adjusted annually), the PHA may, but is not required to, accept the family's self-certification that the family's assets do not exceed \$50,000 without taking any additional steps to verify the accuracy of the declaration. The declaration must include the amount of income the family expects to receive from assets which must be included in the family's income. This includes declaring income from checking and savings accounts which, although excluded from the calculation of net family assets (because the combined value of non-necessary personal property does not exceed \$50,000), may generate asset income. PHAs must clarify during the self-certification process which assets are included/excluded from net family assets.

For PHAs that choose to accept self-certification, the PHA is required to obtain third-party verification of all assets, regardless of the amount, at least once every three years.

PHAs who choose not to accept self-certifications of assets must verify all families' assets on an annual basis.

When net family assets have a total value over \$50,000, the PHA may not rely on the family's self-certification. Third-party verification of assets is required when net family assets exceed \$50,000, adjusted annually by HUD.

When verification of assets is required, PHAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

### PHA Policy

For families with net assets totaling \$50,000 or less, the PHA will accept the family's self-certification of the value of family assets and anticipated asset income. The family's declaration must show each asset and the amount of income expected from that asset. All family members 18 years of age and older must sign the family's declaration. The PHA reserves the right to require additional verification in situations where the accuracy of the declaration is in question. Any income the family expects to receive from assets will be included in the family's annual income. The family will be required to provide third-party verification of net family assets every three years.

When verification is required, in determining the value of checking or savings accounts, the PHA will use the current balance.

In determining the anticipated income from an interest-bearing checking or savings account when verification is required and the rate of return is known, the PHA will multiply the current balance of the account by the current rate of interest paid on the account. If a checking account does not bear interest, the anticipated income from the account is zero.

### Self-Certification of Real Property Ownership [24 CFR 5.618(b)(2)]

The PHA must determine whether a family has present ownership in real property that is suitable for occupancy for purposes of determining whether the family is compliant with the asset limitation described in Chapters 3 and 13. At admission and reexam, the PHA may accept a self-certification from the family that the family does not have any present ownership in any real property that is suitable for occupancy. If the family declares they have present ownership in real property, the PHA must obtain third-party verification.

#### PHA Policy

Both at admission and reexam, the PHA will accept self-certification from the family that the family does not have any present ownership in any real property. The certification will state that the family does not have any present ownership interest in any real property and must be signed by all family members 18 years of age and older. The PHA reserves the right to require additional verification in situations where the accuracy of the declaration is in question.

If the family declares they have a present ownership in real property, the PHA will obtain third-party verification of the following factors: whether the family has the legal right to reside in the property; whether the family has effective legal authority to sell the property; and whether the property is suitable for occupancy by the family as a residence. However, in cases where a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, the PHA will comply with confidentiality requirements under 24 CFR 5.2007 and will accept a self-certification.

### ***Assets Disposed of for Less than Fair Market Value***

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. The PHA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

#### **PHA Policy**

The PHA will verify the value of assets disposed of only if:

The PHA does not already have a reasonable estimation of its value from previously collected information, or

The amount reported by the family in the certification appears obviously in error.

Example 1: An elderly resident reported a \$10,000 certificate of deposit at the last annual reexamination and the PHA verified this amount. Now the person reports that she has given this \$10,000 to her son. The PHA has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.

Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately \$5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the PHA will verify the value of this asset.

### **7-III.G. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE**

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. HUD permits PHAs to accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28]. The PHA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

#### **PHA Policy**

The PHA will accept a self-certification from a family as verification of assets disposed of for less than fair market value.

The PHA will verify the value of assets disposed of only if:

The PHA does not already have a reasonable estimation of its value from previously collected information, or

The amount reported by the family in the certification appears obviously in error.

Example 1: An elderly resident reported a \$10,000 certificate of deposit at the last annual reexamination and the PHA verified this amount. Now the person reports that she has given this \$10,000 to her son. The PHA has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.

Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately \$5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the PHA will verify the value of this asset.

### **7-III.HF. NET INCOME FROM RENTAL PROPERTY**

#### PHA Policy

The family must provide:

- A current executed lease for the property that shows the rental amount or certification from the current tenant;
- A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income).
- If schedule E was not prepared, the PHA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

### **7-III.I. FEDERAL TAX REFUNDS OR REFUNDABLE TAX CREDITS** **[Notice PIH 2023-27]**

PHAs are not required to verify the amount of the family's federal tax refund or refundable tax credit(s) if the family's net assets are equal to or below \$50,000 (adjusted annually for inflation), even in years when full verification of assets is required or if the PHA does not accept self-certification of assets. PHAs must verify the amount of the family's federal tax refund or refundable tax credits if the family's net assets are greater than \$50,000.

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### 7-III.JG. RETIREMENT ACCOUNTS

#### PHA Policy

The PHA will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

The PHA will accept written third-party documents supplied by the family as evidence of the status of retirement accounts.

The type of original document that will be accepted depends upon the family member's retirement status.

- *Before retirement, the PHA will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.*
- *Upon retirement, the PHA will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.*
- *After retirement, the PHA will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.*

### 7-III.KH. **INCOME FROM EXCLUDED SOURCES** Income from Excluded Sources [Notice PIH 2023-27]

A detailed discussion of excluded income is provided in Chapter 6, Part I.

HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.

For fully excluded income, the PHA is **not** required to verify the income using third-party verification, document why third-party verification is not available, or report the income on the 50058. Fully excluded income is defined as income where the entire amount qualifies to be excluded from the annual income determination in accordance with 24 CFR 5.609(b) and any Federal Register notice on mandatory exclusions issued by HUD (for example, food stamps, earned income of a minor, or foster care funds).

PHAs may accept a family's signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional documentation. However, if there

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is any doubt that a source of income qualifies for full exclusion, PHAs have the option of requiring additional verification.

For partially excluded income, the PHA is required to follow the verification hierarchy and all applicable regulations, and to report the income on the 50058. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, the income of an adult full-time student).

#### PHA Policy

The PHA will accept the family's self-certification as verification of fully excluded income. The PHA may request additional documentation if necessary to document the income source.

The PHA will verify the source and amount of partially excluded income as described in Part 1 of this chapter.

~~HUD guidance on verification of excluded income draws a distinction between income that is fully excluded, and income that is only partially excluded.~~

~~For fully excluded income, the PHA is **not** required to follow the verification hierarchy, document why third-party verification is not available, or report the income on the 50058. Fully excluded income is defined as income that is entirely excluded from the annual income determination (for example, food stamps, earned income of a minor, or foster care funds) [Notice PIH 2013-04].~~

~~PHAs may accept a family's signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional documentation. However, if there is any doubt that a source of income qualifies for full exclusion, PHAs have the option of requiring additional verification.~~

~~For partially excluded income, the PHA is required to follow the verification hierarchy and all applicable regulations, and to report the income on the 50058. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, the income of an adult full-time student, or income excluded under the earned income disallowance).~~

#### PHA Policy

~~The PHA will accept the family's self-certification as verification of fully excluded income. The PHA may request additional documentation if necessary to document the income source.~~

~~The PHA will verify the source and amount of partially excluded income as described in Part 1 of this chapter.~~

#### 7-III.LI. ZERO INCOME REVIEW~~Sero Annual Income Status~~ [Notice PIH 2023-27]

A zero income review is an assessment, sometimes periodic, performed by the PHA of the income of a family who claims that they do not receive income from any source, including from assets. During such reviews, it is common for PHAs to request that families complete and sign a worksheet explaining how they pay for the household's expenses. HUD does not require PHAs to conduct periodic zero income reviews. In calculating annual income, PHAs must not assign monetary value to nonmonetary in-kind donations from a food bank or similar organization received by the family [24 CFR 5.609(b)(24)(vi)]. PHAs that perform zero income reviews must update local discretionary policies, procedures, and forms. Families who begin receiving income which does not trigger an interim reexamination should no longer be considered zero income even though the family's income is not reflected on the Form HUD-50058.

#### PHA Policy

The PHA will check UIV sources and/or may request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF,

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SS, SSI, earned income, child support, etc. are not being received by families claiming to have zero annual income.

The PHA will also require that each family member who claims zero income status complete a zero income form. If any sources of income are identified on the form, the PHA will verify the income in accordance with the policies in this chapter prior to including the income in the family's annual income.

The PHA will only conduct interims in accordance with PHA policy in Chapter 9.

#### PHA Policy

The PHA will check UIV sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SS, SSI, earned income, etc. are not being received by families claiming to have zero annual income.

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### 7-III.M. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9)]

The regulations under HOTMA distinguish between two categories of student financial assistance paid to both full-time and part-time students. Any assistance to students under section 479B of the Higher Education Act of 1965 (Title IV of the HEA) must be excluded from the family's annual income [24 CFR 5.609(b)(9)(i)]. Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education not otherwise excluded by the federally mandated income exclusions are excluded [24 CFR 5.609(b)(9)(ii)].

#### PHA Policy

The PHA will request written third-party verification of both the source and the amount of student financial assistance. Family-provided documents from the educational institution attended by the student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student.

In addition, unless the student's only source of assistance is assistance under Title IV of the HEA, the PHA will request written verification of the cost of the student's tuition, books, supplies, room and board, and other required fees and charges to the student from the educational institution.

If the PHA is unable to obtain third-party written verification of the requested information, the PHA will pursue other forms of verification following the verification hierarchy in section 7-I.B.

## PART IV: VERIFYING MANDATORY DEDUCTIONS

### **7-IV.A. ~~V.A.~~ DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS**

The dependent and elderly/disabled family deductions require only that the PHA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

#### ***Dependent Deduction***

See Chapter 6 (~~6-II.B.~~) for a full discussion of this deduction. The PHA will verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse or cohead of the family and is not a foster child;
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide and is a person with a disability or a full time student.

#### ***Elderly/Disabled Family Deduction***

See the Eligibility chapter for a definition of elderly and disabled families and Chapter 6 (~~6-II.C.~~) for a discussion of the deduction. The PHA will verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

### **7-IV.B. HEALTH AND MEDICAL CARE EXPENSE DEDUCTION**

Policies related to medical expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I.

The PHA must comply with the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. 104-191, 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed health and medical care expenses. The PHA may not request documentation beyond what is sufficient to determine anticipated health and medical care costs. Before placing bills and documentation in the tenant file, the PHA must redact all personally identifiable information [FR Notice 2/14/23].

#### **Amount of Expense**

##### PHA Policy

##### Medical expenses will be verified through:

Written third-party documents provided by the family, such as pharmacy printouts or receipts.

The PHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The PHA will also accept evidence of

monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

Written third-party verification forms if the family is unable to provide acceptable documentation.

If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months.

Before placing bills and documentation in the tenant file, the PHA will redact all personally identifiable information.

If the PHA receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of the person's disability, the PHA will immediately dispose of this confidential information; this information will never be maintained in the individual's file. If the information needs to be disposed of, the PHA will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will PHA include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

In addition, the PHA must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified health and medical care expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

#### **Eligible Household**

The health and medical care expense deduction is permitted only for households in which the head, spouse, or cohead is at least 62 or a person with disabilities. The PHA will verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter, and as described in Chapter 7 (7-IV.A) of this plan.

#### **Qualified Expenses**

To be eligible for the health and medical care expense deduction, the costs must qualify as medical expenses. See Chapter 6 for the PHA's policy on what counts as a medical expense.

#### **Unreimbursed Expenses**

To be eligible for the health and medical care expense deduction, the costs must not be reimbursed by another source.

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PHA Policy

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source. If expenses are verified through a third party, the third party must certify that the expenses are not paid or reimbursed from any other source.

**Expenses Incurred in Past Years**

PHA Policy

When anticipated costs are related to on-going payment of medical bills incurred in past years, the PHA will verify:

The anticipated repayment schedule

The amounts paid in the past, and

Whether the amounts to be repaid have been deducted from the family's annual income in past years

#### **7-IV.C. DISABILITY ASSISTANCE EXPENSES**

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Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

The PHA must comply with the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. 104-191, 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed auxiliary apparatus or attendance care costs. The PHA may not request documentation beyond what is sufficient to determine anticipated reasonable attendant care and auxiliary apparatus costs. Before placing bills and documentation in the tenant file, the PHA must redact all personally identifiable information [FR Notice 2/14/23].

#### **Amount of Expense**

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#### **Attendant Care**

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##### PHA Policy

Expenses for attendant care will be verified through:

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- Written third-party documents provided by the family, such as receipts or cancelled checks.
- Third-party verification form signed by the provider, if family-provided documents are not available.
- If third-party verification is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months.

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Before placing bills and documentation in the tenant file, the PHA will redact all personally identifiable information.

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If the PHA receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of the person's disability, the PHA will immediately dispose of this confidential information; this information will never be maintained in the individual's file. If the information needs to be disposed of, the PHA will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will PHA include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

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#### **Auxiliary Apparatus**

##### PHA Policy

Expenses for auxiliary apparatus will be verified through:

Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.

Third-party verification form signed by the provider, if family-provided documents are not available.

If third-party or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months.

In addition, the PHA must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
- The expense permits a family member, or members, to work (as described in Chapter 6.).
- The expense is not reimbursed from another source (as described in Chapter 6.).

#### **Family Member is a Person with Disabilities**

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The PHA will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

#### **Family Member(s) Permitted to Work**

The PHA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

##### PHA Policy

The PHA will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.). This documentation may be provided by the family.

If third-party verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

#### **Unreimbursed Expenses**

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

##### PHA Policy

The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

#### **7-IV.B. MEDICAL EXPENSE DEDUCTION**

~~Policies related to medical expenses are found in 6-H.D. The amount of the deduction will be verified following the standard verification procedures described in Part I.~~

##### ***Amount of Expense***

###### **PHA Policy**

~~Medical expenses will be verified through:~~

- ~~• Written third party documents provided by the family, such as pharmacy printouts or receipts.~~
- ~~• The PHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The PHA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.~~
- ~~• Written third party verification forms, if the family is unable to provide acceptable documentation.~~
- ~~• If third party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months~~

~~In addition, the PHA must verify that:~~

- ~~• The household is eligible for the deduction.~~
- ~~• The costs to be deducted are qualified medical expenses.~~
- ~~• The expenses are not paid for or reimbursed by any other source.~~
- ~~• Costs incurred in past years are counted only once.~~

##### ***Eligible Household***

~~The medical expense deduction is permitted only for households in which the head, spouse, or cohead is at least 62 or a person with disabilities. The PHA will verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter, and as described in Chapter 7 (7-IV.A) of this plan.~~

##### ***Qualified Expenses***

~~To be eligible for the medical expenses deduction, the costs must qualify as medical expenses. See Chapter 6 (6-H.D.) for the PHA's policy on what counts as a medical expense.~~

### *Unreimbursed Expenses*

To be eligible for the medical expenses deduction, the costs must not be reimbursed by another source.

#### PHA Policy

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source. If expenses are verified through a third party, the third party must certify that the expenses are not paid or reimbursed from any other source.

### *Expenses Incurred in Past Years*

#### PHA Policy

When anticipated costs are related to on-going payment of medical bills incurred in past years, the PHA will verify:

- The anticipated repayment schedule
- The amounts paid in the past, and
- Whether the amounts to be repaid have been deducted from the family's annual income in past years

## **7-IV.C. DISABILITY ASSISTANCE EXPENSES**

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

### *Amount of Expense*

#### *Attendant Care*

#### PHA Policy

The PHA will accept written third-party documents provided by the family.

If the family provided documents are not available, the PHA will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

- Written third-party documents provided by the family, such as receipts or cancelled checks; or
- Third-party verification form signed by the provider, if family provided documents are not available;
- If third-party verification is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months.



### ***Auxiliary Apparatus***

#### **PHA Policy**

Expenses for auxiliary apparatus will be verified through:

- ~~Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.~~
- ~~Third-party verification form signed by the provider, if family-provided documents are not available.~~
- ~~If third-party or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months.~~

In addition, the PHA must verify that:

- ~~The family member for whom the expense is incurred is a person with disabilities (as described in 7 H.F. above).~~
- ~~The expense permits a family member, or members, to work (as described in 6 H.E.).~~
- ~~The expense is not reimbursed from another source (as described in 6 H.E.).~~

### ***Family Member is a Person with Disabilities***

~~To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The PHA will verify that the expense is incurred for a person with disabilities (See 7 H.F.).~~

### ***Family Member(s) Permitted to Work***

~~The PHA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.~~

#### **PHA Policy**

~~The PHA will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6 H.E.). This documentation may be provided by the family.~~

~~If third-party verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.~~

### ***Unreimbursed Expenses***

~~To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.~~

#### **PHA Policy**

~~The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.~~

### **7-IV.D. CHILD CARE EXPENSES**

Policies related to childcare expenses are found in Chapter 6 ~~(6-II.F)~~. The amount of the deduction will be verified following the standard verification procedures described in Part I. In addition, the PHA must verify that:

- The child is eligible for care. (12 or younger).
- The costs claimed are not reimbursed.
- The costs enable a family member to work, actively seek work, or further their education.
- The costs are for an allowable type of childcare.
- The costs are reasonable.

#### ***Eligible Child***

To be eligible for the childcare deduction, the costs must be incurred for the care of a child under the age of 13. The PHA will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

#### ***Unreimbursed Expense***

To be eligible for the childcare deduction, the costs must not be reimbursed by another source.

#### **PHA Policy**

The family and the care provider will be required to certify that the childcare expenses are not paid by or reimbursed to the family from any source.

#### ***Pursuing an Eligible Activity***

The PHA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

#### **PHA Policy**

#### **Information to be Gathered**

- The PHA will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the

child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

#### **Seeking Work**

- Whenever possible the PHA will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases the PHA will request family-provided verification from the agency of the member's job seeking efforts to date and require the family to submit to the PHA any reports provided to the other agency.
- In the event third-party verification is not available, the PHA will provide the family with a form on which the family member must record job search efforts. The PHA will review this information at each subsequent reexamination for which this deduction is claimed.

#### **Furthering Education**

- The PHA will request third-party documentation to verify that the person permitted to further their education by the childcare is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.

#### **Gainful Employment**

- The PHA will seek third-party verification of the work schedule of the person who is permitted to work by the childcare. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.

#### ***Allowable Type of Child Care***

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

#### **PHA Policy**

The PHA will verify that the type of childcare selected by the family is allowable, as described in Chapter 6 ~~(6-H.F.)~~.

The PHA will verify that the fees paid to the childcare provider cover only childcare costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The PHA will verify that the childcare provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

### ***Reasonableness of Expenses***

Only reasonable childcare costs can be deducted.

#### PHA Policy

The actual costs the family incurs will be compared with the PHA's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, the PHA will request additional documentation, as required, to support a determination that the higher cost is appropriate.

**EXHIBIT 7-1: Summary of Documentation Requirements for Noncitizens**  
**[HCV GB, pp. 5-9 and 5-10]**

<ul style="list-style-type: none"> <li>• <b>All</b> noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the PHA.</li> <li>• Except for persons 62 or older, all noncitizens must sign a verification consent form</li> <li>• Additional documents are required based upon the person's status.</li> </ul>	
<b>Elderly Noncitizens</b> <ul style="list-style-type: none"> <li>• A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.</li> </ul>	
<b>All other Noncitizens</b> <ul style="list-style-type: none"> <li>• Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.</li> </ul>	
<ul style="list-style-type: none"> <li>• Form I-551 Alien Registration Receipt Card (for permanent resident aliens)</li> <li>• Form I-94 Arrival-Departure Record annotated with one of the following: <ul style="list-style-type: none"> <li>• “Admitted as a Refugee Pursuant to Section 207”</li> <li>• “Section 208” or “Asylum”</li> <li>• “Section 243(h)” or “Deportation stayed by Attorney General”</li> <li>• “Paroled Pursuant to Section 221 (d)(5) of the USCIS”</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Form I-94 Arrival-Departure Record with no annotation accompanied by: <ul style="list-style-type: none"> <li>• A final court decision granting asylum (but only if no appeal is taken);</li> <li>• A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);</li> <li>• A court decision granting withholding of deportation; or</li> <li>• A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).</li> </ul> </li> </ul>
<b>Form I-688 Temporary Resident Card</b> annotated “Section 245A” or Section 210”	<b>Form I-688B Employment Authorization Card</b> annotated “Provision of Law 274a.12(11)” or “Provision of Law 274a.12”.
<ul style="list-style-type: none"> <li>• A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant’s entitlement to the document has been verified; or</li> <li>• Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the <i>Federal Register</i></li> </ul>	

## CHAPTER 8

### **LEASING AND INSPECTIONS** [24 CFR §5, Subpart G; 24 CFR §966, Subpart A]

#### **INTRODUCTION**

Public housing leases are the contractual basis of the legal relationship between the PHA and the tenant. All units must be occupied pursuant to a dwelling lease agreement that complies with HUD regulations.

HUD regulations require the PHA to inspect each dwelling unit prior to move-in, at move-out, and annually during the period of occupancy. In addition, the PHA may conduct additional inspections in accordance with PHA policy.

This chapter is divided into two parts as follows:

**Part I: Leasing.** This part describes pre-leasing activities and the PHA's policies pertaining to lease execution, lease modification, and payments under the lease.

**Part II: Inspections.** This part describes the PHA's policies for inspecting dwelling units and notifying families of HUD REAC NSPIRE inspections.

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## PART I: LEASING

### 8-I.A. OVERVIEW

An eligible family may occupy a public housing dwelling unit under the terms of a lease. The lease must meet all regulatory requirements and must also comply with applicable state and local laws and codes.

The term of the lease must be for a period of 12 months. The lease must be renewed automatically for another 12-month term, except that the PHA may not renew the lease if the family has violated the community service requirement and if the family is determined to be over income for 24 consecutive months. [24 CFR §966.4(a)(2)].

PHAs must adopt smoke-free policies, which HUD required to ~~must~~ be implemented no later than July 30, 2018. The policy is A smoke free policy is attached as Exhibit 8-1.

~~PHAs must include in the ACOP residential minimum heating standards policies [Notice PIH 2018-19]. The policy is included in Part I of this chapter.~~

Part I of this chapter contains regulatory information on leasing, where applicable, as well as the PHA's leasing policies.

For policies on lease requirements for families whose incomes have exceeded the over-income limit for 24 consecutive months, see 13-III.C., Over-Income Families.

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### 8-I.B. LEASE ORIENTATION

#### PHA Policy

After unit acceptance but prior to occupancy, a PHA representative will conduct a lease orientation with the family. The head of household or spouse is required to attend.

#### *Orientation Agenda*

#### PHA Policy

When families attend the lease orientation, they will be provided with the following copies:

- The lease
- The PHA's grievance procedure
- The house rules
- The PHA's schedule of maintenance charges
- "Is Fraud Worth It?" (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse
- "What You Should Know about EIV," a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12
- Form HUD-5380, VAWA Notice of Occupancy Rights

- Form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking
- Smoke Free Policy
- A notice that includes the procedures for requesting relief and the PHA's criteria for granting requests for relief for excess utility surcharges.
- The HUD pamphlet on lead-based paint entitled, "Protect Your Family from Lead in Your Home."
- ~~"Is Fraud Worth It?" (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse~~
- ~~"What You Should Know about EIV," a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH-2017-12~~
- ~~Form HUD-5380, VAWA Notice of Occupancy Rights~~
- ~~Form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking~~
- ~~A notice that includes the procedures for requesting relief and the PHA's criteria for granting requests for relief for excess utility surcharges.~~

Topics to be discussed and explained to all families include:

- Applicable deposits and all other charges
- Review and explanation of lease provisions, including House Rules and unit maintenance requests and work orders
- The PHA's interim reporting requirements
- Review and explanation of occupancy forms
- Community service requirements
- Family choice of rent
- VAWA protections
- Smoke-free policies

### **8-I.C. EXECUTION OF LEASE**

The lease must be executed by the tenant and the PHA, except for automatic renewals of a lease [24 CFR 966.4(a)(3)].

A lease is executed at the time of admission for all new residents. A new lease is also executed at the time of transfer from one PHA unit to another.



The lease must state the composition of the household as approved by the PHA (family members and any PHA-approved live-in aide) [24 CFR §966.4(a)(1)(v)]. See Section 8-I.D. for policies regarding changes in family composition during the lease term.

**PHA Policy**

The head of household, spouse or cohead, and all other adult members of the household will be required to sign the public housing lease prior to admission. An appointment will be scheduled for the parties to execute the lease. The head of household will be provided a copy of the executed lease and the PHA will retain a copy in the resident's file.

Files for households that include a live-in aide will contain file documentation signed by the live-in aide, that the live-in aide is not a party to the lease and is not entitled to PHA assistance. The live-in aide is only approved to live in the unit while serving as the care attendant for the family member who requires the care.

**8-I.D. MODIFICATIONS TO THE LEASE**

The lease may be modified at any time by written agreement of the tenant and the PHA [24 CFR §966.4(a)(3)].

***Modifications to the Lease Form***

The PHA may modify its lease from time to time. However, the PHA must give residents at least thirty (30) days advance notice of the proposed changes and an opportunity to comment on the changes. The PHA must also consider any comments before formally adopting the new lease [24 CFR §966.3].

After proposed changes have been incorporated into the lease and approved by the Board, each family must be notified at least 60 days in advance of the effective date of the new lease or lease revision. A resident's refusal to accept permissible and reasonable lease modifications that are made in accordance with HUD requirements, or are required by HUD, is grounds for termination of tenancy [24 CFR §966.4(l)(2)(iii)(E)].

**PHA Policy**

The family will have 30 days to accept the revised lease. If the family does not accept the offer of the revised lease within that 30-day timeframe, the family's tenancy will be terminated for other good cause in accordance with the policies in Chapter 13.

Schedules of special charges and rules and regulations are subject to modification or revision. Because these schedules are incorporated into the lease by reference, residents and resident organizations must be provided at least thirty days written notice of the reason(s) for any proposed modifications or revisions and must be given an opportunity to present written comments. The notice must be delivered directly or mailed to each tenant; or posted in at least three conspicuous places within each structure or building in which the affected dwelling units are located, as well as in a conspicuous place at the project office, if any, or if none, a similar central business location within the project. Comments must be taken into consideration before any proposed modifications or revisions become effective [24 CFR §966.5].

After the proposed revisions become effective, they must be publicly posted in a conspicuous manner in the project office and must be furnished to applicants and tenants on request [24 CFR §966.5].

**PHA Policy**

When the PHA proposes to modify or revise schedules of special charges or rules and regulations, the PHA will post a copy of the notice in the central office, post it at the family sites and will mail a copy of the notice to each resident family. Documentation of proper notice will be included in each resident file.

***Other Modifications***

**PHA Policy**

The lease will be amended to reflect all changes in family composition.

If, for any reason, any member of the household ceases to reside in the unit, the lease will be amended by drawing a line through the person's name. The head of household and PHA will be required to initial and date the change.

If a new household member is approved by the PHA to reside in the unit, the person's name and birth date will be added to the lease. The head of household and PHA will be required to initial and date the change. If the new member of the household is an adult, ~~they~~<sup>he</sup> will also be required to sign and date the lease.

Policies governing when and how changes in family composition must be reported are contained in Chapter 9, Reexaminations.

**8-I.E. SECURITY DEPOSITS [24 CFR §966.4(B)(5)]**

At the option of the PHA, the lease may require security deposits. The amount of the security deposit cannot exceed one month's rent, or a reasonable fixed amount as determined by the PHA.

The PHA may allow for gradual accumulation of the security deposit by the family, or the family may be required to pay the security deposit in full prior to occupancy. Subject to applicable laws, interest earned on security deposits may be refunded to the tenant after vacating the unit or used for tenant services or activities.

**PHA Policy**

Residents must pay a security deposit to the PHA at the time of admission. The amount of the security deposit is as follows:

<b>Public Housing Development</b>	
<b>Bedroom Size</b>	<b>Security Deposit Amount</b>
1	\$350
2	\$400

3	\$450
4	\$500
5	\$550

#### Public Housing Scattered Sites

Bedroom Size	Security Deposit Amount
2	\$525
3	\$550
4	\$600
5	\$675

The security deposit must be paid in full prior to occupancy.

The PHA will hold the security deposit for the period the family occupies the unit. The PHA will not use the security deposit for rent or other charges while the resident is living in the unit.

Within 30 days of move-out, the PHA will refund to the resident the amount of the security deposit, less any amount needed to pay the cost of unpaid rent, damages listed on the move-out inspection report that exceed normal wear and tear, and other charges due under the lease.

The PHA will provide the resident with a written list of any charges against the security deposit within 14 business days of the move-out inspection. If the resident disagrees with the amount charged, the PHA will provide a meeting to discuss the charges.

If the resident transfers to another unit, the PHA will transfer the security deposit to the new unit. The tenant will be billed for any maintenance or other charges due for the “old” unit.

#### 8-I.F. PAYMENTS UNDER THE LEASE

##### *Rent Payments [24 CFR §966.4(b)(1)]*

Families must pay the amount of the monthly tenant rent determined by the PHA in accordance with HUD regulations and other requirements. The amount of the tenant rent is subject to change in accordance with HUD requirements.

The lease must specify the initial amount of the tenant rent at the beginning of the initial lease term, and the PHA must give written notice stating any change in the amount of tenant rent and when the change is effective.

#### PHA Policy

The tenant rent is due and payable at the PHA-designated location on the first of every month. If the first falls on a weekend or holiday, the rent is due and payable on the first business day thereafter.

If a family's tenant rent changes, the PHA will notify the family of the new amount and the effective date by sending a "Notice of Rent Adjustment" ~~written notice, which~~ will become an attachment to the lease.

#### ***Late Fees and Nonpayment [24 CFR §966.4(b)(3); Notice PIH 2021-29]***

At the option of the PHA, the lease may provide for payment of penalties when the family is late in paying tenant rent [24 CFR §966.4(b)(3)].

The lease must provide that late payment fees are not due and collectible until two weeks after the PHA gives written notice of the charges. The written notice is considered an adverse action and must meet the requirements governing a notice of adverse action [24 CFR §966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right for a hearing under the PHA grievance procedures. The PHA must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR §966.4(e)(8)].

#### PHA Policy

If the family fails to pay their rent by the fifth day of the month, and the PHA has not agreed to accept payment at a later date, a ~~30-day Notice to Vacate (during nationwide emergency orders)~~ or a 14-day Notice to Vacate, or such longer period as may be required by HUD, ~~(upon expiration of nationwide emergency orders)~~ will be issued to the resident for failure to pay rent, demanding payment in full or the surrender of the premises.

If the family has received four (4) 14-day Notices to Vacate (or such longer period as may be required by HUD) termination letters in a lease period, even if they pay all amount specified in the notice, the lease violation will not be cured, and the family must vacate the premises.

In addition, if the resident fails to make payment by the end of office hours on the fifth day of the month, a late fee of \$25.00 will be charged. Notices of late fees will be in accordance with requirements regarding notices of adverse action. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, the PHA may not take action for nonpayment of the fee until the conclusion of the grievance process. If the resident can document financial hardship, the late fee may be waived on a case-by-case basis.

If the PHA agrees to accept payment at a later date, a 'Tenant Payment Agreement' will be signed by the resident, housing representative and the housing assistance senior

~~program manager. administrative supervisor. The pay~~The payment amount will include late fees and will need to be collected in the month that the rent is due. ~~Tenant payment agreements are entered into any time before the last two weeks of the month.~~

~~When a check is returned~~~~When a check is returned~~ for insufficient funds or is written on a closed account, the rent will be considered unpaid and a returned check fee of \$25.00 will be charged to the family. ~~The fee will be due and payable 14 days after billing.~~

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Any rent payment received will be applied to the oldest rent charges in the resident's account with the exception of debts currently under a payment agreement.

### ***Excess Utility Charges***

If the PHA charges the tenant for consumption of excess utilities, the lease must state the basis for the determination of such charges. The imposition of charges for consumption of excess utilities is permissible only if the charges are determined by an individual check meter servicing the leased unit or result from the use of major tenant-supplied appliances [24 CFR §966.4(b)(2)].

Schedules of special charges for utilities that are required to be incorporated in the lease by reference must be publicly posted in a conspicuous manner in the development office and must be furnished to applicants and tenants on request [24 CFR §966.5].

The lease must provide that charges for excess utility consumption are not due and collectible until two weeks after the PHA gives written notice of the charges. The written notice is considered an adverse action and must meet the requirements governing a notice of adverse action [24 CFR §966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right to a hearing under the PHA grievance procedures. The PHA must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR §966.4(e)(8)].

#### **PHA Policy**

When applicable, families will be charged for excess utility usage according to the PHA's current posted scheduled. Notices of excess utility charges will be mailed monthly and will be in accordance with requirements regarding notices of adverse actions. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, the PHA may not take action for nonpayment of the charges until the conclusion of the grievance process.

Nonpayment of excess utility charges is a violation of the lease and is grounds for eviction.

The PHA may grant requests for relief from surcharges from excess utility consumption of PHA-furnished utilities as a reasonable accommodation where the PHA deems and exception is appropriate to meet the needs of the elderly, ill, or disabled residents. In

determining whether to grant this request, the PHA will consider special factors affecting ~~the~~ utility usage that are not within the control of the resident, such as the need for medical equipment. Residents may request relief in accordance with Section 2-II.C. of this ACOP. The PHA will process such requests in accordance with Section 2-II.E. of this ACOP.

Notice of the availability of procedures for requesting relief (including the PHA representative with whom initial contact may be made by the resident) and the PHA's criteria for granting requests, will be included in each notice to residents of changes in utility allowances or surcharges as well as to new residents as part of the lease orientation.

### ***Maintenance and Damage Charges***

If the PHA charges the tenant for maintenance and repair beyond normal wear and tear, the lease must state the basis for the determination of such charges [24 CFR §966.4(b)(2)].

Schedules of special charges for services and repairs which are required to be incorporated in the lease by reference must be publicly posted in a conspicuous manner in the development office and must be furnished to applicants and tenants on request [24 CFR §966.5].

The lease must provide that charges for maintenance and repair beyond normal wear and tear are not due and collectible until two weeks after the PHA gives written notice of the charges. The written notice is considered an adverse action and must meet the requirements governing a notice of adverse action [24 CFR §966.4(b)(4)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of their right for a hearing under the PHA grievance procedures. The PHA must not take the proposed action until the time for the tenant to request a grievance hearing has expired, or (if a hearing was requested within the required timeframe,) the grievance process has been completed [24 CFR §966.4(e)(8)].

#### **PHA Policy**

When applicable, families will be charged for maintenance and/or damages according to the PHA's current schedule. Work that is not covered in the schedule will be charged based on the actual cost of labor and materials to make needed repairs (including overtime, if applicable).

Notices of maintenance and damage charges will be mailed monthly and will be in accordance with requirements regarding notices of adverse actions. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, the PHA may not take action for nonpayment of the charges until the conclusion of the grievance process.

Nonpayment of maintenance and damage charges is a violation of the lease and is grounds for eviction.

## 8 I.G. MINIMUM HEATING STANDARDS (PIH NOTICE 2018-19)

PHAs in states, territories, or localities with existing minimum heating standards must use their respective local standards for public housing dwelling units. For PHAs where state or local minimum heating standards do not exist, PHAs must use the HUD-prescribed heating standards specified in Notice PIH 2018-19.

Notice PIH 2018-19 provides guidance on the minimum heating requirements in public housing required by the “Housing Opportunity Through Modernization Act of 2016” (HOTMA). PHAs operating in states or localities that do not have minimum heating standards must use the standards described in the Notice.

### PHA Policy

The PHA is located in an area where state or local residential heating standards exist and will utilize those standards for public housing units. Therefore, the PHA’s minimum heating standards are as follows:

#### — Minimum temperature:

##### — Heating:

- If the PHA controls the temperature, the minimum heating temperature in each unit must be at least 68 degrees Fahrenheit.
- If the resident controls the temperature, the heating equipment must have the capability of heating to at least 68 degrees Fahrenheit.
- At no point should indoor temperatures in occupied space drop below 55 degrees Fahrenheit.

##### — Cooling:

- If the PHA controls the temperature, the minimum cooling temperature in each unit must be at least 82 degrees Fahrenheit.
- If the resident controls the temperature, the heating equipment must have the capability of heating to at least 82 degrees Fahrenheit.

#### — Minimum temperature capability:

[If PHAs are allowed flexibility maintaining the indoor temperature when the outdoor temperature approaches the design day temperature, insert criteria for when flexibility applies and the minimum temperature threshold that the indoor temperature should never fall below. Note, the design day temperature refers to the lowest expected outdoor temperature a heating system was designed to accommodate.

This flexibility applies when at least one of the below criteria are met:

~~—The outside temperature reaches or drops below the design day temperature, or~~

~~—The outside temperature is within five degrees Fahrenheit of the design day temperature for more than two continuous days.~~

~~—Measurement:~~

~~Temperature measurements must be taken according to the following methodology: [insert methodology for taking temperature measurements].~~

~~—Temperature measurements must be taken three feet above the floor in the center of the room.~~

PHA Policy

~~COCHRD will not use the design day temperature for heating and cooling standards.~~



## PART II: INSPECTIONS

### 8-II.A. OVERVIEW

The PHA is obligated to maintain safe and habitable dwelling units and to make necessary repairs to dwelling units [24 CFR 966.4(e)]. The National Standards for the Inspection Physical Inspection of Real Estate (NSPIRE) are the standard under which HUD housing units, including those under the public housing program, are inspected. NSPIRE ensures that residents of public housing live in safe, habitable dwellings, and the items and components located inside, outside, and within the units are functionally adequate, operable, and free of health and safety hazards [24 CFR 5.703(a)]. Further, units must comply with state and local code requirements (such as fire, mechanical, plumbing, carbon monoxide, property maintenance, and residential code) [24 CFR 5.703(f)] as well as with all requirements related to the evaluation and control of lead-based paint hazards [24 CFR 5.703(e)(2)].

Under NSPIRE, public housing units are subject to three types of inspections: annual self-inspections, NSPIRE Inspections (which are used to assess and score the PHA under the Public Housing Assessment System (PHAS)), and NSPIRE Plus Inspections (which are triggered by poor property conditions). HUD regulations also require the PHA to inspect each public housing dwelling unit prior to move-in and at move-out, and annually during occupancy. In addition, the PHA may require additional inspections, in accordance with PHA policy. This part contains the PHA's policies governing inspections by the PHA and HUD, notification of unit entry, and inspection results/repair timelines. This section discusses inspections conducted by the PHA (including annual self-inspections) and inspections conducted by HUD REAC.

### 8-II.B. ~~TYPES OF PHA-CONDUCTED~~ INSPECTIONS

The PHA is obligated to maintain dwelling units and the project in safe and habitable condition and to make necessary repairs to dwelling units [24 CFR 966.4(e)].

#### Types of PHA-Conducted Inspections

##### *Move-In Inspections [24 CFR §966.4(i)]*

The lease must require the PHA and the family to inspect the dwelling unit prior to occupancy in order to determine the condition of the unit and equipment in the unit. A copy of the initial inspection, signed by the PHA and the tenant, must be provided to the tenant and retained in the resident file.

##### PHA Policy

Any adult family member may attend the initial inspection and sign the inspection form for the head of household.

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### ***Move-Out Inspections [24 CFR §966.4(i)]***

The PHA must inspect the unit at the time the resident vacates the unit and must allow the resident to participate in the inspection if they wish, unless the tenant vacates without notice to the PHA. The PHA must provide to the tenant a statement of any charges to be made for maintenance and damage beyond normal wear and tear.

The difference between the condition of the unit at move-in and move-out establishes the basis for any charges against the security deposit so long as the work needed exceeds that for normal wear and tear.

#### **PHA Policy**

When applicable, the PHA will provide the tenant with a statement of charges to be made for maintenance and damage beyond normal wear and tear, within 149 business days of conducting the move-out inspection.

### ***Self-Inspections [24 CFR 5.707]***

Annually all PHAs are required to self-inspect their properties, including all units, to ensure units are maintained in accordance with NSPIRE standards in 24 CFR 5.703. As part of the self-inspection process, PHAs must ensure that deficiencies previously cited and repaired as a result of an NSPIRE inspection have not subsequently failed.

The PHA must maintain the results of self-inspections for three years and must provide the results to HUD upon request.

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### ***Annual Inspections [24 CFR §5.705]***

~~Section 6(f)(3) of the United States Housing Act of 1937 requires that PHAs inspect each public housing project annually to ensure that the project's units are maintained in decent, safe, and sanitary condition. The PHA shall continue using the Uniform Physical Condition Standards (UPCS) in 24 CFR §5, Subpart G, Physical Condition Standards, and Inspection Requirements, to conduct annual project inspections. These standards address the inspection of the site area, building systems and components, and dwelling units.~~

#### **PHA Policy**

~~The PHA will inspect all occupied units annually using HUD's Uniform Physical Condition Standards (UPCS).~~

### ***Quality Control Inspections***

The purpose of quality control inspections is to assure that all defects were identified in the original inspection, and that repairs were completed ~~at an acceptable level of craftsmanship~~ and within an acceptable time frame.

#### **PHA Policy**

The Maintenance Supervisor will conduct quality control inspections in accordance with the PHA's maintenance plan.

### *Special Inspections*

#### PHA Policy

PHA staff may conduct a special inspection for any of the following reasons:

- Housekeeping
- Unit condition
- Suspected lease violation
- Preventive maintenance
- Routine maintenance
- There is reasonable cause to believe an emergency exists

### **Other Inspections**

#### PHA Policy

Building exteriors, grounds, common areas and systems will be inspected according to the PHA's maintenance plan.

## **~~8 H.C. NOTICE AND SCHEDULING OF INSPECTIONS~~**

### **~~NOTICE OF ENTRY~~**

#### Notice of Entry

#### ***Non-emergency Entries [24 CFR §966.4(j)(1)]***

The PHA may enter the unit, with reasonable advance notification to perform routine inspections and maintenance, make improvements and repairs, or to show the unit for re-leasing. A written statement specifying the purpose of the PHA entry delivered to the dwelling unit at least two days before such entry is considered reasonable advance notification.

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#### PHA Policy

The PHA will notify the resident in writing at least 48 hours prior to any non-emergency inspection.

For regular annual self-inspections, the family will receive at least two weeks written notice of the inspection to allow the family to prepare the unit for the inspection.

A “routine inspection” includes, without limitation, an annual inspection of the dwelling unit, monthly pest control treatment and any required follow up inspection necessary to assure compliance with the Housekeeping Standards and House Rules.

~~The PHA will notify the resident in writing at least two (2) days prior to any non-emergency inspection.~~

Entry for repairs requested by the family will not require prior notice. Resident-requested repairs presume permission for the PHA to enter the unit.

Except for emergencies, management will not enter the dwelling unit to perform inspections where a pet resides unless accompanied for the entire duration of the inspection by the pet owner or responsible person designated by the pet owner in accordance with the pet policies in Section 10-II.D.

#### ***Emergency Entries [24 CFR §966.4(j)(2)]***

The PHA may enter the dwelling unit at any time without advance notice when there is reasonable cause to believe that an emergency exists. If no adult household member is present at the time of an emergency entry, the PHA must leave a written statement showing the date, time, and purpose of the entry prior to leaving the dwelling unit.

#### ***Scheduling of PHA-Conducted Inspections***

##### PHA Policy

Inspections will be conducted during business hours between 7:00 a.m. and 5:00 p.m. If a family needs to reschedule an inspection, they must notify the PHA at least 24 hours prior to the scheduled inspection. The PHA will reschedule the inspection no more than once unless the resident has a verifiable good cause to delay the inspection. The PHA may request verification of such cause.

#### ***Attendance at Inspections***

Residents are required to be present for move-in inspections [24 CFR §966.4(i)]. There is no such requirement for other types of inspections.

##### PHA Policy

While the resident is required to be present for ~~Except at~~ move-in inspections, the resident is not required to be present for ~~the other types of~~ inspections. The resident may attend the inspection if they wish. If no one is at home, the inspector will enter the unit, conduct the inspection, and leave a copy of the inspection report in the unit.

## 8-H.D. INSPECTION RESULTS

### Repairs

~~The PHA is obligated to maintain dwelling units and the project in decent, safe, and sanitary condition and to make necessary repairs to dwelling units [24 CFR §966.4(e)].~~ Correction timeframes differ depending on whether repairs are considered emergency or non-emergency repairs.

### *Emergency Repairs [24 CFR §966.4(h)]*

If the unit is damaged to the extent that conditions are created which are hazardous to the life, health, or safety of the occupants, the tenant must immediately notify the PHA of the damage, and the PHA must make repairs within a reasonable time frame. Under NSPIRE, the PHA must correct all Life-Threatening and Severe deficiencies within 24 hours

If the damage was caused by a household member or guest, the PHA must charge the family for the reasonable cost of repairs. The PHA may also take lease enforcement action against the family.

If the PHA cannot make repairs quickly, the PHA must offer the family standard alternative accommodations. If the PHA can neither repair the defect within a reasonable time frame nor offer alternative housing, rent shall be abated in proportion to the seriousness of the damage and loss in value as a dwelling. Rent shall not be abated if the damage was caused by a household member or guest, or if the resident rejects the alternative accommodations.

### PHA Policy

~~When conditions in the unit are hazardous to life, health, or safety, the PHA will make repairs or otherwise abate the situation within 24 hours.~~

~~Defects hazardous to life, health, or safety include, but are not limited to, the following:~~

- ~~— Any condition that jeopardizes the security of the unit, major plumbing leaks or flooding, waterlogged ceiling, or floor in imminent danger of falling~~
- ~~— Natural or LP gas or fuel oil leaks~~
- ~~— Any electrical problem or condition that could result in shock or fire~~
- ~~— Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit~~
- ~~— Absence of a working air conditioner when the outside temperature is 110 degrees or above. Utilities not in service, including no running hot water~~
- ~~— Conditions that present the imminent possibility of injury~~
- ~~— Obstacles that prevent safe entrance or exit from the unit~~
- ~~— Absence of a functioning toilet in the unit~~
- ~~— Inoperable smoke detectors~~

~~—In situations where the unit or building has a fuel burning appliance or an attached garage, missing or inoperable carbon monoxide detectors.~~

### ***Non-emergency Repairs***

#### PHA Policy

The PHA will correct ~~non life-threatening health and safety defects~~ deficiencies resulting in a non-emergency work order identified during a PHA conducted inspection within 15 business days of the inspection date. If the PHA is unable to make repairs within that period due to circumstances beyond the PHA's control (e.g., required parts or services are not available, weather conditions, etc.) the PHA will notify the family of an estimated date of completion.

The family must allow the PHA access to the unit to make repairs.

Except for emergencies, management will not enter the dwelling unit to perform repairs where a pet resides unless accompanied for the entire duration of the repair by the pet owner or responsible person designated by the pet owner in accordance with the pet policies in Section 10-II.D.

### ***Resident-Caused Damages***

#### PHA Policy

Damages to the unit beyond wear and tear will be billed to the tenant in accordance with the policies in 8-I.F., Maintenance and Damage Charges.

Repeated or excessive damages to the unit beyond normal wear and tear will be considered a serious or repeated violation of the lease.

Notices of lease termination will also be issued to residents who purposely disengage the unit's smoke detector.

Utilities that are the resident's responsibility and are found not in service will be cause for a 5 five-day lease termination.

### ***Housekeeping***

#### PHA Policy

~~Residents If a PHA determination is made on objective facts supported by written statements received by an eyewitness, that a resident~~ whose housekeeping habits pose a non-emergency health or safety risk, encourage insect or rodent infestation, or cause damage to the unit are in violation of the lease. In these instances, the PHA will provide proper may serve a written notice of a of lease violation(s) to the resident.

A reinspection will be conducted within 30 days to confirm that the resident has complied with the requirement to abate the problem. Failure to abate the problem or allow for a reinspection is considered a violation of the lease and may result in termination of tenancy in accordance with Chapter 13.

The resident will have five (5) business days from the effective date of the notice to correct the violation(s) or make a written request for a meeting to discuss the violation(s).

The resident's failure to correct the violation(s), request a meeting, or appear at the requested meeting will result in the resident being served a written lease termination.

Notices of lease violation will also be issued to residents who purposely disengage the unit's smoke detector and/or carbon monoxide alarm. Only one warning will be given. A second incidence will result in lease termination.

#### **8-II.C. NSPIRE INSPECTIONS [24 CFR 5.705(c); Notice PIH 2023-16]**

During an NSPIRE inspection, 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. For most properties, the frequency of NSPIRE inspections is determined by the date of the prior inspection and the score received.

#### **Notice to Residents [Notice PIH 2023-16]**

The PHA must provide notice to all residents as described in 24 CFR 5.711(h) and the lease.

##### PHA Policy

The PHA will provide all residents with at least seven days' notice of an NSPIRE inspection. Notice will be provided through multiple communication methods, including by posted notice on each resident's door and through email where applicable. All materials, notices, and communications to families regarding the inspection will be clearly communicated and provided in a manner that is effective for persons with hearing, visual, and other communication-related disabilities consistent with Section 504 of the Rehabilitation Act (Section 504) and HUD's Section 504 regulation, and Titles II or III of the Americans with Disabilities Act (ADA) and implementing regulations.

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## 24-Hour Corrections [24 CFR 5.711(c); Notice PIH 2023-16]

At the conclusion of the NSPIRE inspection, or at the end of the day on multi-day inspections, HUD provides the PHA with a list of Life-Threatening and Severe deficiencies. The PHA must correct all Life-Threatening and Severe deficiencies within 24 hours, with certification of correction submitted to HUD within two business days of receipt of notification of the deficiency.

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If permanent repair will take longer than the allowable time in the relevant standard for the deficiency, the PHA must provide HUD with a timeframe for completing permanent repairs and submit evidence that the repair is in progress. Any extension to the allowable time for rectifying the deficiency is allowed only upon HUD approval for good cause.

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### PHA Policy

The PHA will correct all Life-Threatening and Severe deficiencies within 24 hours. Correcting the deficiency means the PHA will resolve or sufficiently address the deficiency in a manner that it no longer poses a severe health or safety risk to residents or the hazard is blocked until permanent repairs can be completed. A correction could include controlling or blocking access to the hazard by performing a temporary relocation of the resident while repairs are made.

While the PHA will complete all repairs expeditiously, if a permanent repair is not possible within 24-hours, the PHA will correct the deficiency by performing an interim repair to remove the health and safety hazard. If the correction is temporary or professional services or materials are unavailable within 24 hours, the PHA will provide a target date for permanent correction. Such interim repairs will be fully completed within a reasonable timeframe approved by HUD.

The family must allow the PHA access to the unit to make repairs.

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## Non-emergency Repairs

Under NSPIRE, the PHA must correct Moderate deficiencies within 30 days and Low deficiencies within 60 days, or as otherwise provided in the NSPIRE standards. Repairs should be permanent fixes, unless otherwise approved by HUD in writing. HUD may also prescribe timelines in Corrective Action Plans as defined in 24 CFR 902.3 or Corrective Action Agreements as described in 24 CFR 902.105.

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### PHA Policy

If the PHA is unable to make repairs within the periods identified in the NSPIRE standards due to circumstances beyond the PHA's control (e.g., required parts or services are not available, weather conditions, etc.), the PHA will provide HUD with a timeframe for completing permanent repairs and obtain HUD approval. The PHA will also notify the family of an estimated date of completion.

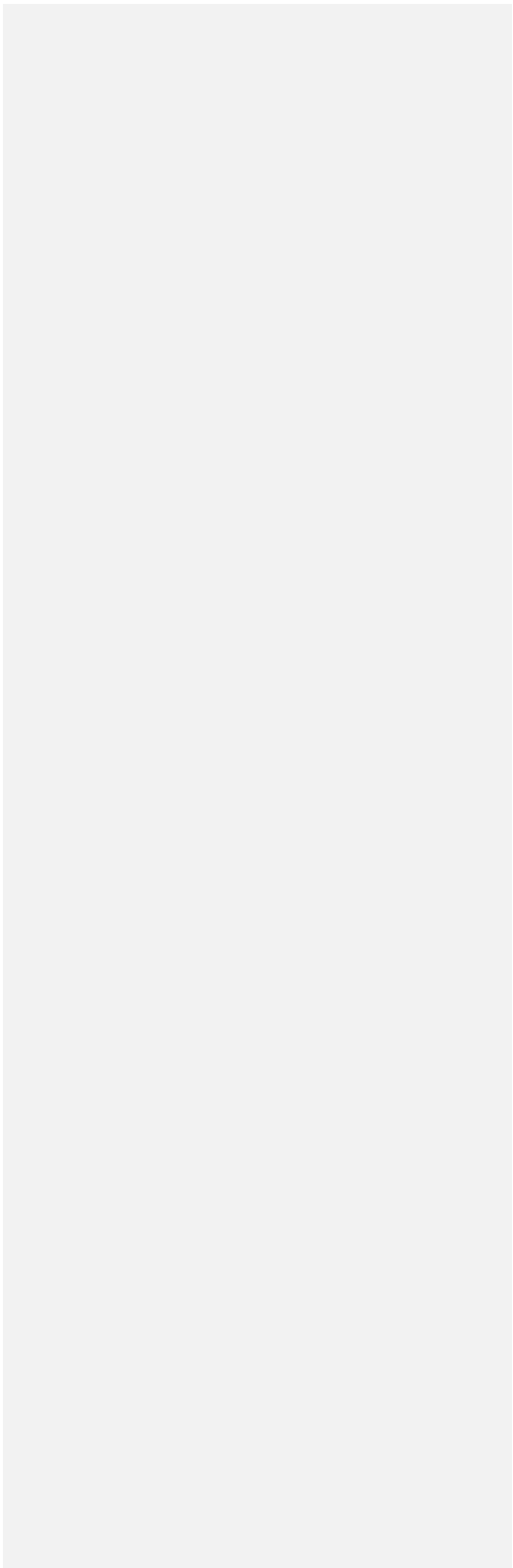


The family must allow the PHA access to the unit to make repairs.

Except for emergencies, management will not enter the dwelling unit to perform repairs where a pet resides unless accompanied for the entire duration of the repair by the pet owner or responsible person designated by the pet owner in accordance with the pet policies in Section 10-II.D.

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### ***EXHIBIT 8-1: Smoke-Free Policy***

The City of Chandler Housing and Redevelopment (COCHRD) and the United States Department of Housing and Urban Development (HUD) have become increasingly aware of the ill effects caused by secondhand smoke. These ill effects include but are not limited to (1) health concerns raised by other residents who experience secondhand smoke filtering into adjoining apartments, with resulting increased potential for lung related illnesses and disorders; (2) additional costs for maintenance such as cleaning, painting, replacing blinds and cleaning air conditioning coils; (3) safety concerns resulting from smokers disconnecting the smoke alarms in their units.

In response to these concerns and in order to provide a safe living environment for all Residents, on February 3, 2017, HUD issued a federal rule requiring all Public Housing Authorities implement a smoke-free policy. The COCHRD adopted the following Policy effective December 31, 2017:

- Smoking is not permitted anywhere on public housing grounds, to include living units, interior and exterior common areas, outdoor areas, and in or near public housing and administrative office buildings.
- The term “prohibited tobacco products” is defined as items that involve the ignition and burning of tobacco leaves, such as: cigarettes, cigars, pipes, and water pipes (also known as hookahs).
- The term “electronic delivery device” means any product that can be used to deliver aerosolized or vaporized nicotine, lobelia, or any other substance to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, or vape pen.
- The term “interior common areas” include but are not limited to hallways, rental and administrative offices, community rooms/centers, laundry rooms/centers and similar structures.
- “Smoke” or “Smoking” means inhaling or exhaling smoke, aerosol, or vapor from any lighted or heated cigar, cigarette, pipe, electronic delivery device, or any other natural or synthetic tobacco or plant product. “Smoke” or “Smoking” also includes burning or possessing any lighted or heated cigar, cigarette, pipe, electronic delivery device, or any other natural or synthetic tobacco or plant product intended for inhalation.
- The premises to be occupied by Resident and members of Resident’s household have been designated as a smoke-free living environment. Resident, members of Resident’s household, and guests shall not smoke anywhere in the unit leased by Resident, interior common areas utilized by Residents and staff, and in or near the public housing buildings.
- Residents are responsible for notifying their guests and invitees that the COCHRD has designed the property as a smoke-free property. Residents are responsible for ensuring

that their guests and any and all visitors under their control fully comply with this policy.

- Non-Smoking areas within the property include the following areas:
- Smoking is not permitted anywhere on public housing grounds, to include living units, interior and exterior, common areas, outdoor areas, and in or near public housing, playgrounds, and administrative office buildings.
- Resident should promptly provide the COCHRD with a written statement of any incident where tobacco smoke is migrating into Resident's unit from sources outside Resident's unit.
- The COCHRD has posted No Smoking signs at entrances and exits, common areas, hallways and in conspicuous places at Public Housing family sites.
- The COCHRD will take reasonable steps to enforce this Smoke-Free Policy and to make the unit smoke-free. The COCHRD is not required to take steps in response to smoking unless the COCHRD knows of a violation of this Smoke-Free Policy or has been provided with written notice of any violation of this Policy.
- A material breach of this Policy shall be a material breach of the resident's lease agreement and the Rules and Regulations and grounds for termination of tenancy through a graduated enforcement framework will include:
  - **A lease** amendment identifying the actions that constitutes a policy violation and encourage residents to promptly provide a written statement of any incident where tobacco smoke is migrating into the resident's unit from sources outside the resident's unit.
  - If a determination is made on objective facts supported by written statements, that a tenant is in violation, the COCHRD may serve a written notice of lease violation(s) to the tenant to meet with the housing specialist to discuss the violation(s). Documentation of noncompliance, if there are repeated violations (more than two) or persistent non-responsiveness will constitute a violation of the lease.
  - Eviction proceedings as a last resort.

As referenced in Section X of Resident's lease and the Smoke-Free Policy Attachment restrictions.

- 1) Resident acknowledges that the COCHRD's adoption of a Smoke-Free living environment and its efforts to designate the unit as Smoke-Free do not make the COCHRD guarantor of Resident's health or of the smoke-free condition of Resident unit or the common areas. Resident acknowledges that the COCHRD'S adoption of a smoke-free living environment and its efforts to designate the unit as smoke-free do not in any way change the standard of care that the COCHRD has to Resident's household

to render units designated as smoke-free any safer, more habitable, or improved in terms of air quality standards than any other rental premises. The COCHRD specifically disclaims any implied or express warranties that the Resident's premises will have any higher or improved air quality standards than any other rental units. The COCHRD cannot and does not warranty or promise that the rental premises will be free from secondhand smoke.

- 2) Resident acknowledges that the COCHRD'S ability to police, monitor, or enforce the restrictions of this Policy is dependent in significant part on voluntary compliance by Resident and Resident's guests and invitees. Residents with respiratory ailments, allergies, or any other physical or mental condition relating to smoke are put on notice that the COCHRD does not assume any higher duty of care to enforce this Policy than any other obligation imposed on them under the Lease or Rules and Regulations.
- 3) To assist all residents with the Smoke-Free Policy transition and to accommodate resident interest in smoking cessation, the COCHRD is committed to providing resources for cessation education and outreach.

Please refer to the Lease Addendum and/or your Section X of the Lease for information regarding the Smoke-Free Policy restrictions.

**By signing below, the resident acknowledges receipt of the Smoke-Free Policy.**

_____ Resident	_____ Date	_____ Resident	_____ Date
_____ Resident	_____ Date	_____ Resident	_____ Date

## Chapter 9

### REEXAMINATIONS

[24 CFR 960.257, 960.259, 966.4]

#### INTRODUCTION

With the exception of non-public housing over income families, the PHA is required to reexamine each family's income and composition periodically, and to adjust the family's rent accordingly. PHAs must adopt policies for conducting annual and interim reexaminations that are consistent with regulatory requirements and must conduct reexaminations in accordance with such policies [24 CFR 960.257(c)].

The frequency with which the PHA must reexamine the income and composition of a family depends on whether the family pays income-based or flat rent. HUD requires the PHA to offer all families the choice of paying income-based rent or flat rent at least annually. The PHA's policies for offering families a choice of rents are located in Chapter 6.

This chapter discusses both annual and interim reexaminations.

**Part I: Annual Reexaminations for Families Paying Income Based Rents.** This part discusses the requirements for annual reexamination of income and family composition. Full reexaminations are conducted at least once a year for families paying income-based rents.

**Part II: Reexaminations for Families Paying Flat Rents.** This part contains the PHA's policies for conducting full reexaminations of family income and composition for families paying flat rents. These full reexaminations are conducted at least once every 3 years. This part also contains the PHA's policies for conducting annual updates of family composition for flat rent families.

**Part III: Interim Reexaminations.** This part includes HUD requirements and PHA policies related to when a family may and must report changes that occur between annual reexaminations.

**Part IV: Recalculating Tenant Rent.** After gathering and verifying required information for an annual or interim reexamination, the PHA must recalculate the tenant rent. While the basic policies that govern these calculations are provided in Chapter 6, this part describes the policies that affect these calculations during a reexamination.

**Part V: Non-Interim Reexamination Transactions.** This part describes transactions that do not entail changes to the family's adjusted income.

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Policies governing reasonable accommodation, family privacy, required family cooperation and program abuse, as described elsewhere in this ACOP, apply to annual and interim reexaminations.

**PART I: ANNUAL REEXAMINATIONS FOR FAMILIES  
PAYING INCOME-BASED RENTS; [24 CFR §960.257]**

**9-1.A. OVERVIEW**

For those families who choose to pay income-based rent, the PHA must conduct a reexamination of income and family composition at least annually [24 CFR 960.257(a)(1)]. With the exception of over-income families, who must have their income reviewed at 12 and 24 months, for flat rent families, the PHA must conduct a reexamination of family composition at least annually and must conduct a reexamination of family income at least once every three years [24 CFR 960.257(a)(2)]. For any non-public housing over income families, the PHA may not conduct an annual reexamination of family income. Policies related to the reexamination process for families paying flat rent are located in Part II of this chapter.

For all residents of public housing, whether those residents are paying income-based or flat rents, the PHA must conduct an annual review of community service requirement compliance. This annual reexamination is also a good time to have residents sign consent forms for criminal background checks in case the criminal history of a resident is needed at some point for the purposes of lease enforcement or eviction.

The PHA is required to obtain all of the information necessary to conduct reexaminations. How that information will be collected is left to the discretion of the PHA. Families are required to provide current and accurate information on income, assets, allowances and deductions, family composition and community service compliance as part of the reexamination process [24 CFR 960.259].

Unlike when performing an interim reexamination or at intake, at annual reexamination, the PHA must determine the income of the family for the previous 12-month period, except where the PHA uses a streamlined income determination. Income from assets, however, is always anticipated, irrespective of the income examination type [Notice PIH 2023-27]. PHAs also have the option of using a “safe harbor” income verification from another federal means-tested program to verify gross annual income. Chapter 7 contains the PHA’s policies related to streamlined income determinations and the use of safe harbor income verifications.

This part contains the PHA’s policies for conducting annual reexaminations.



~~For those families who choose to pay income-based rent, the PHA must conduct a reexamination of income and family composition at least annually [24 CFR §960.257(a)(1)]. For families who choose flat rents, the PHA must conduct a reexamination of family composition at least annually and must conduct a reexamination of family income at least once every 3 years [24 CFR §960.257(a)(2)]. Policies related to the reexamination process for families paying flat rent are located in Part II of this chapter.~~

~~For all residents of public housing, whether those residents are paying income-based or flat rents, the PHA must conduct an annual review of community service requirement compliance. This annual reexamination is also a good time to have residents sign consent forms for criminal background checks in case the criminal history of a resident is needed at some point for the purposes of lease enforcement or eviction.~~

~~The PHA is required to obtain all of the information necessary to conduct reexaminations. How that information will be collected is left to the discretion of the PHA. Families are required to provide current and accurate information on income, assets, allowances and deductions, family composition and community service compliance as part of the reexamination process [24 CFR §960.259].~~

~~This part contains the PHA's policies for conducting annual reexaminations.~~

### **~~9-I.B. STREAMLINED ANNUAL REEXAMINATIONS (FIXED INCOME) [24 CFR §960.257]~~**

~~HUD PERMITS PHAS TO STREAMLINE THE INCOME DETERMINATION PROCESS FOR FAMILY MEMBERS WITH FIXED SOURCES OF INCOME. WHILE THIRD-PARTY VERIFICATION OF ALL INCOME SOURCES MUST BE OBTAINED DURING THE INTAKE PROCESS AND EVERY THREE YEARS THEREAFTER, IN THE INTERVENING YEARS THE PHA MAY DETERMINE INCOME FROM FIXED SOURCES BY APPLYING A VERIFIED COST OF LIVING ADJUSTMENT (COLA) OR RATE OF INTEREST. THE PHA MAY, HOWEVER, OBTAIN THIRD-PARTY VERIFICATION OF ALL INCOME, REGARDLESS OF THE SOURCE. FURTHER, UPON REQUEST OF THE FAMILY, THE PHA MUST PERFORM THIRD-PARTY VERIFICATION OF ALL INCOME SOURCES.~~

~~FIXED SOURCES OF INCOME INCLUDE SOCIAL SECURITY AND SSI BENEFITS, PENSIONS, ANNUITIES, DISABILITY OR DEATH BENEFITS, AND OTHER SOURCES OF INCOME SUBJECT TO A COLA OR RATE OF INTEREST. THE DETERMINATION OF FIXED INCOME MAY BE STREAMLINED EVEN IF THE FAMILY ALSO RECEIVES INCOME FROM OTHER NON-FIXED SOURCES.~~

~~TWO STREAMLINING OPTIONS ARE AVAILABLE, DEPENDING UPON THE PERCENTAGE OF THE FAMILY'S INCOME THAT IS RECEIVED FROM FIXED SOURCES. IF AT LEAST 90 PERCENT OF THE FAMILY'S INCOME IS FROM FIXED SOURCES, THE PHA MAY STREAMLINE THE VERIFICATION OF FIXED INCOME BUT IS NOT REQUIRED TO VERIFY NON-FIXED INCOME AMOUNTS. IF THE FAMILY RECEIVES LESS THAN 90 PERCENT OF ITS INCOME FROM FIXED SOURCES, THE PHA MAY STREAMLINE THE VERIFICATION OF FIXED INCOME AND MUST VERIFY NON-FIXED INCOME ANNUALLY.~~

### **~~PHA POLICY~~**

~~THE PHA WILL STREAMLINE THE ANNUAL REEXAMINATION PROCESS BY APPLYING THE VERIFIED COLA OR INTEREST RATE TO FIXED-INCOME SOURCES. THE PHA WILL DOCUMENT IN THE FILE HOW THE DETERMINATION THAT A SOURCE OF INCOME WAS FIXED WAS MADE.~~

~~IF A FAMILY MEMBER WITH A FIXED SOURCE OF INCOME IS ADDED, THE PHA WILL USE THIRD-PARTY VERIFICATION OF ALL INCOME AMOUNTS FOR THAT FAMILY MEMBER.~~

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~~IF VERIFICATION OF THE COLA OR RATE OF INTEREST IS NOT AVAILABLE,  
THE PHA WILL OBTAIN THIRD PARTY VERIFICATION OF INCOME AMOUNTS.~~

~~THIRD PARTY VERIFICATION OF FIXED SOURCES OF INCOME WILL BE  
OBTAINED DURING THE INTAKE PROCESS AND AT LEAST ONCE EVERY  
THREE YEARS THEREAFTER.~~

~~THIRD PARTY VERIFICATION OF NON FIXED INCOME WILL BE OBTAINED  
ANNUALLY REGARDLESS OF THE PERCENTAGE OF FAMILY INCOME  
RECEIVED FROM FIXED SOURCES.~~

**9-I.C. 9-I.B. SCHEDULING ANNUAL REEXAMINATIONS [PIH 2020-32]**

The PHA must establish a policy to ensure that the annual reexamination for each family paying an income-based rent is completed within a 12-month period [24 CFR §960.257(a)(1)].

**PHA Policy**

Generally, the PHA will schedule annual reexaminations to coincide with the family's anniversary date. The PHA will begin the annual reexamination process approximately 120 days in advance of the scheduled effective date.

*Anniversary date* is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

If the family transfers to a new unit, the PHA will perform a new annual reexamination, and the anniversary date will be changed.

The PHA may also schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

**Notification of and Participation in the Annual Reexamination Process**

The PHA is required to obtain information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the PHA. However, PHAs should give tenants who were not provided the opportunity to provide contact information at the time of admission the option to complete Form HUD-92006 at this time. The PHA should provide the family with the opportunity to update, change, or remove information from the HUD-92006 at the time of the annual reexamination [Notice PIH 2009-36].

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### PHA Policy

Families generally are required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, or cohead. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact the PHA to request a reasonable accommodation. (See Chapter 2)

The PHA has the sole discretion to hold the annual reexamination via an online process, or an in-person interview. Notification of annual reexamination interviews will be sent by first-class mail and will contain method of the reexamination. If in-person, the notice will include the date, time, and location of the interview. In addition, it will inform the family of the information and documentation that must be brought to the interview.

If the family is unable to attend a scheduled interview, the family should contact the PHA in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend the scheduled interview the PHA will send a second notification with a new interview appointment time.

If a family fails to attend two scheduled interviews without PHA approval, the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

An advocate, interpreter, or other assistant may assist the family in the interview process.

### **9-I.CD. CONDUCTING ANNUAL REEXAMINATIONS ~~[PHH-2020-32]~~**

The terms of the public housing lease require the family to furnish information regarding income and family composition as may be necessary for the redetermination of rent, eligibility, and the appropriateness of the housing unit [24 CFR §966.4(c)(2)].

### PHA Policy

The PHA has the sole discretion to require that documentation for annual reexaminations ~~are~~<sup>is</sup> sent to the PHA via the housing authority's online process.

Families will be asked to provide all required information (as described in the reexamination notice) through the tenant's online account. The PHA may also opt to complete the reexamination appointment in person.

The required information will include a PHA-designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documents or forms related to the family's income, expenses, and family composition.

Any required documents or information that the family is unable to provide for the annual reexamination process must be provided within 10 business days of the request. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

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If the family does not provide the required documents or information within the required time ~~frame~~period (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

Families who have extenuating circumstances or are elderly will be permitted to complete their reexamination by mail or by using their online account process. A request for an exception must be submitted in writing and will be reviewed and approved by management on a case-by-case basis.

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal Identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

#### **9-I.D. CALCULATING ANNUAL INCOME AT ANNUAL REEXAMINATION** **[24 CFR 5.609(c)(2) and Notice PIH 2023-27]**

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 determination as indicated in Chapter 7 of this policy. The PHA may also use Safe harbor income determinations dated within the last 12 months from a means-tested federal public assistance program at annual reexamination as outlined in Chapter 7 of this policy.

Except when using streamlined or safe harbor income determinations, in determining the income of the family for the previous 12-month period, any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination in accordance with PHA policies and 24 CFR 5.657(c) or 960.257(b) must be considered.

Income from assets is always anticipated, irrespective of the income examination type.

A change in income may be a loss of income or the addition of a new source of income. Changing to a different employer in the prior year does not necessarily constitute a change if the income earned from either employer is substantially the same. The PHA should look at the entirety of the family's unearned income and earned income from the prior year in which earned income may have been one constant job or many different jobs that start and stop.

Cost of Living Adjustments (COLA) to Social Security income and Social Security disability income are always considered changes to income because the COLA is an adjustment that automatically occurs annually by law. See Chapter 6 for PHA policies on when the COLA is applied and Chapter 7 on streamlined determination of income for inflationary adjustments.

Notice PIH 2023-27 lists the following steps to calculate both earned and unearned income at annual reexamination.

**Step 1:** The PHA determines annual income for the previous 12-month period by reviewing the following information:

- The EIV Income Report pulled within 120 days of the effective date of the annual reexamination;
- The income reported on the most recent HUD-50058; and
- The amount of prior-year income reported by the family on the PHA's annual reexamination paperwork.

**Step 2:** The PHA takes into consideration any interim reexamination of family income completed since the last annual reexamination.

- If there was an interim reexamination performed, the PHA must use the annual income from the interim to determine the family's total annual income, provided there are no additional changes.
- If the PHA did not perform an interim or there have been changes since the last reexamination, the PHA moves to Step 3.

**Step 3:** If there were changes in annual income not processed by the PHA since the last reexamination, the PHA must use current income. The family will be required to report their income for the prior year and whether there have been permanent changes.

If there are no reported changes to an income source, the PHA may use documentation of prior-year income to calculate the annual income. For example, the PHA may use the following documentation:

- EIV + self-certification (wages, Supplemental Security Income (SSI), Social Security, and unemployment)
- Current written third-party verification from the source verifying prior-year income that is dated within 120 days of receipt by the PHA, for example:
  - Year-end statements
  - Paycheck with year-to-date amounts
  - Tax forms (Form 1040, W2, 1099, etc.)

If there are reported changes by the family or the PHA notes discrepancies between EIV and what the family reports, the PHA must follow the verification hierarchy (described in Chapter 7) to document and verify income. Exhibit 9-1 provides detailed examples of how the PHA calculates income from different sources at annual reexamination using the above method.

PHA Policy

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When income is calculated using a streamlined income determination or Safe Harbor determination from a means-tested federal public assistance program in accordance with PHA policies in Chapter 7, the above is not applicable. However, where the family disagrees with the PHA or other agency's determination of income or the PHA has other reason to use third-party verification in these circumstances, then the above will apply.

## **9-I.E. OTHER CONSIDERATIONS**

### ***Change in Unit Size***

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. The PHA may use the results of the annual reexamination to require the family to move to an appropriate size unit [24 CFR §960.257(a)(4)]. Policies related to such transfers are located in Chapter 12.

### ***Criminal Background Checks*** ~~*[PIH Notice 2012-28]*~~

Information obtained through criminal background checks may be used for lease enforcement and eviction [24 CFR §5.903(e)(1)(ii)]. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.

#### **PHA Policy**

Each household member age 18 and over will be required to execute a consent form for a criminal background check as part of the annual reexamination process.

Additionally, HUD recommends that at annual reexaminations PHAs ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state [Notice PIH 2012-28].

#### **PHA Policy**

At the annual reexamination, the PHA will ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state. The PHA will perform criminal background checks through local law enforcement ~~and will use~~ the Dru Sjodin National Sex Offender database to verify the information provided by the tenant.

If the PHA proposes to terminate assistance based on lifetime sex offender registration information, the PHA must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination. [24 CFR §5.903(f) and §5.905(d)]. (See Chapter 13.)

### ***Compliance with Community Service***

For families who include nonexempt individuals, the PHA must determine compliance with community service requirements once each 12 months [24 CFR §960.257(a)(3)].

See Chapter 11 for the PHA's policies governing compliance with the community service requirement.



### 9-I.FE. EFFECTIVE DATES ~~OF RENT INCREASES AND DECREASES~~

As part of the annual reexamination process, the PHA must make appropriate adjustments in the rent after consultation with the family and upon verification of the information [24 CFR §960.257(a)(1)].

#### PHA Policy

In general, an *increase* in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

- If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.
- If the PHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the PHA, but will always allow for the 30-day notice period.
- If the family causes a delay in processing the annual reexamination, *increases* in the tenant rent will be applied retroactively to the scheduled effective date of the annual reexamination. The family will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16.

In general, a *decrease* in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date:

- If the PHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the PHA.
- If the family causes a delay in processing the annual reexamination, *decreases* in the tenant rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by the PHA by the date specified, and this delay prevents the PHA from completing the reexamination as scheduled.

**PART II: REEXAMINATIONS FOR FAMILIES PAYING FLAT RENTS**  
**[24 CFR §960.25~~37~~(f2)]**

**9-II.A. OVERVIEW**

HUD requires that the PHA offer all families the choice of paying income-based rent or flat rent at least annually. The PHA's policies for offering families a choice of rents are located in Chapter 6.

For families who choose flat rents, the PHA must conduct a reexamination of family composition at least annually and must conduct a reexamination of family income at least once every 3 years [24 CFR §960.25~~37~~(f2)]. The PHA is only required to provide the amount of income-based rent the family might pay in those years that the PHA conducts a full reexamination of income and family composition, or upon request of the family after the family submits updated income information [24 CFR §960.253(e)(2)]. However, these regulations are not applicable to over-income families. Once an over-income determination is made, the PHA must conduct an interim reexamination at 12 and 24 months, as applicable, to determine if the family remains over-income [Notice PIH 2023-03].

As it does for families that pay income-based rent, the PHA must also review compliance with the community service requirement for families with nonexempt individuals.

This part contains the PHA's policies for conducting reexaminations of families who choose to pay flat rents.

**9-II.B. FULL REEXAMINATION OF FAMILY INCOME AND COMPOSITION**

***Frequency of Reexamination***

PHA Policy

For families paying flat rents, the PHA will conduct a full reexamination of family income and composition once every three years~~3~~.

-However, for flat rent families who become over-income, this policy will not apply. The PHA will instead conduct an interim reexamination at 12 and 24 months following the initial over-income determination as needed to verify the family remains over-income. The family will continue to be given a choice between income-based and flat rent at each annual reexamination during the over-income grace period.

If the family is subsequently determined to no longer be over-income:

If the determination is the result of an annual reexamination, the family will be given a choice between income-based or flat rent at reexam. If the family selects flat rent, the PHA will resume reexamination of family income and composition once every three years.

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If determination is as a result of an interim reexamination, the PHA will conduct an annual reexamination for the family at their next scheduled annual date. If the family selects flat rent, the PHA will resume reexamination of family income and composition once every three years. Families will only be given the choice between income-based and flat rent at annual reexamination.

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### ***Reexamination Policies***

#### **PHA Policy**

In conducting full reexaminations for families paying flat rents, the PHA will follow the policies used for the annual reexamination of families paying income-based rent as set forth in Sections 9-I.B through 9-I.E~~D~~ above.

### **9-II.C. REEXAMINATION OF FAMILY COMPOSITION ("ANNUAL UPDATE")**

As noted above, full reexaminations are conducted every 3 years for families paying flat rents. In the years between full reexaminations, regulations require the PHA to conduct a reexamination of family composition ("annual update") [24 CFR §960.257(a)(2)]. Over-income families who select the flat rent are not subject to annual update as their income must be reviewed, and an interim reexamination conducted, at 12 and 24 months as applicable.

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The annual update process is similar to the annual reexamination process, except that the PHA does not collect information about the family's income and expenses, and the family's rent is not recalculated following an annual update.

### ***Scheduling***

The PHA must establish a policy to ensure that the reexamination of family composition for families choosing to pay the flat rent is completed at least annually [24 CFR §960.257(a)(2)].

#### **PHA Policy**

For families paying flat rents, annual updates will be conducted in each of the 2 years following the full reexamination.

In scheduling the annual update, the PHA will follow the policy used for scheduling the annual reexamination of families paying income-based rent as set forth in Section 9-I.B. above.

### ***Conducting Annual Updates***

The terms of the public housing lease require the family to furnish information necessary for the redetermination of rent and family composition [24 CFR §966.4(c)(2)].

#### **PHA Policy**

Generally, the family will not be required to attend an interview for an annual update.

However, if the PHA determines that an interview is warranted, the family may be required to attend.

Notification of the annual update will be sent by first-class mail and will inform the family of the information and documentation that must be provided to the PHA. The family will have 10 business days to submit the required information to the PHA. If the family is unable to obtain the information or documents within the required time frame, the family may request an extension. The PHA will accept required documentation by mail, by email, by fax, or in person.

If the family's submission is incomplete, or the family does not submit the information in the required time frame, the PHA will send a second written notice to the family. The family will have 10 business days from the date of the second notice to provide the missing information or documentation to the PHA.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

#### ***Change in Unit Size***

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. The PHA may use the results of the annual update to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 12.

#### ***Criminal Background Checks ~~{PIH Notice 2012-28}~~***

HUD authorizes PHAs to perform criminal background checks during the annual recertification/reexamination to determine if a member of a participant's household is subject to a lifetime registration requirement under any State sex offender registration program. Additionally, PHAs must ask whether the tenant, or any member of the tenant's household, is subject to a lifetime registered sex offender registration requirement in any state [Notice PIH 2012-28]. The PHA may not pass along to the applicant the costs of a criminal records check [24 CFR §960.204(d)].

Information obtained through criminal background checks may be used for lease enforcement and eviction [24 CFR 5.903(e)]. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.

##### **PHA Policy**

Each household member age 18 and over will be required to execute a consent form for criminal background check as part of the annual update process.

The PHA will perform criminal background checks through local law enforcement and ~~or~~ use the Dru Sjodin National Sex Offender database for all adult household members.

If the recertification screening reveals that the tenant has falsified information or otherwise failed to disclose criminal history on his/her full application and/or recertification forms, the PHA will pursue termination of assistance, as described in Chapter 13, Mandatory Termination of Assistance.

### ***Compliance with Community Service***

For families who include nonexempt individuals, the PHA must determine compliance with community service requirements once each 12 months [24 CFR §960.257(a)(3)].

See Chapter 11 for the PHA's policies governing compliance with the community service requirement.

**PART III: INTERIM REEXAMINATIONS**  
**[24 CFR §960.257(b); 24 CFR §966.4; and Notice PIH 2023-27]**

**9-III.A. OVERVIEW**

Family circumstances may change during the period between annual reexaminations. HUD and PHA policies define the types of information about changes in family circumstances that must be reported, and under what circumstances the PHA must process interim reexaminations to reflect those changes. HUD regulations also permit the PHA to conduct interim reexaminations of income or family composition at any time.

A family may request an interim determination of family income or composition because of any changes since the last determination. The PHA must conduct any interim reexamination within a reasonable period of time after the family request or when the PHA becomes aware of a change in the family's adjusted income that must be processed in accordance with HUD regulations. What qualifies as a "reasonable time" may vary based on the amount of time it takes to verify information, but the PHA generally should conduct the interim reexamination not longer than 30 days after the PHA becomes aware of changes in income.

Notice PIH 2023-27 changes the conditions under which interim reexaminations must be conducted, codifies when interim reexaminations should be processed and made effective, and requires related changes for annual reexaminations and streamlined income determinations. When the PHA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income.

~~n addition to specifying what information the family must report, HUD regulations permit the family to request an interim determination if other aspects of the family's income or composition change. The PHA must complete the interim reexamination within a reasonable time after the family's request.~~

~~This part includes HUD and PHA policies that describe the changes families are *required* to report, the changes families *may choose* to report, and how the PHA will process both PHA- and family-initiated interim reexaminations.~~

**9-III.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION**

**Reporting**

PHAs must require families to report household composition changes; however, PHAs determine the timeframe in which reporting happens [Notice PIH 2023-27]. The PHA must adopt policies prescribing when and under what conditions the family must report changes in family composition [24 CFR 960.257(b)(5)].

~~The PHA must adopt policies prescribing when and under what conditions the family must report changes in family composition. However, due to provisions of the public housing lease, the PHA has limited discretion in this area.~~

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. Policies related to such transfers are located in Chapter 12.

#### PHA Policy

All families, those paying income-based rent as well as flat rent, must report all changes in family and household composition that occur between annual reexaminations (or annual updates) within ten (10) business days of the change notify the PHA of the any change within 10 business days of its occurrence (e.g., If the resident or any member of the family is employed, the start date of employment would start the count of 10 business days).

The changes must be submitted in writing either through the applicant's online account or on a Change Report form.

If using a Change Report form, the applicant copy of the form must be time and date stamped by the City of Chandler Housing office to be considered valid.

The copy of the form will be provided to the participant.

The PHA will conduct interim reexaminations to account for any changes in household composition or income changes that occur between annual reexaminations.

#### ***New Family Members Not Requiring Approval***

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require PHA approval. However, the family is required to promptly notify the PHA of the addition [24 CFR §966.4(a)(1)(v)].

#### PHA Policy

The family must inform the PHA in writing of the birth, adoption, or court-awarded custody of a child within ten (10) business days.

#### ***New Family and Household Members Requiring Approval ~~[24 CFR §966.4]~~***

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request PHA approval to add a new family member [24 CFR §966.4(a)(1)(v)] or other household member (live-in aide or foster child) [24 CFR §966.4(d)(3)].

The PHA may adopt reasonable policies concerning residence by a foster child or a live-in aide and defining the circumstances in which PHA consent will be given or denied. Under such policies, the factors considered by the PHA may include [24 CFR §966.4(d)(3)(i)]:

- Whether the addition of a new occupant may necessitate a transfer of the family to another unit, and whether such units are available.

- The PHA's obligation to make reasonable accommodation for persons with disabilities.

#### PHA Policy

Families must request PHA approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 14 consecutive days or a total of 30 cumulative calendar days during any 12-month period, and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by the PHA prior to the individual moving into the unit.

If adding a person to a household (other than a child by birth, adoption, or court-awarded custody) will require a transfer to a larger size unit (under the transfer policy in Chapter 12), the PHA will approve the addition only if the family can demonstrate that there are medical needs or other extenuating circumstances, including reasonable accommodation, that should be considered by the PHA. Exceptions will be made on a case-by-case basis.

The PHA will not approve the addition of a new family or household member unless the individual meets the PHA's eligibility criteria (see Chapter 3) and documentation requirements (See Chapter 7, Part II).

If the PHA determines that an individual does not meet the PHA's eligibility criteria or documentation requirements, the PHA will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

The PHA will make its determination within 10 business days of receiving all information required to verify the individual's eligibility.

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The PHA will not approve the addition of a separate family to be added to the household unless the separate family is the live-in aide's family. Only one bedroom will be granted for a live-in aide and their family. All members of the live-in aide's family must meet eligibility requirements. A live-in aide must be requested through the reasonable accommodation process if a disabled household member needs the accommodation due to medical reasons.

The PHA will approve the addition of a biological minor when a current household member has physical custody of the minor, the adoption or court-awarded custody of a minor, or a minor who has been placed temporarily in the household and a current household member has physical custody of the minor.

The PHA will approve the addition of a significant other or spouse as long as the adult meets the eligibility requirements. Other additions to the household will be reviewed on a case-by-case basis to take into consideration adult relatives returning to the household who need care provided by a household member; relatives who have never lived in the household, but now a household member is responsible for the care of the relative; or in situations where an adult biological or adopted child of a household member needs to live in the household for safety reasons or to attend school. All household additions must meet eligibility requirements.

The PHA will not approve the addition of a new family or household member unless the individual meets the PHA's eligibility criteria (see Chapter 3) and documentation requirements (See Chapter 7, Part II).

If the PHA determines that an individual does not meet the PHA's eligibility criteria or documentation requirements, the PHA will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

The PHA will make its determination within 10 business days of receiving all information required to verify the individual's eligibility.

The family will not receive approval to add a separate family (two or more persons) to the household.

### ***Departure of a Family or Household Member***

The family must promptly notify the PHA if any household member (including a live-in aide, foster child, or foster adult) no longer lives in the unit. The PHA must process an interim for all decreases in adjusted income when a family member permanently moves out of the unit.

#### PHA Policy

If a household member ceases to reside in the unit, the family must inform the PHA within 10 business days. This requirement also applies to family members who had been considered temporarily absent, who are now permanently absent.

The PHA will process an interim if the family's adjusted income will decrease as a result of a family member permanently moving out of the unit.

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#### PHA Policy

~~If a family member ceases to reside in the unit, the family must inform the PHA in writing within 10 business days of its occurrence and provide the new residential address of the family member who is being removed. This requirement also applies to family members who had been considered temporarily absent, who are now permanently absent.~~

~~If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform the PHA within 10 business days.~~

### **9-III.C. CHANGES AFFECTING INCOME OR EXPENSES**

~~Interim reexaminations can be scheduled either because the PHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, the PHA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.~~

#### PHA Policy

This section only applies to families paying income-based rent. Families paying flat rent are not required to report changes in income or expenses.

Interim reexaminations for changes in income or expenses may be scheduled either because the PHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change.

The PHA must estimate the income of the family for the upcoming 12-month period to determine family income for an interim reexamination [24 CFR 5.609(c)(1)]. Policies for projecting income are found in Chapter 6.

#### Interim Decreases [24 CFR 960.257(b)(2) and Notice PIH 2023-27]

A family may request an interim determination of family income for any change since the last determination. However, the PHA may decline to conduct an interim reexamination if the PHA estimates the family's adjusted income will decrease by an amount that is less than 10 percent of the family's adjusted income. The PHA may set a lower threshold in PHA policy such as performing an interim for any decreases in adjusted income, although HUD prohibits the PHA from setting a dollar-figure threshold.

However, while the PHA has some discretion, HUD requires that the PHA perform an interim reexamination for a decrease in adjusted income of any amount in two circumstances:

- When there is a decrease in family size attributed to the death of a family member; or
- When a family member permanently moves out of the assisted unit during the period since the family's last reexamination.

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In the above circumstances, the PHA must perform an interim reexamination for any decrease in adjusted income.

If the net effect of the changes in adjusted income due to a decrease in family size results in no change or an increase in annual adjusted income, then PHA must process the removal of the household member(s) as a non-interim reexamination transaction without making changes to the family's annual adjusted income.

#### PHA Policy

The PHA will conduct an interim reexamination any time the family's adjusted income has decreased by any amount.

### Interim Increases [24 CFR 960.257(b)(3) and Notice PIH 2023-27]

#### Increases Less than 10 Percent

PHAs must not process interim reexaminations for income increases that result in less than a 10 percent increase in annual adjusted income.

#### Increases 10 Percent or Greater

PHAs must conduct an interim reexamination of family income when the PHA becomes aware that the family's adjusted income has changed by an amount that the PHA estimates will result in an increase of 10 percent or more in adjusted income, with the following exceptions:

- PHAs may not consider any increases in earned income when estimating or calculating whether the family's adjusted income has increased, unless the family has previously received an interim reduction during the same reexamination cycle; and
- PHAs may choose not to conduct an interim reexamination during the last three months of a certification period if a family reports an increase in income within three months of the next annual reexamination effective date.

When the family previously received an interim reexamination for a decrease to adjusted income during the same annual reexamination cycle, a PHA has the discretion whether to consider a subsequent increase in earned income.

#### PHA Policy

When a family reports an increase in their earned income between annual reexaminations, the PHA will not conduct an interim reexamination, regardless of the amount of the increase, and regardless of whether there was a previous decrease since the family's last annual reexamination.

The PHA will process an interim reexamination for any increases in unearned income of 10 percent or more in adjusted income.

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The PHA will not perform an interim reexamination when a family reports an increase in income (whether earned or unearned income) within three months of their annual reexamination effective date. However, families who delay reporting income increases until the last three months of their certification period may be subject to retroactive rent increases in accordance with the PHA policies in Chapter 15.

#### **Concurrent Increases in Earned and Unearned Income [Notice PIH 2023-27]**

When the family reports an increase in both earned and unearned income at the same time, the PHA must look at the earned and unearned income changes independently of each other to determine if an interim reexamination is performed. The PHA will only conduct an interim reexamination when the increase independently meets the 10 percent threshold and all other requirements for performing interim reexaminations. For example, if a family reported increases in both earned and unearned income that overall resulted in a 12 percent increase in their adjusted income, but the change in earned income represented a 7 percent increase and the change in unearned income represented a 5 percent increase, the PHA may not perform an interim for either change since neither change meets the 10 percent threshold amount independently. If the change in unearned income met the 10 percent threshold in this case, the PHA would be required to perform an interim. If the change in earned income met the 10 percent threshold in this case, the PHA would refer to PHA policy to determine whether an interim was required.

#### **Cumulative Increases [Notice PIH 2023-27]**

A series of smaller reported increases in adjusted income may cumulatively meet or exceed the 10-percent increase threshold, at which point the PHA must conduct an interim reexamination in accordance with PHA policy.

#### **Public Housing Over-Income Families [24 CFR 960.507(c); Notice PIH 2020-3; and Notice PIH 2023-27]**

Regardless of changes in adjusted income, in some circumstances the PHA is required to conduct an interim reexamination to determine whether a family's income continues to exceed the public housing over-income limit. PHAs are required to conduct income examinations of public housing families who have been determined to exceed the over-income limit at specific intervals. When a PHA makes an initial determination that a family is over-income during an interim reexamination, the PHA must conduct a second interim reexamination 12 months after the over-income determination, and then again 12 months after the second over-income determination, unless the family's income falls below the over-income limit during the 24-month period. This continued evaluation of the family's over-income status requires the PHA to notify any family that exceeds the over-income limit that they remain over the income limit, even if the family is paying the flat rent [24 CFR 960.253]. An interim income reexamination to determine if a public housing family remains over-income does not reset the family's normal annual reexamination date.

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### Family Reporting

The PHA must adopt policies consistent with HUD regulations prescribing when and under what conditions the family must report a change in family income or composition [24 CFR 960.257(b)(5)].

PHA policy may require families to report only changes that the family estimates meet the threshold for an interim reexamination or the PHA may establish policies requiring that families report all changes in income and household composition, and the PHA will subsequently determine if the change requires an interim reexamination [Notice PIH 2023-27].

When the PHA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income. For example, if the family is reporting a decrease in adjusted income that is more than 10 percent, but the family also had a change in assets that would result in a change in income, the change in assets must also be reviewed [Notice PIH 2023-27].

#### PHA Policy

The family will be required to report all changes in income regardless of the amount of the change, whether the change is to earned or unearned income, or if the change occurred during the last three months of the certification period. Families must report changes in income within 10 business days of the date the change takes effect. The family may notify the PHA of changes either orally or in writing. If the family provides oral notice, the PHA may also require the family to submit the changes in writing.

Within 10 business days of the family reporting the change, the PHA will determine whether the change will require an interim reexamination.

If the change will not result in an interim reexamination, the PHA will note the information in the tenant file but will not conduct an interim reexamination. The PHA will send the family written notification within 10 business days of making this determination informing the family that the PHA will not conduct an interim reexamination.

If the change will result in an interim reexamination, the PHA will determine the documentation the family will be required to submit based on the type of change reported and PHA policies in Chapter 7. The PHA will ask the family to report changes in all aspects of adjusted income at this time. The family must submit any required information or documents within 10 business days of receiving a request from the PHA. This time frame may be extended for good cause with PHA approval. The PHA will accept required documentation by mail, email, fax, or in person. The PHA will conduct the interim within a reasonable time period based on the amount of time it takes to verify the information.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if the PHA determines that an interview is warranted, the family may be required to attend.

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Effective Jan. 1, 2024: HOTMA Section 102 Income Review Requirement: To encourage economic self-sufficiency and allow families to from federal All income increases below the threshold of 10 percent increase or decrease (same source) income HOTMA creates a 10 percent increase/decrease threshold for conducting Interim Reexaminations, and in most cases, requires that the increases in earned income not be processed until the next Annual Reexamination, allowing families to keep more of their earnings before receiving a rent increase.

#### PHA Policy

Effective Jan. 1, 2024, when a change report has been submitted for an income increase or decrease, the PHA will review the income verification to determine if the increase meets the 10 percent threshold. If the increase is at or less than the 10 percent threshold, the increase will be effective at the next annual reexamination. If the increase is more than 10 percent, then an interim reexamination will be conducted providing for a 30-day notification to the participant of a tenant rent increase.

This policy applies to Family Self-Sufficiency participants.

Families paying flat rent are not required to report change income or expenses and exempt from this requirement.

#### ***PHA-initiated Interim Reexaminations***

PHA-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by the PHA. They are not scheduled because of changes reported by the family.

#### PHA Policy

The PHA will conduct interim reexaminations in each of the following instances:

- For families receiving the Earned Income Disallowance (EID), the PHA will conduct an interim reexamination at the start, to adjust the exclusion with any changes in income, and at the conclusion of the 24-month eligibility period.
- If the family has reported zero income, the PHA will conduct an interim reexamination every three months (or quarterly beginning January, April, July, and September) as long as the family continues to report that they have no income. The family will provide a notarized affirmation of zero income, complete a zero-income budgeting worksheet and questionnaire. A review of the checking and saving bank statements will be conducted to observe the cost expenditures and deposits.
- If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income), the PHA will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.



- If at the time of the annual reexamination, tenant declarations were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, the PHA will conduct an interim reexamination.
- The PHA may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a tenant fraud complaint.

### ***Family-Initiated Interim Reexaminations***

The PHA must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR §960.257(c)]. In addition, HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR §960.257(b)].

### ***Required Reporting***

HUD regulations give the PHA the discretion to determine the circumstances under which families will be required to report changes affecting income.

#### **PHA Policy**

Families are required to report all increases in earned and unearned income, including new employment within 10 business days of its occurrence.

The changes must be submitted in writing by using our ‘Change Report Form’.

The copy of the form must be time and date stamped by the City of Chandler Housing office to be considered valid. The copy of the form will be provided to the participant.

To encourage economic self-sufficiency and independence from federal assistance the following income will be excluded from an interim change and processed only at the annual reexamination:

- Increases in Social Security benefits;

The interim reexamination will be processed for Family Self-Sufficiency (FSS) participants who report an increase in earned income.

### ***Optional Reporting***

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR §960.257(b)]. The PHA must process the request if the family reports a change that will result in a reduced family income [PH Occ GB, p. 159].

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family’s share of the rent will not be reduced [24 CFR §5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.

PHA Policy

If a family reports a change that it was not required to report and that would result in an increase in the tenant rent, the PHA will note the information in the tenant file but will not conduct an interim reexamination.

Families may report changes in income or expenses at any time.

**9-III.D. EFFECTIVE DATES~~PROCESSING THE INTERIM REEXAMINATION~~**

**Changes Reported Timely [24 CFR 960.257(b)(6) and Notice PIH 2023-27]**

If the family reports a change in family income or composition timely in accordance with PHA policies:

- For rent increases, the PHA must provide the family with 30 days advance written notice. The rent increase is effective the first of the month after the end of that 30-day notice period.
- Rent decreases are effective on the first of the month after the date of the actual change leading to the interim reexamination of family income. This means the decrease will be applied retroactively.

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**Changes Not Reported Timely [24 CFR 960.257(b)(6)(ii) and (iii) and Notice PIH 2023-27]**

If the family failed to report a change in family income or composition timely in accordance with PHA policies:

- For rent increases, the PHA must implement any resulting rent increases retroactively to the first of the month following the date of the change leading to the interim reexamination of family income.
- For rent decreases, the PHA must implement the change no later than the first rent period following completion of the interim reexamination.

However, the PHA may choose to adopt a policy that would make the effective date of the rent decrease retroactive to the first of the month following completion of the reexamination. PHAs may choose to establish conditions or requirements for when such a retroactive application would apply. PHAs that choose to adopt such policies must ensure the earliest date that the retroactive decrease is applied is the later of:

- The first of the month following the date of the change that led to the interim reexamination;  
or
- The first of the month following the most recent previous income examination.

In applying a retroactive change in rent as the result of an interim reexamination, the PHA must clearly communicate the effect of the retroactive adjustment to the family so that there is no confusion over the amount of the rent that is the family's responsibility.

PHA Policy

In general, when the family fails to report a change in income or family composition timely, and the change would lead to a rent decrease, the PHA will apply the decrease the first of the month following completion of the interim reexamination.

However, the PHA will apply the results of the interim reexamination retroactively where a family's ability to report a change in income promptly may have been hampered due to extenuating circumstances such as a natural disaster or disruptions to PHA management operations. The PHA will decide to apply decreases retroactively on a case-by-case basis.

When the PHA applies the results of interim decreases retroactively, the PHA will clearly communicate the effect of the retroactive adjustment to the family and may enter into a repayment agreement in accordance with PHA policies.



### ***Method of Reporting***

#### **PHA Policy**

The family may notify the PHA of changes either orally or in writing. If the family provides oral notice, the PHA may also require the family to submit the changes in writing.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if the PHA determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, the PHA will determine the documentation the family will be required to submit. The family must submit any required information or documents within 10 business days of receiving a request from the PHA. This time frame may be extended for good cause with PHA approval. The PHA will accept required documentation by mail, by fax, or in person.

### ***Effective Dates***

The PHA must make the interim reexamination within a reasonable time after the family request [24 CFR §960.257(b)].

#### **PHA Policy**

If the tenant rent is to *increase*:

- The increase generally will be effective on the first of the month following 30 days' notice to the family.
- If a family fails to report a change within the required time frames or fails to provide all required information within the required time frames, the increase will be applied retroactively to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16.

If the tenant rent is to *decrease*:

- The decrease will be effective on the first day of the month following the month in which the change was reported, and all required documentation was submitted; however, all required documentation must be received by the 20<sup>th</sup> calendar day of the month to allow adequate time for processing.
- In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.

## **PART IV: RECALCULATING TENANT RENT**

### **9-IV.A. OVERVIEW**

For those families paying income-based rent, the PHA must recalculate the rent amount based on the income information received during the reexamination process and notify the family of the changes [24 CFR §966.4, §960.257]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

### **9-IV.B. CHANGES IN UTILITY ALLOWANCES [24 CFR §965.507, 24 CFR §966.4]**

The tenant rent calculations must reflect any changes in the PHA's utility allowance schedule [24 CFR §960.253(c)(3)]. Chapter 16 discusses how utility allowance schedules are established.

#### PHA Policy

Unless the PHA is required to revise utility allowances retroactively, revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.

### **9-IV.C. NOTIFICATION OF NEW TENANT RENT**

The public housing lease requires the PHA to give the tenant written notice stating any change in the amount of tenant rent, and when the change is effective [24 CFR §966.4(b)(1)(ii)].

When the PHA redetermines the amount of rent (Total Tenant Payment or Tenant Rent) payable by the tenant, not including determination of the PHA's schedule of Utility Allowances for families in the PHA's Public Housing Program, or determines that the tenant must transfer to another unit based on family composition, the PHA must notify the tenant that the tenant may ask for an explanation stating the specific grounds of the PHA determination, and that if the tenant does not agree with the determination, the tenant shall have the right to request a hearing under the PHA's grievance procedure [24 CFR §966.4(c)(4)].

#### PHA Policy

The notice to the family will include the annual and adjusted income amounts that were used to calculate the tenant rent.

### **9-IV.D. DISCREPANCIES**

During an annual or interim reexamination, the PHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the PHA may discover errors made by the PHA. When errors resulting in the overpayment or underpayment of rent are discovered, corrections will be made in accordance with the policies in Chapter 15.

## **PART V: NON-INTERIM REEXAMINATION TRANSACTIONS**

### **Notice PIH 2023-27**

Families may experience changes within the household that do not trigger an interim reexamination under PHA policy and HUD regulations but which HUD still requires the PHA to report via Form HUD-50058. These are known as *non-interim reexamination transactions*. In these cases, PHAs will submit a separate, new action code on Form HUD-50058. The following is a list of non-interim reexamination transactions:

- Adding or removing a hardship exemption for the child care expense deduction;
- Updating or removing the phased-in hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction (the phased-in relief will begin at an eligible family's first annual or interim reexamination, whichever is sooner, after January 1, 2024);
- Adding or removing general hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction;
- Adding or removing a minimum rent hardship;
- Adding or removing a non-family member (i.e., live-in aide, foster child, foster adult);
- Ending a family's EID or excluding 50 percent (decreased from 100 percent) of a family member's increase in employment income at the start of the second 12-month EID period.
- Adding a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Removing a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Adding/Updating a family or household member's Social Security number; and
- Updating a family member's citizenship status from eligible to ineligible or vice versa, resulting in a change to the family's rent and/or utility reimbursement, if applicable (i.e., family begins receiving prorated assistance or previously prorated assistance becomes full assistance), or updating the prorated rent calculation due to the addition or removal of family members in household with an ineligible noncitizen(s).

PHAs must make all other changes to assets, income, and deductions at the next annual or interim reexamination of income, whichever is sooner.

**EXHIBIT 9-1: CALCULATING INCOME AT ANNUAL REEXAMINATION**

**Example 1: Calculating Annual Income at Annual Reexamination Using EIV**

Staff are processing the 3/1/2024 annual reexamination for Ruby Myers and her minor daughter, Georgia. No interim reexaminations have been processed, and Ruby has not reported any changes to annual income to the PHA since the 3/1/2023 annual reexamination. The SSA-published 2024 COLA is 7 percent.

Last reexamination – 3/1/2023 Annual Reexamination

Ruby:

Georgia:

Wages: \$30,000

SSI: \$10,980 (\$915 monthly)

The EIV report pulled on 12/15/2023

Ruby:

Georgia:

Wages Total: \$33,651

SSI Total: \$10,980

Quarter 3 of 2023: \$8,859 (City Public School)

2023 benefit \$915 monthly

Quarter 2 of 2023: \$8,616 (City Public School)

Quarter 1 of 2023: \$8,823 (City Public School)

Quarter 4 of 2022: \$7,353 (City Public School)

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Income Reported on Reexamination Application

Ruby:

Wages at City Public School: \$32,000  
(switched jobs but no permanent change to  
amount)

Georgia:

SSI benefits: \$10,980 (no changes)

Calculating Ruby's wages:

Step 1: Determine prior annual income from  
EIV (i.e., Q4 2022 through Q3 of 2023:  
\$33,651).

Step 2: Take into consideration any interim  
reexamination of family income completed  
since the last annual reexamination (in this  
case, there have been no interim  
reexaminations processed since the last annual  
reexamination).

Step 3: Ruby certifies that the \$33,651 of  
wages in EIV is accurate and reflects her  
current annual income, so the PHA will use  
\$33,651 for annual wages for the 3/1/2024  
annual reexamination given there have been no  
additional changes to annual income.

Calculating Georgia's SSI benefit:

Step 1: Determine the prior annual income  
from EIV (i.e., \$915 x 12 months: \$10,980).

Step 2: Take into consideration any interim  
reexamination of family income completed  
since the last annual reexamination (in this  
case, there have been no interim  
reexaminations processed since the last annual  
reexamination).

Step 3: Ruby certifies the SSI income in EIV is  
accurate and reflects Georgia's current annual  
income. The PHA must adjust the prior-year  
income (2023 SSI benefit) by the 7- percent  
COLA and will use this amount to calculate  
annual SSI income for the 3/1/2024 annual  
reexamination:

COLA: \$64.05 (\$915 x 0.07)

New gross SSI benefit: \$11,748.60 (\$979.05 x  
12 months)

If Ruby did not agree with the annual wages  
reported in EIV, the PHA/MFH Owner would  
be required to verify her current income in  
accordance with HUD's verification hierarchy.

Summary of Annual Income (as reported on the HUD-50058)

Ruby (Head of Household):

Other Wage: \$33,651

Myers Family Total Annual Income: \$45,399

Georgia (Other Youth Under 18):

SSI: \$11,748

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**Example 2: Calculating Annual Income at Annual Reexamination Using EIV:  
Family Disagrees with EIV**

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Staff are processing Paul Hewson's 5/1/2024 annual reexamination. Since the last annual reexamination, Paul reported a decrease in annual income that exceeded 10 percent. Last year, Paul reported a decrease in earned income because he transferred from a full-time job at Sasha's Sweets to a part-time job at Viking Bakery. Following HUD's EIV verification hierarchy, staff confirmed Paul was no longer employed at Sasha's Sweets and decreased his anticipated annual income from \$28,000 to \$7,500 resulting from his new part-time employment at Viking Bakery; an interim reexamination was processed effective 7/1/2023. After the 7/1/2023 interim, Paul worked briefly at two different jobs, but he says he is no longer working and is not planning to work.

5/1/2023 Annual Reexamination

Wages: \$28,000

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The EIV report pulled on 1/15/2024

Wages Total: \$18,271

Quarter 3 of 2023: \$2,500 (Viking Bakery)

Quarter 3 of 2023: \$796 (Sweet Tooth Candy Bar)

Quarter 2 of 2023: \$1,300 (Sasha's Sweets)

Quarter 2 of 2023: \$584 (Larry's Concessions)

Quarter 2 of 2023: \$2,401 (Viking Bakery)

Quarter 1 of 2023: \$6,500 (Sasha's Sweets)

Quarter 4 of 2022: \$600 (Sasha's Sweets)

SS/SSI: No history of benefits

Income Reported on Reexamination Application

Wages: \$0 (permanent change; no longer receiving)

Social Security: \$14,400 (\$1,200 monthly)

Paul certified on the PHA's annual reexamination paperwork that he does not agree with the annual wages of \$18,271 reported in EIV and it is not reflective of his current anticipated annual income. He reported he is currently unemployed, and provided a copy of an award letter from the Social Security Administration to document that he will begin receiving a monthly disability benefit of \$1,200 effective 3/1/2024.

Calculating Wages and SS Benefit

Step 1: Determine prior annual income taking into consideration the 8/1/2023 interim reexamination (i.e., EIV wages reflected Q4 2022 through Q3 2023: \$18,271)

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there was a 7/1/2023 interim that reduced wages to \$7,500.

Step 3: Obtain documentation to verify current income and confirm Paul is no longer employed at Viking Bakery or The Sweet Tooth Candy Bar (the employers reported in the most recent quarter of EIV). This step is necessary, because Paul did not agree with the EIV income report or income reported on the last interim reexamination. Paul reported that he is no longer working at all.

Process the annual reexamination effective 5/1/2024 using annual SS income of \$14,400 and \$0 wages.

Summary of Annual Income (as reported on the HUD-50058)

Paul (Head of Household): \$14,400 (SS)

Hewson Family Total Annual Income: \$14,400

### Example 3: Calculating Annual Income at Annual Reexamination

Staff are processing the 11/1/2024 annual reexamination for Samantha and Fergus Pool, head of household and spouse. On 2/14/2024 Samantha reported her monthly child support payment was reduced from \$200 to \$100 per month, but an interim reexamination was not processed because the reduction in child support income for Samantha's daughter, Hailey, did not result in a decrease of 10 percent or more in annual adjusted income, and the PHA did not establish a lower threshold. Samantha did not report any additional changes to the PHA.

#### Last reexamination – 11/1/2023 Annual Reexamination

Samantha:

Business income: \$28,000

VA disability pension: \$12,000

Child support: \$2,400

Fergus:

Wages: \$8,250

Other non-wage income: \$3,000 (Go Fund Me online fundraiser)

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The EIV report pulled on 9/16/2024

Samantha:

Wages Total: \$0 (no wage data reported since Q1 2023)

Fergus:

Wages Total: \$8,600

Quarter 1 of 2024: \$2,100 (Ian's Fish 'n' Chips)

Quarter 1 of 2024: \$500 (Claire's Healthcare Supplies)

Quarter 4 of 2023: \$1,000 (Claire's Healthcare Supplies)

Quarter 3 of 2023: \$1,800 (The Onion Garden Shop)

Quarter 2 of 2023: \$3,200 (Ivar's Fish Haus)

#### Current Family Circumstances: Income Reported on Reexamination Application

Samantha and Fergus reported how much income was earned/received in the previous 12-month period and noted permanent changes, where applicable, for each source of their income on PHA's annual reexamination form. However, no information was reported by the family concerning other non-wage income. Fergus reported only wages and his current employment at Ian's Fish 'n' Chips for the annual reexamination. The family supplied the supporting documentation noted below to the PHA for the 11/1/2024 annual reexamination.

Samantha:

Business income: \$28,750 (last year); has decreased to \$18,000 (permanent change)

VA disability benefit: \$12,000 (last year); has increased to \$12,300 (permanent change)

Child support: \$2,400 (last year); has decreased to \$1,200 (permanent change)

Fergus:

Wages: \$6,000

#### Calculating Samantha's Net Business Income

Step 1: Determine prior annual net business income (i.e., \$28,000 on last HUD-50058.

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: Adjust to reflect current net business income. Samantha reported on the annual reexamination application that business income permanently decreased to \$18,000. The PHA must obtain supporting documentation from Samantha that demonstrates current net business income. Samantha provided documentation that supported the current annual net business income is \$18,000. Process the annual reexamination effective 11/1/2024 using annual net business income determined in Step 3.

#### Calculating Samantha's VA Pension Income

Step 1: Determine prior annual VA pension income (i.e., \$12,000 supported by a VA award letter Samantha supplied that documents the prior year monthly VA pension was \$1,000).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

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Step 3: The PHA needs to adjust to reflect current VA pension income. Samantha supplies a VA award letter showing a monthly pension of \$1,025, or \$12,300 annually. Process the annual reexamination effective 11/1/2024 using annual VA pension income determined in Step 3 (\$12,300 in this example).

#### Calculating Samantha's Child Support Income

Step 1: Determine prior annual child support income (i.e., \$2,400 on the last HUD-50058).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination. The family reported a decrease from \$200 to \$100 monthly, but the change was not processed because it did not meet the threshold.

Step 3: The family reported changes, so the PHA must adjust to reflect current child support income. In this example, the family submitted a child support history report from the local child support office that documents regular \$100 monthly child supports payments beginning 3/1/2024 through the current month. Process the annual reexamination effective 11/1/2024 using current annual child support income determined in Step 3 (\$1,200 in this example).

#### Calculating Fergus' Wages

Step 1: Determine prior annual income from wages in EIV (i.e., Q2 2023 through Q1 of 2024: \$8,600).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: There is a discrepancy between what the family reported and EIV, so the PHA must verify and adjust to reflect current annual income from wages. Fergus reported \$6,000 in annual income from wages on the annual reexamination from a single employer, Ian's Fish 'n' Chips. The PHA projected annual income of \$7,800 based on the two paystubs for this employer, and EIV shows \$8,600 earned in the most recent four quarters in EIV. To complete Step 3, the PHA must do the following:

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- Resolve the discrepancy between EIV wages, the \$6,000 annual income Fergus reported, and the \$7,800 projected based on the paystubs he provided, and
- Verify he is no longer employed at Claire’s Healthcare Supplies in accordance with HUD’s verification hierarchy and local policies.

The PHA determined that Fergus reported his net vs. gross annual income from wages, which he corrected on the annual reexamination form to reflect his current gross annual income of \$9,000. The PHA verified Fergus was no longer employed at Claire’s Healthcare Supplies and obtained two additional paystubs. Based on four current and consecutive paystubs, Fergus is now projected to earn \$9,360 annually. Process the annual reexamination effective 11/1/2024 using income from wages determined in Step 3 (\$9,360 in this example).

#### Calculating Fergus’ Other Non-Wage Income

Step 1: Determine prior annual income from other non-wage income (i.e., \$3,000 on the last HUD– 50058).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: The family did not report any non-wage income on the annual reexamination form, but it was included on the last HUD–50058. The PHA must verify and adjust to reflect current non-wage income. The PHA must verify no income was received through a “Go Fund Me” online fundraiser so that it may be excluded. Fergus provided a self-certification that he hasn’t solicited funds online and doesn’t plan to in the following year; he also provided records from the account that documented no fundraising activity in the prior 12-month period. Process the annual reexamination effective 11/1/2024 using annual non-wage income of \$0 determined in Step 3.

#### Summary of Annual Income (as reported on the HUD-50058)

Samantha (Head of Household):

Own business: \$18,000

Pension: \$12,300

Child support: \$1,200

Fergus (Co-head):

Wages: \$9,360

Poole Family Total Annual Income: \$40,860

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## Chapter 10

### **PETS**

[24 CFR §5, Subpart C; 24 CFR §960, Subpart G]

#### **INTRODUCTION**

This chapter explains the PHA's policies on the keeping of pets and describes any criteria or standards pertaining to the policies. The rules adopted are reasonably related to the legitimate interest of the PHA to provide a decent, safe, and sanitary living environment for all tenants, and to protect and preserve the physical condition of the property, as well as the financial interest of the PHA.

The chapter is organized as follows:

**Part I: Assistance Animals.** This part explains the difference between ~~service animals~~, assistance animals, including service and support animals, and pets and contains policies related to the designation of an assistance animal as well as their care and handling.

**Part II: Pet policies for all developments.** This part includes pet policies that are common to both elderly/disabled developments and general occupancy developments.

**Part III: Pet deposits and fees for elderly/disabled developments.** This part contains policies for pet deposits and fees that are applicable to elderly/disabled developments.

**Part IV: Pet deposits and fees for general occupancy developments.** This part contains policies for pet deposits and fees that are applicable to general occupancy developments.

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**PART I: ASSISTANCE ANIMALS**  
**[Section 504; Fair Housing Act (42 U.S.C.); 24 CFR §5.303; 24 CFR §960.705]**  
**[Notice FHEO 2020-01]**

**10-I.A. OVERVIEW**

This part discusses situations under which permission for an assistance animal, including service and support animals, may be denied, and also establishes standards for the care of ~~service and~~ assistance animals.

Notice FHEO 2020-01 was published January 28, 2020. The notice provides guidance to help PHAs and other housing providers distinguish between a person with a non-obvious disability who has a legitimate need for an assistance animal and a person without a disability who simply wants to have a pet or avoid the costs and limitations imposed by the PHA's pet policies. FHEO 2020-01 makes clear that the notice is guidance and a tool for PHAs and other housing providers to use at their discretion and provides a set of best practices for addressing requests for assistance animals. The guidance in FHEO 2020-01 should be read together with HUD's regulations prohibiting discrimination under the Fair Housing Act (FHA) and the HUD/Department of Justice (DOJ) Joint Statement on Reasonable Accommodation under the Fair Housing Act. Housing providers may also be subject to the Americans with Disabilities Act (ADA) and should therefore refer also to DOJ's regulations implementing Titles II and III of the ADA at 28 CFR Parts 35 and 36, in addition to DOJ's other guidance on assistance animals.

There are two types of assistance animals: (1) service animals, and (2) other animals that do work, perform tasks, provide assistance, and/or provide therapeutic emotional support for individuals with disabilities (i.e., support animals).

Assistance animals, including service and support animals, are not pets, and thus, are not subject to the PHA's pet policies described in Parts II through IV of this chapter [24 CFR §5.303; §960.705; Notice FHEO 2020-01].

**10-I.B. APPROVAL OF ASSISTANCE ANIMALS [NOTICE FHEO 2020-01]**

***Service Animals***

Notice FHEO 2020-01 states that PHAs should initially follow the Department of Justice (DOJ) analysis to assessing whether an animal is a service animal under the Americans with Disabilities Act (ADA). Under the ADA, a *service animal* means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained, or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability.

As a best practice, housing providers may use the following questions to help them determine if an animal is a service animal under the ADA:

- Is the animal a dog? If not, the animal is not a service animal but may be another type of assistance animal for which an accommodation is needed (support animal).
- Is it readily apparent that the dog is trained to do work or perform tasks for the benefit of the individual with a disability? If yes, further inquiries are inappropriate because the animal is a service animal. If not, it is advisable that the PHA limit its inquiries to the following two questions: (1) Is the animal required because of the disability? and (2) What work or task has the animal been trained to perform?

If the answer to question (1) is “yes” and work or a task is identified in response to question (2), grant the requested accommodation if otherwise reasonable. If the answer to either question is “no,” the animal does not qualify as a service animal but may be a support animal.

A service animal must be permitted in all areas of the facility where members of the public are allowed.

#### ***Support Animals (Assistance Animals other than Service Animals)***

If the animal does not qualify as a service animal, the PHA must next determine whether the animal would qualify as a support animal (other type of assistance animal). If the individual has indeed requested a reasonable accommodation to get or keep an animal in connection with a physical or mental impairment or disability, the PHA may use the following questions to help them assess whether to grant the accommodation in accordance with the policies outlined in Chapter 2 (the PHA is not required to grant a reasonable accommodation that has not been requested):

- Does the person have an observable disability or does the PHA already have information giving them reason to believe that the person has a disability? If not, has the person requesting the accommodation provided information that reasonably supports that the person seeking the accommodation has a disability?
- If the person has an observable disability, the PHA already has information giving them reason to believe the person has a disability, or the person has provided information supporting that they have a disability, then has the person provided information that reasonably supports that the animal does work, performs tasks, provides assistance, and/or provides therapeutic emotional support with respect to the individual’s disability?
- If yes, is the animal commonly kept in households? An *animal commonly kept in households* would be a dog, cat, small bird, rabbit, hamster, gerbil, other rodent, fish, turtle, or other small, domesticated animal that is traditionally kept in the home for pleasure rather than for commercial purposes. For purposes of this assessment, reptiles (other than turtles), barnyard animals, monkeys, kangaroos, and other non-domesticated animals are not considered common household animals.

If the individual is requesting to keep a unique animal not commonly kept in households, then the requestor has the substantial burden of demonstrating a disability-related therapeutic need for

the specific animal or the specific type of animal. Such individuals are encouraged to submit documentation from a health care professional.

### ***General Considerations***

A person with a disability is not automatically entitled to have an assistance animal. Reasonable accommodation requires that there is a relationship between the person's disability and their need for the animal [PH Occ GB, p. 179].

Before denying a reasonable accommodation request due to lack of information confirming an individual's disability or disability-related need for an animal, the PHA is encouraged to engage in a good-faith dialog with the requestor called the "interactive process" [FHEO 2020-01].

A PHA may not refuse to allow a person with a disability to have an assistance animal merely because the animal does not have formal training. Some, but not all animals that assist persons with disabilities are professionally trained. Other assistance animals are trained by the owners themselves and, in some cases, no special training is required. The question is whether or not the animal performs the assistance or provides the benefit needed by the person with the disability [PH Occ GB, p. 178].

A PHA's refusal to permit persons with a disability to use and live with an assistance animal that is needed to assist them, would violate Section 504 of the Rehabilitation Act and the Fair Housing Act unless [PH Occ GB, p. 179]:

- There is reliable objective evidence that the animal poses a direct threat to the health or safety of others that cannot be reduced or eliminated by a reasonable accommodation

- There is reliable objective evidence that the animal would cause substantial physical damage to the property of others<sup>ss</sup>

~~• The Fair Housing Act does not require a dwelling to be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others. A PHA may therefore refuse a reasonable accommodation for an assistance animal if the specific animal poses a direct threat that cannot be eliminated or reduced to an acceptable level through the actions the individual takes to maintain or control the animal (e.g., keeping the animal in a security enclosure).~~

~~• While most requests for reasonable accommodations involve one animal, requests sometimes involve more than one animal (for example, a person has a disability-related need for both animals, or two people living together each have a disability-related need for a separate assistance animal). The decision-making process in Notice FHEO 2020-01 should be used in accordance with the reasonable accommodation policies in Chapter 2 for all requests for exceptions or modifications to the PHA's rules, policies, practices, and procedures so that persons with disabilities can have assistance animals in the housing where they reside.~~

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The Fair Housing Act does not require a dwelling to be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others. A PHA may therefore refuse a reasonable accommodation for an assistance animal if the specific animal poses a direct threat that cannot be eliminated or reduced to an acceptable level through the actions the individual takes to maintain or control the animal (e.g., keeping the animal in a security enclosure).

While most requests for reasonable accommodations involve one animal, requests sometimes involve more than one animal (for example, a person has a disability-related need for both animals, or two people living together each have a disability-related need for a separate assistance animal). The decision-making process in Notice FHEO 2020-01 should be used in accordance with the reasonable accommodation policies in Chapter 2 for all requests for exceptions or modifications to the PHA's rules, policies, practices, and procedures so that persons with disabilities can have assistance animals in the housing where they reside.

PHAs have the authority to regulate service animals and assistance animals under applicable federal, state, and local law [24 CFR 5.303(b)(3); 960.705(b)(3)].

~~PHAs have the authority to regulate service animals and assistance animals under applicable federal, state, and local law [24 CFR §5.303(b)(3); §960.705(b)(3)].~~

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#### PHA Policy

For an animal to be excluded from the pet policy and be considered a service animal, it must be a trained dog, and there must be a person with disabilities in the household who requires the dog's services.

For an animal to be excluded from the pet policy and be considered a support animal, there must be a person with disabilities in the household, **there must be a disability-related need for the animal**, and the family must request and the PHA approve a reasonable accommodation in accordance with the criteria outlined in Notice FHEO 2020-01 and the policies contained in Chapter 2.

### **10-I.C. CARE AND HANDLING**

HUD regulations do not affect any authority a PHA may have to regulate assistance animals, including service animals, under federal, state, and local law [24 CFR §5.303; 24 CFR §960.705].

#### PHA Policy

Residents are responsible for feeding, maintaining, providing veterinary care, and controlling their assistance animals. A resident may do this on their own or with the assistance of family, friends, volunteers, or service providers.

Residents must care for assistance animals in a manner that complies with state and local laws, including anti-cruelty laws.

Residents must ensure that assistance animals do not pose a direct threat to the health or safety of others, or cause substantial physical damage to the development, dwelling unit, or property of other residents.

When a resident's care or handling of an assistance animal violates these policies, the PHA will consider whether the violation could be reduced or eliminated by a reasonable accommodation. If the PHA determines that no such accommodation can be made, the PHA may withdraw the approval of a particular assistance animal.

## **PART II: PET POLICIES FOR ALL DEVELOPMENTS**

### **[24 CFR 5, Subpart C; 24 CFR 960, Subpart G]**

#### **10-II.A. OVERVIEW**

The purpose of a pet policy is to establish clear guidelines for ownership of pets and to ensure that no applicant or resident is discriminated against regarding admission or continued occupancy because of ownership of pets. It also establishes reasonable rules governing the keeping of common household pets. This part contains pet policies that apply to all developments.

#### **10-II.B. MANAGEMENT APPROVAL OF PETS**

##### ***Registration of Pets***

PHAs may require registration of the pet with the PHA [24 CFR 960.707(b)(5)].

##### PHA Policy

Pets must be registered, and the pet agreement must be executed with the PHA before they are brought onto the premises.

Registration includes documentation signed by a licensed veterinarian or state/local authority that the pet has been spayed or neutered as applicable or in the case of underage animals within 30 days of the pet reaching 6 months of age; Documentation signed by a licensed veterinarian that the pet has received all inoculations required by state or local law, and that the pet has no communicable disease(s) and is pest-free; Documentation that the pet is licensed in accordance with state or local law and one photograph of the pet.

This registration must be renewed annually and will be coordinated with the annual reexamination date.

Pets will not be approved to reside in a unit until the completion of the registration requirements are met and the pet agreement is executed.

##### ***Refusal to Register Pets***

##### PHA Policy

The PHA will refuse to register a pet if:

- The pet is not *a common household pet* as defined in Section 10-II.C. below;
- Keeping the pet would violate any pet restrictions listed in this policy;
- The pet owner fails to provide complete pet registration information, execute a pet agreement, or fails to update the registration annually;

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- The applicant has previously been charged with animal cruelty under state or local law; or has been evicted, had to relinquish a pet, or been prohibited from future pet ownership due to pet rule violations or a court order; or
- The PHA reasonably determines that the pet owner is unable to keep the pet in compliance with the pet rules and other lease obligations. The pet's temperament and behavior may be considered as a factor in determining the pet owner's ability to comply with provisions of the lease.

If the PHA refuses to register a pet, a written notification will be sent to the pet owner within 10 business days of the PHA's decision. The notice will state the reason for refusing to register the pet and will inform the family of their right to appeal the decision in accordance with the PHA's grievance procedures.

### ***Pet Agreement***

#### PHA Policy

Residents who have been approved to have a pet must enter into a pet agreement with the PHA, or the approval of the pet will be withdrawn.

The pet agreement is the resident's certification that they have received a copy of the PHA's pet policy and applicable house rules, that they have read the policies and/or rules, understands them, and agrees to comply with them.

The resident further certifies by signing the pet agreement that they understand that noncompliance with the PHA's pet policy and applicable house rules may result in the withdrawal of PHA approval of the pet or termination of tenancy.

### **10-II.C. STANDARDS FOR PETS [24 CFR §5.318; §960.707(B)]**

PHAs may establish reasonable requirements related to pet ownership including, but not limited to:

- Limitations on the number of animals in a unit, based on unit size;
- Prohibitions on types of animals that the PHA classifies as dangerous, provided that such classifications are consistent with applicable state and local law;
- Prohibitions on individual animals, based on certain factors, including the size and weight of the animal;
- Requiring pet owners to have their pets spayed or neutered

Cat declawing is not a requirement or condition of pet ownership in public housing and HUD encourages PHAs to refrain from engaging in this practice [New PH OCC GB, *Pet Ownership*, p. 9].

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PHAs may not require pet owners to have any pet's vocal cords removed.

PHAs may not require pet owners to obtain or carry liability insurance.

~~PHAs may not require that cats be declawed.~~

### ***Definition of "Common Household Pet"***

There is no regulatory definition of common household pet for public housing programs, although the regulations for pet ownership in both elderly/disabled and general occupancy developments use the term. The regulations for pet ownership in elderly/disabled developments expressly authorize PHAs to define the term [24 CFR §5.306(2)].

#### PHA Policy

*Common household pet* means a domesticated animal, such as a dog (maximum adult weight: 200 pounds-0 full grown), cat, bird, or fish that is traditionally recognized as a companion animal and is kept in the home for pleasure rather than commercial purposes.

The COCHRD also permits a hamster, gerbil, guinea pig or a turtle. The size of the aquarium may not exceed 10 gallons.

The following animals are not considered common household pets:

Reptiles

Rodents

Insects

Arachnids

Wild animals or feral animals

Pot-bellied pigs

Animals used for commercial breeding

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### ***Pet Restrictions***

#### PHA Policy

The following animals are not permitted:

- Any animal whose adult weight will exceed ~~200~~ pounds
- Dogs of the pit bull, Rottweiler, chow, or boxer breeds
- Ferrets or other animals whose natural protective mechanisms pose a risk to small children of serious bites or ~~lacerations~~lacerations.



- Any animal not permitted under state or local law or code
- Vicious
- Exotic
- Reptiles
- Insects
- Arachnids
- Wild animals or feral animals
- Pot-bellied pigs
- Animals used for commercial breeding

#### *Number of Pets*

##### PHA Policy

Residents may own a maximum of one (1) pet. In the case of fish, residents may keep no more than can be maintained in a safe and healthy manner in a tank holding up to 10 gallons. Such a tank or aquarium will be counted as 1 pet.

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#### Other Requirements

##### PHA Policy

Dogs and cats must be spayed or neutered at the time of registration or, in the case of underage animals, within 30 days of the pet reaching 6 months of age. Exceptions may be made upon veterinary certification that subjecting this particular pet to the procedure would be temporarily or permanently medically unsafe or unnecessary.

Pets must be licensed in accordance with state or local law. Residents must provide proof of licensing at the time of registration and annually, in conjunction with the resident's annual reexamination.

## 10-II.D. PET RULES

Pet owners must maintain pets responsibly, in accordance with PHA policies, and in compliance with applicable state and local public health, animal control, and animal cruelty laws and regulations [24 CFR §5.315; 24 CFR §960.707(a)].

### *Pet Area Restrictions*

#### PHA Policy

Pets must be maintained within the resident's unit. When outside of the unit (within the building or on the grounds) dogs and cats must be kept on a leash or carried. They must be under the control of the resident or other responsible individual at all times.

Pets other than dogs or cats must be kept in a cage or carrier when outside of the unit.

Pets are not permitted in common areas including lobbies, community rooms, and laundry areas except for those common areas which are entrances to and exits from the building.

Pet owners are not permitted to exercise pets or permit pets to deposit waste on project premises outside of the areas designated for such purposes.

### *Designated Pet/No-Pet Areas [24 CFR §5.318(g), PH Occ GB, p. 182]*

PHAs may designate buildings, floors of buildings, or sections of buildings as no-pet areas where pets generally may not be permitted. Pet rules may also designate buildings, floors of building, or sections of building for residency by pet-owning tenants.

PHAs may direct initial tenant moves as may be necessary to establish pet and no-pet areas.

The PHA may not refuse to admit, or delay admission of, an applicant on the grounds that the applicant's admission would violate a pet or no-pet area. The PHA may adjust the pet and no-pet areas or may direct such additional moves as may be necessary to accommodate such applicants for tenancy or to meet the changing needs of the existing tenants.

PHAs may not designate an entire development as a no-pet area, since regulations permit residents to own pets.

#### PHA Policy

With the exception of common areas as described in the previous policy, the PHA has not designated any buildings, floors of buildings, or sections of buildings as no-pet areas. In addition, the PHA has not designated any buildings, floors of buildings, or sections of buildings for residency of pet-owning tenants.

### ***Cleanliness***

#### **PHA Policy**

The pet owner shall be responsible for the removal of waste by placing it in a sealed plastic bag and disposing of it in a suitable covered trash container.

The pet owner shall take adequate precautions to eliminate any pet odors within or around the unit and to maintain the unit in a sanitary condition at all times.

Litter box requirements:

- Pet owners must promptly dispose of waste from litter boxes and must maintain litter boxes in a sanitary manner.
- Litter shall not be disposed of by being flushed through a toilet.
- Litter boxes shall be kept inside the resident's dwelling unit.

### ***Alterations to Unit***

#### **PHA Policy**

Pet owners shall not alter their unit, patio, premises, or common areas to create an enclosure for any animal.

Installation of pet doors is prohibited.

### ***Noise***

#### **PHA Policy**

Pet owners must agree to control the noise of pets so that such noise does not constitute a nuisance to other residents or interrupt their peaceful enjoyment of their housing unit or premises. This includes, but is not limited to loud or continuous barking, howling, whining, biting, scratching, chirping, or other such activities.

### ***Pet Care***

#### **PHA Policy**

Each pet owner shall be responsible for adequate care, nutrition, exercise, and medical attention for their pet.

Each pet owner shall be responsible for appropriately training and caring for their pet to ensure that the pet is not a nuisance or danger to other residents and does not damage PHA property.

No animals may be tethered or chained inside or outside the dwelling unit at any time.

### ***Responsible Parties***

#### PHA Policy

The pet owner will be required to designate two responsible parties for the care of the pet if the health or safety of the pet is threatened by the death or incapacity of the pet owner, or by other factors that render the pet owner unable to care for the pet.

A resident who cares for another resident's pet must notify the PHA and sign a statement that they agree to abide by all of the pet rules.

### ***Inspections and Repairs***

#### PHA Policy

Except for emergencies, management will not enter the dwelling unit for performance of repairs or inspections where a pet resides unless accompanied for the entire duration of the inspection or repair by the pet owner or responsible person designated by the pet owner.

The pet must be held under physical restraint by the pet owner or responsible person until management has completed its tasks. Any delays or interruptions suffered by management in the inspection, maintenance, and upkeep of the premises due to the presence of a pet may be cause for lease termination.

### ***Pets Temporarily on the Premises***

#### PHA Policy

Pets that are not owned by a tenant are not allowed on the premises. Residents are prohibited from feeding or harboring stray animals.

This rule does not apply to visiting pet programs sponsored by a humane society or other non-profit organizations and approved by the PHA.

### ***Pet Rule Violations***

#### PHA Policy

All complaints of cruelty and all dog bites will be referred to animal control or an applicable agency for investigation and enforcement.

If a determination is made on objective facts supported by written statements received by an eyewitness, that a resident/pet owner ~~has violated the pet rules~~ *is in violation*, the COCHRD may serve a written notice of lease violation(s) to the resident/pet owner.

The notice will contain a brief statement of the factual basis for the determination and the pet rule(s) that were violated. The notice will also state:

- That the pet owner has 3 business days from the effective date of the service of notice to correct the violation or make written request for a meeting to discuss the violation(s);

- That the pet owner is entitled to be accompanied by another person of their choice at the meeting;
- That the pet owner's failure to correct the violation(s), request a meeting, or appear at a requested meeting may result in initiation of procedures to remove the pet, or to terminate the pet owner's tenancy.

### **Notice of Pet Removal**

#### **PHA Policy**

If the pet owner and the PHA are unable to resolve the violation at the meeting or the pet owner fails to correct the violation in the time period allotted by the PHA, the PHA may serve notice to remove the pet.

The notice will contain:

A brief statement of the factual basis for the PHA's determination of the pet rule that has been violated

The requirement that the resident /pet owner must remove the pet within 30 calendar days of the notice

A statement that failure to remove the pet may result in the initiation of termination of tenancy procedures

#### **Pet Removal**

##### **PHA Policy**

If the death or incapacity of the pet owner threatens the health or safety of the pet, or other factors occur that render the owner unable to care for the pet, the situation will be reported to the responsible party designated by the pet owner.

If the responsible party is unwilling or unable to care for the pet, or if the PHA after reasonable efforts cannot contact the responsible party, the PHA may contact the appropriate state or local agency and request the removal of the pet.

In the event of the death of a pet, the resident/pet owner shall properly and immediately remove and dispose of the remains. The remains shall not be placed in any container on the grounds of a COCHRD property ~~or in a container on COCHRD grounds~~. Burial on the grounds is strictly prohibited.

If the pet is removed as a result of any aggressive act on the part of the pet, the pet will not be allowed back on the premises.

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### ***Termination of Tenancy***

#### **PHA Policy**

The PHA may initiate procedures for termination of tenancy based on a pet rule violation if:

- The pet owner has failed to remove the pet or correct a pet rule violation within the time period specified;
- The pet rule violation is sufficient to begin procedures to terminate tenancy under terms of the lease.

### ***Emergencies***

#### **PHA Policy**

The PHA will take all necessary steps to ensure pets that become vicious, display symptoms of severe illness, or demonstrate behavior that constitutes an immediate threat to the health or safety of others, are immediately removed from the premises by referring the situation to the appropriate state or local entity authorized to remove such animals.

If it is necessary for the PHA to place the pet in a shelter facility, the cost will be the responsibility of the pet owner.

If the pet is removed as a result of any aggressive act on the part of the pet, the pet will not be allowed back on the premises.

## **PART III: PET DEPOSITS AND FEES IN ELDERLY/DISABLED DEVELOPMENTS**

### **10-III.A. OVERVIEW**

This part describes the PHA's policies for pet deposits and fees in elderly, disabled and mixed population developments. Policies governing deposits and fees in general occupancy developments are described in Part IV.

### **10-III.B. PET DEPOSITS**

#### ***Payment of Deposit***

The PHA may require tenants who own or keep pets in their units to pay a refundable pet deposit. This deposit is in addition to any other financial obligation generally imposed on tenants of the project [24 CFR §5.318(d)(1)].

The maximum amount of pet deposit that may be charged by a PHA on a per dwelling unit basis, is the higher of the total tenant payment (TTP) or such reasonable fixed amount as the PHA may require. The PHA may permit gradual accumulation of the pet deposit by the pet owner [24 CFR §5.318(d)(3)].

The pet deposit is not part of the rent payable by the resident [24 CFR §5.318(d)(5)].

#### **PHA Policy**

Pet owners are required to pay a pet deposit in addition to any other required deposits.

Resident/Pet owners of a dog or cat that meet the standards are required to pay a \$250.00 deposit before the pet is brought on the premises. ~~\$250~~~~250~~.00 is refunded when the resident vacates the premises, and the property has no damages caused by the pet.

The deposit must be paid in full before the pet is brought on the premises.

#### ***Refund of Deposit [24 CFR §5.318(d)(1)]***

The PHA may use the pet deposit only to pay reasonable expenses directly attributable to the presence of the pet, including (but not limited to) the costs of repairs and replacements to, and fumigation of, the tenant's dwelling unit. The PHA must refund the unused portion of the pet deposit to the tenant within a reasonable time after the tenant moves from the project or no longer owns or keeps a pet in the unit.

#### **PHA Policy**

The PHA will refund the pet deposit to the resident, less the costs of any damages caused by the pet to the dwelling unit, within 30 days of move-out or removal of the pet from the unit.

The resident will be billed for any amount that exceeds the pet deposit. The PHA will provide the resident with a written list of any charges against the pet deposit within ~~14~~~~40~~

business days of the move-out inspection. If the resident disagrees with the amount charged to the pet deposit, the PHA will provide a meeting to discuss the charges.

### **10-III.C. OTHER CHARGES**

#### ***Pet Fees***

##### PHA Policy

Resident/Pet owners, who have a dog or a cat that meet the standards, are not required to pay a non-refundable pet fee or a sanitation fee.

##### Sanitation fee for unauthorized pets

- Residents who have a dog or cat without the written permission of the COCHRD will be charged a \$150.00 sanitation fee.

#### ***Pet-Related Damages During Occupancy***

##### PHA Policy

All reasonable expenses incurred by the PHA as a result of damages directly attributable to the presence of the pet in the property will be the responsibility of the resident, including but not limited to:

- The cost of repairs and replacements to the resident's dwelling unit
- Fumigation of the dwelling unit
- Repairs to common areas of the project
- Elimination of fleas

If the resident is in occupancy when such costs occur, the resident shall be billed for such costs in accordance with the policies in Section 8-I.FG, Maintenance and Damage Charges. Pet deposits will not be applied to the costs of pet-related damages during occupancy.

Charges for pet-related damage are not part of rent payable by the resident.

#### **Pet Waste Removal Charge**

The regulations do not address the PHA's ability to impose charges for house pet rule violations. However, charges for violation of PHA pet rules may be treated like charges for other violations of the lease and PHA tenancy rules.

##### PHA Policy

A separate pet waste removal charge of \$10.00 per occurrence will be assessed against pet owners who fail to remove pet waste in accordance with this policy.

Notices of pet waste removal charges will be in accordance with requirements regarding notices of adverse action. Charges are due and payable 14 calendar days after billing. If



the family requests a grievance hearing within the required timeframe, the PHA may not take action for nonpayment of the charge until the conclusion of the grievance process.

Charges for pet waste removal are not part of rent payable by the resident.

## **PART IV: PET DEPOSITS AND FEES IN GENERAL OCCUPANCY DEVELOPMENTS**

### **10-IV.A. OVERVIEW**

This part describes the PHA's policies for pet deposits and fees for those who reside in general occupancy developments.

### **10-IV.B. PET DEPOSITS**

A PHA may require a refundable pet deposit to cover additional costs attributable to the pet and not otherwise covered [24 CFR §960.707(b)(1)].

A PHA that requires a resident to pay a pet deposit must place the deposit in an account of the type required under applicable State or local law for pet deposits, or if there are no such requirements, for rental security deposits, if applicable. The PHA must comply with such laws as to retention of the deposit, interest, and return of the deposit to the resident, and any other applicable requirements [24 CFR §960.707(d)].

#### ***Payment of Deposit***

##### PHA Policy

All resident pet owners of a dog or cat that meet the standards are required to pay a pet deposit of \$250.00 in addition to any other required deposits. ~~deposit~~ The deposit must be paid in full before the pet is brought on the premises.

\$100.00 is refunded when the resident vacates the premises, and the property has no damages caused by the pet.

\$150.00 is a non-refundable pet sanitation fee.

The pet deposit is not part of rent payable by the resident.

#### ***Refund of Deposit***

##### PHA Policy

The PHA will refund the pet deposit to the resident, less the costs of any damages caused by the pet to the dwelling unit, within 30 days of move-out or removal of the pet from the unit.

The resident will be billed for any amount that exceeds the pet deposit.

The PHA will provide the resident with a written list of any charges against the pet deposit within ~~14~~ 10 business days of the move-out inspection. If the resident disagrees with the amount charged to the pet deposit, the PHA will provide a meeting to discuss the charges.

#### 10-IV.C. NON-REFUNDABLE NOMINAL PET FEE

PHAs may require payment of a non-refundable nominal pet fee to cover the reasonable operating costs to the development relating to the presence of pets [24 CFR §960.707(b)(1)].

##### PHA Policy

Resident/Pet owners, who have a dog or a cat that meet the standards, are required to pay a non-refundable nominal pet fee of \$10.00 per month.

This fee is intended to cover the reasonable operating costs to the project relating to the presence of pets. Reasonable operating costs to the project relating to the presence of pets include, but are not limited to:

- Landscaping costs
- Pet control costs
- Insurance costs
- Clean-up costs

The pet fee of \$10.00 will be billed on a monthly basis, and payment will be due 14 calendar days after billing.-

Charges for the non-refundable pet fee are not part of rent payable by the resident.

##### Sanitation fee for unauthorized pets

Residents who have a dog or cat without the written permission of the COCHRD will be charged a \$150.00 sanitation fee and must remove the animal from the premises within 48 hours.

#### 10-IV.D. OTHER CHARGES

##### *Pet-Related Damages During Occupancy*

##### PHA Policy

All reasonable expenses incurred by the PHA as a result of damages directly attributable to the presence of the pet in the project will be the responsibility of the resident, including:

- The cost of repairs and replacements to the resident's dwelling unit
- Fumigation of the dwelling unit
- Repairs to common areas of the project
- Elimination of fleas

If the resident is in occupancy when such costs occur, the resident shall be billed for such costs in accordance with the policies in Section 8-I.FG, Maintenance and Damage Charges.

Pet deposits will not be applied to the costs of pet-related damages during occupancy.

Charges for pet-related damage are not part of rent payable by the resident.

#### ***Pet Waste Removal Charge***

The regulations do not address the PHA's ability to impose charges for house pet rule violations. However, charges for violation of PHA pet rules may be treated like charges for other violations of the lease and PHA tenancy rules.

##### PHA Policy

A separate pet waste removal charge of \$10.00 per occurrence will be assessed against pet owners who fail to remove pet waste in accordance with this policy.

Such charges will be due and payable 14 calendar days after billing.

Charges for pet waste removal are not part of rent payable by the resident.

~~Pet Waste Removal Charge: A separate pet waste removal charge of \$21.00 (a minimum labor charge) per occurrence will be assessed against the resident/pet owners who fail to remove pet waste.~~

## CHAPTER 11

### COMMUNITY SERVICE

#### INTRODUCTION

This chapter explains HUD regulations requiring PHAs to implement a community service program for all nonexempt adults living in public housing.

This chapter describes HUD regulations and PHA policies related to these topics in two parts:

**Part I: Community Service Requirements.** This part describes who is subject to the community service requirement, who is exempt, and HUD's definition of economic self-sufficiency.

**Part II: PHA Implementation of Community Service.** This part provides PHA policy regarding PHA implementation and program design.

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## **PART I: COMMUNITY SERVICE REQUIREMENT**

### **11-I.A. OVERVIEW**

HUD regulations pertaining to the community service requirement are contained in 24 CFR §960 Subpart F (§960.600 through §960.609). PHAs and residents must comply with the community service requirement, effective with PHA fiscal years that commenced on or after October 1, 2000. Per §903.7(l)(1)(iii), the PHA Plan must contain a statement of how the PHA will comply with the community service requirement, including any cooperative agreement that the PHA has entered into or plans to enter into.

Community service is the performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self-responsibility in the community. Community service is not employment and may not include political activities [24 CFR §960.601(b)].

In administering community service requirements, the PHA must comply with all nondiscrimination and equal opportunity requirements [24 CFR §960.605(c)(5)].

### **11-I.B. REQUIREMENTS**

Each adult resident of the PHA, who is not exempt, must [24 CFR §960.603(a)]:

- Contribute 8 hours per month of community service; or
- Participate in an economic self-sufficiency program (as defined in the regulations) for 8 hours per month; or
- Perform 8 hours per month of combined activities (community service and economic self-sufficiency programs).
- The required community service or self-sufficiency activity may be completed 8 hours each month or may be aggregated across a year. Any blocking of hours is acceptable as long as 96 hours is completed by each annual certification of compliance [Notice PIH 2015-12].

#### ***Definitions***

#### ***Exempt Individual [24 CFR §960.601(b), Notice PIH 2015-12]***

An *exempt individual* is an adult who:

- Is age 62 years or older

- Is blind or disabled (as defined under section 216[i][1] or 1614 of the Social Security Act), and who certifies that because of this disability s/he is unable to comply with the service provisions
- Is a primary caretaker of such an individual
- Is engaged in work activities

PHA Policy

The PHA will consider 30 hours per week as the minimum number of hours needed to qualify for a work activity exemption.

- Is able to meet requirements of being exempted under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program
  - This exemption applied to anyone whose characteristics or family situation meet the welfare agency exemption criteria and can be verified.
- Is a member of a family receiving assistance, benefits, or services under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program and the supplemental nutrition assistance program (SNAP), and has not been found by the state or other administering entity to be in noncompliance with such program.
- Is a member of a non-public housing over-income family.

***Community Service [24 CFR §960.601(b), Notice PIH 2015-12]***

*Community service* is the performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self-responsibility in the community. Community service is not employment and may not include political activities.

Eligible community service activities include, but are not limited to, work at:

- Local public or nonprofit institutions such as schools, head start programs, before or after school programs, childcare centers, hospitals, clinics, hospices, nursing homes, recreation centers, senior centers, adult day care programs, homeless shelters, feeding programs, food banks, distribution either donated or commodity foods), or clothes closets, (distributing donated clothing.).
- Nonprofit organizations serving PHA residents or their children such as: Boy or Girl Scouts, Boys or Girls Club, 4-H clubs, Police Assistance League (PAL), organized children's recreation, mentoring or education programs, Big Brothers or Big Sisters, garden centers, community clean-up programs, beautification programs.

- Programs funded under the Older Americans Act, such as Green Thumb Service Corps of Retired Executives, senior meals programs, senior centers, Meals on Wheels.
- Public or nonprofit organizations dedicated to seniors, youth, children, residents, citizens, special-needs populations or with missions to enhance the environment, historic resources, cultural identities, neighborhoods, or performing arts
- PHA housing to improve grounds or provide gardens (so long as such work does not alter the PHA's insurance coverage); or work through resident organizations to help other residents with problems, including serving on the Resident Advisory Board. Serve as member of the resident organization (Tenant Community Builders) or resident advisory board
- Carc~~ing~~ for the children of other residents so parent may volunteer.

PHAs may form their own policy in regards to accepting community services at profit-motivated entities, acceptance of volunteer work performed at homes or offices of general private citizens, and court-ordered or probation-based work.

#### PHA Policy

Community services at profit-motivated entities, volunteer work performed at homes or offices of general private citizens, and court-ordered or probation-based work will not be considered eligible community service activities.

Community Service must be only in the City of Chandler or serving citizens from the City of Chandler.

#### ***Economic Self-Sufficiency Program [24 CFR §5.603(b), Notice PIH 2015-12]***

For purposes of satisfying the community service requirement, an *economic self-sufficiency program* is defined by HUD as any program designed to encourage, assist, train, or facilitate economic independence of assisted families or to provide work for such families.

Eligible self-sufficiency activities include but are not limited to:

- Job readiness or job training
- Training programs through local one-stop career centers, workforce investment boards (local entities administered through the U.S. Department of Labor), or other training providers
- Employment counseling, work placement, or basic skills training



- Education, including higher education (junior college or college), GED classes, or reading financial, or computer literacy classes
- Apprenticeships (formal or informal)
- English proficiency or English as a second language classes
- Budgeting and credit counseling
- Any other program necessary to ready a participant to work (such as substance abuse or mental health counseling)

***Work Activities [42 U.S.C. 607(d)]***

As it relates to an exemption from the community service requirement, *work activities* means:

- Unsubsidized employment
- Subsidized private sector employment
- Subsidized public sector employment
- Work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available
- On-the-job training
- Job search and job readiness assistance
- Community service programs
- Vocational educational training (not to exceed 12 months with respect to any individual)
- Job skills training directly related to employment
- Education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency
- Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate

***Notification Requirements [24 CFR §960.605(c)(2), Notice PIH 2015-12, Notice PIH 2016-06]***

The PHA must give each family a written description of the community service requirement, the process for claiming status as an exempt person, and the process for PHA verification of exempt status. The PHA must also notify the family of its determination identifying the family members

who are subject to the service requirement, and the family members who are exempt. In addition, the family must sign a certification, such as Attachment A of Notice PIH 2015-12, that they have received and read the policy and understand that if they are not exempt, failure to comply with the requirement will result in nonrenewal of their lease. The family must also sign a certification at annual reexamination, such as Attachment B of Notice PIH 2015-12, certifying that they understand the requirement.

PHA Policy

The PHA will provide the family with a copy of the Community Service Policy [found in Exhibit 11-1 of this chapter](#) at lease-up, lease renewal, when a family member is determined to be subject to the community service requirement during the lease term, and at any time upon the family's request. The policy will notify the family that self-certification forms are subject to review by the PHA.

On an annual basis, at the time of lease renewal, the PHA will notify the family in writing of the family members who are subject to the community service requirement and the family members who are exempt. If the family includes nonexempt individuals the notice will include a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which they may record the activities they perform, and the number of hours contributed. The form will also have a place for a signature by an appropriate official, who will certify to the activities and hours completed.

**11-I.C. DETERMINATION OF EXEMPTION STATUS AND COMPLIANCE**  
**[24 CFR §960.605(C)(3)]**

The PHA must review and verify family compliance with service requirements annually at least thirty days before the end of the twelve-month lease term. The policy for documentation and verification of compliance with service requirements may be found at Section 11-I.D., Documentation and Verification.

PHA Policy

Where the lease term does not coincide with the effective date of the annual reexamination, the PHA will change the effective date of the annual reexamination to coincide with the lease term. In making this change, the PHA will ensure that the annual reexamination is conducted within 12 months of the last annual reexamination.

***Annual Determination***

***Determination of Exemption Status***

An exempt individual is excused from the community service requirement [24 CFR §960.603(a)].

PHA Policy

At least 60 days prior to lease renewal, the PHA will review and verify the exemption status of all adult family members. This verification will only be done on an annual basis unless the family reports a change or the PHA has reason to believe that an individual's exemption status has changed. For individuals who are exempt because they are 62 years of age and older, or disabled, verification of exemption status will be done only at the initial examination.

Upon completion of the verification process, the PHA will notify the family of its determination in accordance with the policy in Section 11-I.B., Notification Requirements.

### ***Determination of Compliance***

The PHA must review resident family compliance with service requirements annually at least 30 days before the end of the 12-month lease term [24 CFR §960.605(c)(3)]. As part of this review, the PHA must verify that any family member that is not exempt from the community service requirement has met their service obligation.

#### **PHA Policy**

Approximately 90-120 days prior to the end of the lease term, the PHA will provide written notice requiring the family to submit documentation that all subject family members have complied with the service requirement. The family will have 10 business days to submit the PHA required documentation form(s).

If the family fails to submit the required documentation within the required timeframe, or PHA approved extension, the subject family members will be considered noncompliant with community service requirements, and notices of noncompliance will be issued pursuant to the policies in Section 11-I.E., Noncompliance.

### ***Change in Status between Annual Determinations***

#### **PHA Policy**

Exempt to Nonexempt Status:

If an exempt individual becomes nonexempt during the 12-month lease term, it is the family's responsibility to report this change to the PHA within 10 business days.

Within 10 business days of a family reporting such a change, or the PHA determining such a change is necessary, the PHA will provide written notice of the effective date of the requirement, a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which the family member may record the activities performed and number of hours contributed.

The effective date of the community service requirement will be the first of the month following 30-day notice.

### *Determination of Initial Compliance*

When an adult family member becomes subject to community service, they must perform 8 hours of community service for the months they are subject to the requirement before the end of the lease term (anniversary date).

Example 1: Alberto Jones turns 18 on 5/10/15 and is not exempt from the community service requirement. His community service requirement begins on 6/1/15, and his initial compliance is reviewed before the end of the lease term (anniversary date), which is 11/30/15.

- Alberto must perform 6 months of community service in his initial compliance period, before the end of the lease term (anniversary date).

Example 2: Lisa Dewhurst leaves her job on 9/20/14 and is not exempt from the community service requirement. Her community service requirement begins on 10/1/14, and her initial compliance is reviewed before the end of the lease term (anniversary date), which is 6/30/15

- Ms. Dewhurst must perform 9 months of community service in her initial compliance period, before the end of the lease term (anniversary date).

### **Nonexempt to Exempt Status**

If a nonexempt person becomes exempt during the twelve-month lease term, it is the family's responsibility to report this change to the PHA within 10 business days. Any claim of exemption will be verified by the PHA in accordance with the policy at 11-I.D., Documentation and Verification of Exemption Status.

Within 10 business days of a family reporting such a change, or the PHA determining such a change is necessary, the PHA will provide the family written notice that the family member is no longer subject to the community service requirement, if the PHA is able to verify the exemption.

The exemption will be effective immediately.

### **11-I.D. DOCUMENTATION AND VERIFICATION [24 CFR §960.605(C)(4)], §960.607, NOTICE PIH 2016-08]**

The PHA must retain reasonable documentation of service requirement performance or exemption in participant files.

### ***Documentation and Verification of Exemption Status***

#### **PHA Policy**

All family members who claim they are exempt from the community service requirement will be required to sign the community service exemption certification form found in Exhibit 11-3. The PHA will provide a completed copy to the family and will keep a copy in the tenant file.

The PHA will verify that an individual is exempt from the community service requirement by following the verification hierarchy and documentation requirements in Chapter 7.

The PHA makes the final determination whether or not to grant an exemption from the community service requirement. If a resident does not agree with the PHA's determination, s/he can dispute the decision through the PHA's grievance procedures (see Chapter 14).

### ***Documentation and Verification of Compliance***

At each regularly scheduled reexamination, each nonexempt family member presents a signed standardized certification form developed by the PHA of community service and self-sufficiency activities performed over the last 12 months [Notice PIH 2015-12].

If qualifying community service activities are administered by an organization other than the PHA, a family member who is required to fulfill a service requirement must provide documentation required by the PHA. The PHA may require a self-certification or certification form a third party [24 CFR §960.607].

If the PHA accepts self-certification of compliance with the community service requirement, it must provide a form, which includes a statement that the client performed the required hours, contact information for the community service provider, a description of activities performed, and dates of service.

If the PHA accepts self-certification, it must validate a sample of certifications through third-party documentation. The PHA must notify families that self-certification forms are available and that a sample of self-certifications will be validated.

HUD strongly encourages PHAs to investigate community service compliance when there are questions of accuracy.

#### **PHA Policy**

Each individual who is subject to the community service requirement will be required to record their community service or self-sufficiency activities and the number of hours contributed on the required form. The certification form will also include places for signatures and phone numbers of supervisors, instructors, and counselors certifying to the number of hours contributed.

Families will be required to submit the documentation to the PHA, upon request by the PHA, at least annually.

If the PHA has reasonable cause to believe that the certification provided by the family is false or fraudulent, the PHA has the right to require additional third-party verification.

## **11-I.E. NONCOMPLIANCE**

### ***Noncompliant Residents***

The lease specifies that it is renewed automatically for all purposes, unless the family fails to comply with the community service requirement and families determined to be over-income for 24 consecutive months. Violation of the service requirement is grounds for nonrenewal of the lease at the end of the twelve-month lease term, but not for termination of tenancy during the course of the twelve-month lease term [24 CFR §960.603(b)].

PHAs may not evict a family due to CSSR noncompliance. However, if PHA finds a tenant is noncompliant with CSSR, the PHA must provide written notification to the tenant of the noncompliance, which must include:

- A brief description of the finding of non-compliance with CSSR.
- A statement that the PHA will not renew the lease at the end of the current 12-month lease term unless the tenant enters into a written work-out agreement with the PHA, or the family provides written assurance that is satisfactory to the PHA explaining that the tenant or other noncompliant resident no longer resides in the unit. Such written work-out agreement must include the means through which a noncompliant family member will comply with the CSSR requirement [24 CFR §960.607(c), Notice PIH 2015-12].

The notice must also state that the tenant may request a grievance hearing on the PHA's determination, in accordance with the PHA's grievance procedures, and that the tenant may exercise any available judicial remedy to seek timely redress for the PHA's nonrenewal of the lease because of the PHA's determination.

#### PHA Policy

The notice of noncompliance will be sent at least 45 days prior to the end of the lease term.

The family will have 10 business days from the date of the notice of noncompliance to enter into a written work-out agreement to cure the noncompliance over the 12-month term of the new lease, provide documentation that the noncompliant resident no longer resides in the unit, or to request a grievance hearing.

If the family reports that a noncompliant family member is no longer residing in the unit, the family must provide documentation that the family member has actually vacated the unit before the PHA will agree to continued occupancy of the family. Documentation

must consist of a certification signed by the head of household as well as evidence of the current address of the family member that previously resided with them.

If the family does not request a grievance hearing or does not take either corrective action required by the notice of noncompliance within the required 10 business day timeframe, the PHA will terminate tenancy in accordance with the policies in Section 13-IV.D.

***Continued Noncompliance and Enforcement Documentation [24 CFR §960.607(b)]***

Should a family member refuse to sign a written work-out agreement or fail to comply with the terms of the work-out agreement, PHAs are required to initiate termination of tenancy proceedings at the end of the current 12-month lease (see 24 CFR §966.53(c)) for failure to comply with lease requirements. When initiating termination of tenancy proceedings, the PHA will provide the following procedural safeguards:

- Adequate notice to the tenant of the grounds for terminating the tenancy and for non-renewal of the lease;
- Right of the tenant to be represented by counsel;
- Opportunity for the tenant to refute the evidence presented by the PHA, including the right to confront and cross-examine witnesses and present any affirmative legal or equitable defense which the tenant may have; and,
- A decision on the merits.

**PHA Policy**

Notices of continued noncompliance will be sent at least 30 days prior to the end of the lease term and will also serve as the family's termination notice. The notice will meet the requirements for termination notices described in Section 13-IV.D, Form, Delivery, and Content of the Notice.

The family will have 10 business days from the date of the notice of non-compliance to provide documentation that the noncompliant resident no longer resides in the unit, or to request a grievance hearing.

If the family reports that a noncompliant family member is no longer residing in the unit, the family must provide documentation that the family member has actually vacated the unit before the PHA will agree to continued occupancy of the family. Documentation must consist of a certification signed by the head of household as well as evidence of the current address of the noncompliant family member that previously resided with them.

If the family does not request a grievance hearing or provide such documentation within the required 10 business day timeframe, the family's lease and tenancy will automatically terminate at the end of the current lease term without further notice.

## **PART II: IMPLEMENTATION OF COMMUNITY SERVICE**

### **11-II.A. OVERVIEW**

Each PHA must develop a policy for administration of the community service and economic self-sufficiency requirements for public housing. It is in the PHA's best interests to develop a viable, effective community service program, to provide residents the opportunity to engage in the community and to develop competencies.

#### ***PHA Implementation of Community Service***

The PHA may not substitute any community service or self-sufficiency activities performed by residents for work ordinarily performed by PHA employees or replace a job at any location where residents perform activities to satisfy the service requirement [24 CFR §960.609].

##### PHA Policy

The PHA will notify its insurance company if residents will be performing community service at the PHA. In addition, the PHA will ensure that the conditions under which the work is to be performed are not hazardous.

If a disabled resident certifies that s/he is able to perform community service, the PHA will ensure that requests for reasonable accommodation are handled in accordance with the policies in Chapter 2.

#### ***PHA Program Design***

The PHA may administer qualifying community service or economic self-sufficiency activities directly or may make community service activities available through a contractor, or through partnerships with qualified organizations, including resident organizations, and community agencies or institutions [24 CFR §960.605(b)].

##### PHA Policy

The PHA will attempt to provide the broadest choice possible to residents as they choose community service activities.

The PHA's goal is to design a service program that gives residents viable opportunities to become involved in the community and to gain competencies and skills. The PHA will work with resident organizations and community organizations to design, implement, assess, and recalibrate its community service program.

The PHA will make every effort to identify volunteer opportunities throughout the community, especially those in proximity to public housing developments. To the greatest extent possible, the PHA will provide names and contacts at agencies that can



provide opportunities for residents, including persons with disabilities, to fulfill their community service obligations.

The PHA will provide in-house opportunities for volunteer work or self-sufficiency programs when possible.

If a member of the family is participating in the FSS program, the PHA will coordinate individual training and service plans (ITSPs) with the community service requirement. ~~Re~~the regular meetings with the FSS Specialist will satisfy community service activities and will verify community service hours within individual monthly logs. -

## ***EXHIBIT 11-1: Community Service and Self-Sufficiency Policy***

### **A. Background**

The Quality Housing and Work Responsibility Act of 1998 requires that all nonexempt (see definitions) public housing adult residents (18 or older) contribute eight (8) hours per month of community service (volunteer work) or participate in eight (8) hours of training, counseling, classes, or other activities that help an individual toward self-sufficiency and economic independence. This is a requirement of the public housing lease.

### **B. Definitions**

**Community Service** – community service activities include, but are not limited to, work at:

- Local public or nonprofit institutions such as schools, head start programs, before or after school programs, childcare centers, hospitals, clinics, hospices, nursing homes, recreation centers, senior centers, adult day care programs, homeless shelters, feeding programs, food banks (distributing either donated or commodity foods), or clothes closets (distributing donated clothing).
- Nonprofit organizations serving PHA residents or their children such as: Boy or Girl Scouts, Boys or Girls Club, 4-H clubs, Police Assistance League (PAL), organized children's recreation, mentoring or education programs, Big Brothers or Big Sisters, garden centers, community clean-up programs, beautification programs.
- Programs funded under the Older Americans Act, such as Green Thumb, Service Corps of Retired Executives, senior meals programs, senior centers, Meals on Wheels
- Public or nonprofit organizations dedicated to seniors, youth, children, residents, citizens, special-needs populations or with missions to enhance the environment, historic resources, cultural identities, neighborhoods, or performing arts.
- PHA housing to improve grounds or provide gardens (so long as such work does not alter the PHA's insurance coverage); or work through resident organizations to help other residents with problems, including serving on the Resident Advisory Board.
- Care for the children of other residents so parent may volunteer

**NOTE:** Political activity is excluded.

#### **PHA Policy**

Community Service must be only in the City of Chandler or serving citizens from the City of Chandler.

**Self-Sufficiency Activities** – self-sufficiency activities include, but are not limited to:

- Job readiness or job training

- Training programs through local one-stop career centers, workforce investment boards (local entities administered through the U.S. Department of Labor), or other training providers
- Employment counseling, work placement, or basic skills training
- Education, including higher education (junior college or college) or reading, financial, or computer literacy classes
- Apprenticeships (formal or informal)
- English proficiency or English as a second language classes
- Budgeting and credit counseling
- Any other program necessary to ready a participant to work (such as substance abuse or mental health counseling)

**Exempt Adult** – an adult member of the family who meets any of the following criteria:

- Is 62 years of age or older
- Is blind or a person with disabilities (as defined under section 216[i][1] or 1614 of the Social Security Act), and who certifies that because of this disability they are unable to comply with the service provisions, or is the primary caretaker of such an individual
- Is engaged in *work activities*
- Is able to meet requirements under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program; or
- Is a member of a family receiving assistance, benefits, or services under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to work program and the supplemental nutrition assistance program (SNAP), and has not been found by the state or other administering entity to be in noncompliance with such program.
- Is a member of a non-public housing over-income family.

PHAs can use reasonable guidelines in clarifying the work activities in coordination with TANF, as appropriate.

**Work Activities** – as it relates to an exemption from the community service requirement, *work activities* means:

- Unsubsidized employment
- Subsidized private sector employment
- Subsidized public sector employment
- Work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available
- On-the-job training
- Job search and job readiness assistance
- Community service programs
- Vocational educational training (not to exceed 12 months with respect to any individual)
- Job skills training directly related to employment
- Education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency
- Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate
- Provision of childcare services to an individual who is participating in a community service program

### **C. Requirements of the Program**

- 1) The eight (8) hours per month may be either volunteer work or self-sufficiency program activity, or a combination of the two.
- 2) At least eight (8) hours of activity must be performed each month or may be aggregated across a year. Any blocking of hours is acceptable as long as 96 hours is completed by each annual certification of compliance.
- 3) Family obligation:
  - At lease execution, all adult members (18 or older) of a public housing resident family must:
    - Sign a certification (Attachment A) that they have received and read this policy and understand that if they are not exempt, failure to comply with the

community service requirement will result in a nonrenewal of their lease;  
and

- Declare if they are exempt. If exempt, they must complete the Exemption Form (Exhibit 11-3) and provide documentation of the exemption.

- Upon written notice from the PHA, nonexempt family members must present complete documentation of activities performed during the applicable lease term. This documentation will include places for signatures of supervisors, instructors, or counselors, certifying to the number of hours contributed.
- If a family member is found to be noncompliant at the end of the 12-month lease term, they, and the head of household, will be required to sign an agreement with the housing authority to make up the deficient hours over the next twelve (12) month period, or the lease will be terminated.
- At annual reexamination, the family must also sign a certification certifying that they understand the community service requirement.

4) Change in exempt status:

- If, during the twelve (12) month lease period, a nonexempt person becomes exempt, it is their responsibility to report this to the PHA and provide documentation of exempt status.
- If, during the twelve (12) month lease period, an exempt person becomes nonexempt, it is their responsibility to report this to the PHA. Upon receipt of this information the PHA will provide the person with the appropriate documentation form(s) and a list of agencies in the community that provide volunteer and/or training opportunities.

**D. Authority Obligation**

- 1) To the greatest extent possible and practicable, the PHA will:
  - Provide names and contacts at agencies that can provide opportunities for residents, including residents with disabilities, to fulfill their community service obligations.
  - Provide in-house opportunities for volunteer work or self-sufficiency activities.
- 2) The PHA will provide the family with a copy of this policy, and all applicable exemption verification forms and community service documentation forms, at lease-up, lease renewal, when a family member becomes subject to the community service requirement during the lease term, and at any time upon the family's request.
- 3) Although exempt family members will be required to submit documentation to support their exemption, the PHA will verify the exemption status in accordance with its

verification policies. The PHA will make the final determination as to whether or not a family member is exempt from the community service requirement. Residents may use the PHA's grievance procedure if they disagree with the PHA's determination.

4) Noncompliance of family member:

- At least thirty (30) days prior to the end of the 12-month lease term, the PHA will begin reviewing the exempt or nonexempt status and compliance of family members;
- If, at the end of the initial 12-month lease term under which a family member is subject to the community service requirement, the PHA finds the family member to be noncompliant, the PHA will not renew the lease unless:
  - The head of household and any other noncompliant resident enter into a written agreement with the PHA, to make up the deficient hours over the next twelve (12) month period; or
  - The family provides written documentation satisfactory to the PHA that the noncompliant family member no longer resides in the unit.
- If, at the end of the next 12-month lease term, the family member is still not compliant, a 30-day notice to terminate the lease will be issued and the entire family will have to vacate, unless the family provides written documentation satisfactory to the PHA that the noncompliant family member no longer resides in the unit;
- The family may use the PHA's grievance procedure to dispute the lease termination.

All adult family members must sign and date below, certifying that they have read and received a copy of this Community Service and Self-Sufficiency Policy.

_____ Resident	_____ Date
_____ Resident	_____ Date
_____ Resident	_____ Date
_____ Resident	_____ Date

***EXHIBIT 11-2: Definition of a Person with a Disability Under  
Social Security Acts 216(i)(l) and Section 1416 (excerpt) for  
Purposes of Exemption from Community Service***

**Social Security Act:**

**216(i)(1):** Except for purposes of sections 202(d), 202(e), 202(f), 223, and 225, the term “disability” means (A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, or (B) blindness; and the term “blindness” means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye, which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of this paragraph as having a central visual acuity of 20/200 or less.

**Section 1416 (excerpt):**

SEC. 1614. [42 U.S.C. 1382c] (a)(1) For purposes of this title, the term “aged, blind, or disabled individual” means an individual who—

(A) is 65 years of age or older, is blind (as determined under paragraph (2)), or is disabled (as determined under paragraph (3)), and

(B)(i) is a resident of the United States, and is either (I) a citizen or (II) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 212(d)(5) of the Immigration and Nationality Act), or

(ii) is a child who is a citizen of the United States and, who is living with a parent of the child who is a member of the Armed Forces of the United States assigned to permanent duty ashore outside the United States.

(2) An individual shall be considered to be blind for purposes of this title if he has central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye, which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of the first sentence of this subsection as having a central visual acuity of 20/200 or less. An individual shall also be considered to be blind for purposes of this title if he is blind as defined under a State plan approved under title X or XVI as in effect for October 1972 and received aid under such plan (on the basis of blindness) for December 1973, so long as he is continuously blind as so defined.

(3)(A) Except as provided in subparagraph (C), an individual shall be considered to be disabled for purposes of this title if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months.

***EXHIBIT 11-3: PHA Determination of Exemption for Community Service***

Family: \_\_\_\_\_

Adult Family Member: \_\_\_\_\_

This adult family member meets the requirements for being exempted from the PHA's community service requirement for the following reason:

- ☐ 62 years of age or older. *(Documentation of age in file)*
- ☐ Is a person with disabilities and self-certifies below that they are unable to comply with the community service requirement. *(Documentation of HUD definition of disability in file)*

**Tenant certification:** I am a person with disabilities and am unable to comply with the community service requirement.

\_\_\_\_\_  
Signature of Family Member

\_\_\_\_\_  
Date

- ☐ Is the primary caretaker of such an individual in the above category. *(Documentation in file)*
- ☐ Is engaged in work activities. *(Employment Verification in file)*
- ☐ Is able to meet requirements under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work *(Documentation in file)*
- ☐ Is a member of a family receiving assistance, benefits, or services under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program and the supplemental nutrition assistance program (SNAP), and has not been found by the state or other administering entity to be in noncompliance with such program *(Documentation in file)*

\_\_\_\_\_  
Signature of Family Member

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of PHA Official

\_\_\_\_\_  
Date



***EXHIBIT 11-4: CSSR Work-Out Agreement***

Date: \_\_\_\_\_

Noncompliant Adult: \_\_\_\_\_

Adult Family Member: \_\_\_\_\_

**Community Service & Self-Sufficiency Requirement (CSSR):**

Under Section 12 of the U.S. Housing Act, the \_\_\_\_\_ (insert name of PHA) is required to enforce the community service and self-sufficiency requirement (CSSR). Under the CSSR, each nonexempt adult family member residing in public housing must perform 8 hours per month of community service or self-sufficiency activities.

**Noncompliance:** \_\_\_\_\_ (insert name of PHA) has found that the nonexempt individual named above is in noncompliance with the CSSR. This work-out agreement is the PHA's written notification to you of this noncompliance.

Our records show that for the most recent lease term you were required to perform:

\_\_\_\_\_ hours of CSSR activities. However, there were \_\_\_\_\_ hours of verified CSSR activities. Therefore, you are in noncompliance for \_\_\_\_\_ hours.

\_\_\_\_\_ (insert name of PHA) will not renew the lease at the end of the current 12-month lease term unless the head of household and noncompliant adult sign a written work-out agreement with \_\_\_\_\_ (insert name of PHA), or the family provides written assurance that is satisfactory to \_\_\_\_\_ (insert name of PHA) explaining that the noncompliant adult no longer resides in the unit. The regulations require that the work-out agreement include the means through which a noncompliant family member will comply with the CSSR requirement. [24 CFR §960.607(c), Notice PIH 2015-12]. The terms of the CSSR work-out agreement are on the reverse side of this page.

**Enforcement:** Should a family member refuse to sign this CSSR work-out agreement, or fail to comply with the terms of this CSSR work-out agreement, or fail to provide satisfactory written assurance that the noncompliant adult no longer resides in the unit, \_\_\_\_\_ (insert name of PHA) is required to initiate termination of tenancy proceedings at the end of the current 12-month lease [24 CFR §966.53(c)].

***Terms of CSSR Work-Out Agreement***

**Noncompliant Adult:** \_\_\_\_\_

**Please check one of the below boxes:**

- ☐ I [head of household or spouse/cohead] certify that the noncompliant adult named above no longer resides in the unit. [Verification attached.]
- ☐ I, the noncompliant adult named above, agree to complete \_\_\_\_\_ hours in the upcoming 12-month lease term. These hours include the \_\_\_\_\_ hours not fulfilled in the most previous lease term, plus the 96 hours for the upcoming lease term.

Below is a description of means through which I will comply with the CSSR requirement:

	Description of Activity	Number of Hours
1		
2		
3		
4		
5		
	<b>Total Hours</b>	

**SIGNED AND ATTESTED THIS DATE**

Signature:

\_\_\_\_\_  
Head of Household

\_\_\_\_\_  
Date

\_\_\_\_\_  
Noncompliant Adult, if other than Head of Household

\_\_\_\_\_  
Date

\_\_\_\_\_  
PHA Official

\_\_\_\_\_  
Date

## Chapter 12

### TRANSFER POLICY

#### INTRODUCTION

This chapter explains the PHA's transfer policy, based on HUD regulations, HUD guidance, and PHA policy decisions.

This chapter describes HUD regulations and PHA policies related to transfers in four parts:

**Part I: Emergency Transfers.** This part describes emergency transfers, emergency transfer procedures, and payment of transfer costs.

**Part II: PHA Required Transfers.** This part describes types of transfers that may be required by the PHA, notice requirements, and payment of transfer costs.

**Part III: Transfers Requested by Residents.** This part describes types of transfers that may be requested by residents, eligibility requirements, security deposits, payment of transfer costs, and handling of transfer requests.

**Part IV: Transfer Processing.** This part describes creating a waiting list, prioritizing transfer requests, the unit offer policy, examples of good cause, deconcentration, transferring to another development and reexamination.

The PHA may require the tenant to move from the unit under some circumstances. There are also emergency circumstances under which alternate accommodations for the tenant must be provided, that may or may not require a transfer.

The tenant may also request a transfer, such as a request for a new unit as a reasonable accommodation.

The PHA must have specific policies in place to deal with acceptable transfer requests.

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## PART I EMERGENCY TRANSFERS

### 12-I.A. OVERVIEW

HUD categorizes certain situations that require emergency transfers [PH OCC GB, p. 147]. The emergency transfer differs from a typical transfer in that it requires immediate action by the PHA.

In the case of a genuine emergency, it may be unlikely that the PHA will have the time or resources to immediately transfer a tenant. Due to the immediate need to vacate the unit, placing the tenant on a transfer waiting list would not be appropriate. Under such circumstances, if an appropriate unit is not immediately available, the PHA should find alternate accommodations for the tenant until the emergency passes, or a permanent solution, i.e., return to the unit or transfer to another unit, is possible.

### 12-I.B. EMERGENCY TRANSFERS

If the dwelling unit is damaged to the extent that conditions are created which are hazardous to life, health, or safety of the occupants, the PHA must offer standard alternative accommodations, if available, where necessary repairs cannot be made within a reasonable time [24 CFR §966.4(h)].

~~The VAWA-2013 final rule~~ requires the PHA to adopt an emergency transfer plan for victims of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking.

#### PHA Policy

The following are considered emergency circumstances warranting an immediate transfer of the tenant or family:

- Maintenance conditions in the resident's unit, building or at the site that pose an immediate, verifiable threat to the life, health or safety of the resident or family members that cannot be repaired or abated within 24 hours. Examples of such unit or building conditions would include: a gas leak, no heat in the building during the winter, no water, toxic contamination, and serious water leaks.
- A verified incident of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking. For instances of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking, the threat may be established through documentation outlined in section 16-VII.D, ~~or by any proof accepted by the PHA~~. In order to request the emergency transfer, the requestor must submit an emergency transfer request form (HUD-5383) (Exhibit 16-~~43~~ of this ACOP), although the PHA may waive this requirement in order to expedite the transfer process.
- The PHA will immediately process requests for transfers due to domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking. The

PHA will allow a tenant to make an internal emergency transfer under VAWA when a safe unit is immediately available. The PHA defines *immediately available* as a vacant unit, that is ready for move-in within a reasonable period of time, not to exceed seven (7) days. If an internal transfer to a safe unit is not immediately available, the PHA will assist the resident in seeking an external emergency transfer either within or outside the PHA's programs.

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- The PHA has adopted an emergency transfer plan, which is included as Exhibit 16-3 to this plan.

## 12-I.C. EMERGENCY TRANSFER PROCEDURES

### PHA Policy

Any condition that would produce an emergency work order would qualify a family for an emergency transfer if the repairs cannot be made within 24 hours.

If the transfer is necessary because of maintenance conditions, and an appropriate unit is not immediately available, the PHA will provide temporary accommodations to the tenant by arranging for temporary lodging at a hotel or similar location. The family is entitled to alternative accommodations even if the tenant, household member, guest, or other covered person is responsible for the damage that caused the hazard or if a family is in the process of being evicted.

If the conditions that required the transfer cannot be repaired, or the condition cannot be repaired in a reasonable amount of time, the PHA will transfer the resident to the first available and appropriate unit after the temporary relocation.

Emergency transfers that arise due to maintenance conditions are mandatory for the tenant.

If the emergency transfer is necessary to protect a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the PHA will follow procedures outlined in Exhibit 16-4.

~~Any condition that would produce an emergency work order would qualify a family for an emergency transfer if the repairs cannot be made within 24 hours [PH OCC GB, 11.1]~~

### PHA Policy

~~If the transfer is necessary because of maintenance conditions, and an appropriate unit is not immediately available, the PHA will provide temporary accommodations to the tenant by arranging for temporary lodging at a hotel or similar location.~~

~~The family is entitled to alternative accommodations even if the tenant, household member, guest, or other covered person is responsible for the damage that caused the hazard or if a family is in the process of being evicted.~~

~~If the conditions that required the transfer cannot be repaired, or the condition cannot be repaired in a reasonable amount of time, the PHA will transfer the resident to the first available and appropriate unit after the temporary relocation.~~

~~Emergency transfers are mandatory for the tenant.~~

~~If the emergency transfer is necessary to protect a victim of domestic violence, dating violence, sexual assault, or stalking, the PHA will follow procedures outlined in Exhibit 16-3.~~

#### **12-I.D. COSTS OF TRANSFER**

##### PHA Policy

The PHA will bear the reasonable costs of temporarily accommodating the tenant and of long-term transfers, if any, due to emergency conditions.

The reasonable cost of transfers includes the cost of packing, moving, and unloading.

The PHA will establish a moving allowance based on the typical costs in the community of packing, moving, and unloading. To establish typical costs, the PHA will collect information from companies in the community that provide these services.

The PHA will reimburse the family for eligible out-of-pocket moving expenses up to the PHA's established moving allowance.

The reasonable cost of an emergency transfer may include the lowest quote (usually of 3) for movers as approved and agreed to by housing management staff. Other costs may include the fees associated with disconnecting and reestablishment of any existing resident paid utility, phone, and cable/satellite services if services are in good standing at the time of the disconnect.

## PART II: PHA REQUIRED TRANSFERS

### 12-II.A. OVERVIEW

HUD regulations regarding transfers are minimal, leaving it up to the PHA to develop reasonable transfer policies.

The PHA's transfer policy must be reasonable, must ensure that families are not discriminated against based on race, color, religion, sex, national origin, age, familial status, and disability, and must be applied consistently.

The PHA may require that a resident transfer to another unit under some circumstances. For example, the PHA may require a resident to transfer to make an accessible unit available to a disabled family. The PHA may also transfer a resident in order to maintain occupancy standards based on family composition. Finally, a PHA may transfer residents in order to demolish or renovate the unit.

A transfer that is required by the PHA is an adverse action and is subject to the notice requirements for adverse actions [24 CFR §966.4(e)(8)(i)].

### 12-II.B. TYPES OF PHA REQUIRED TRANSFERS

#### PHA Policy

The types of transfers that may be required by the PHA, include, but are not limited to, transfers to make an accessible unit available for a disabled family, transfers to comply with occupancy standards, transfers for demolition, disposition, revitalization, or rehabilitation, and emergency transfers as discussed in Part I of this chapter.

Transfers required by the PHA are mandatory for the tenant. The family will be given seven (7) days to vacate the unit after receipt of written notice.

#### *Transfers to Make an Accessible Unit Available*

When a family is initially given an accessible unit, but does not require the accessible features, the PHA may require the family to agree to move to a non-accessible unit when it becomes available [24 CFR 8.27(b)].

When offering an accessible unit to an applicant not having handicaps requiring the accessibility features of the unit, the PHA may require the applicant to agree (and may incorporate this agreement in the lease) to move to a non-accessible unit when available. [24 CFR §8.27(b)].

#### PHA Policy

When a non-accessible unit becomes available, the PHA will transfer a family living in an accessible unit that does not require the accessible features, to an available unit that is not accessible. The PHA may wait until a disabled resident requires the accessible unit



before transferring the family that does not require the accessible features out of the accessible unit.

When a tenant who does not require accessibility features for disabled persons accepts an accessible unit, the tenant acknowledges and agrees to transfer to a unit without such features should another person eligible for housing assistance need the accessible dwelling unit. The tenant further acknowledges the responsibility for all costs associated with the transfer to another dwelling unit.

### ***Occupancy Standards Transfers***

The PHA may require a resident to move when a reexamination indicates that there has been a change in family composition, and the family is either overcrowded or over-housed according to PHA policy [24 CFR §960.257(a)(4)]. On some occasions, the PHA may initially place a resident in an inappropriately sized unit at lease-up, where the family is over-housed, to prevent vacancies. The public housing lease must include the tenant's agreement to transfer to an appropriately sized unit based on family composition [24 CFR §966.4(c)(3)].

#### **PHA Policy**

The PHA will transfer a family when the family size has changed, and the family is now too large (overcrowded) or too small (over-housed) for the unit occupied.

For purposes of the transfer policy, overcrowded and over-housed are defined as follows:

- *Overcrowded*: the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides, according to the chart in Section 5-I.B.
- *Over-housed*: the family no longer qualifies for the bedroom size in which they are living based on the PHA's occupancy standards as described in Section 5-I.B.

The PHA may also transfer a family who was initially placed in a unit in which the family was over-housed to a unit of an appropriate size based on the PHA's occupancy standards, when the PHA determines there is a need for the transfer.

The PHA may elect not to transfer an over-housed family in order to prevent vacancies.

A family that is required to move because of family size will be advised by the PHA that a transfer is ~~neccessary~~necessary, and that the family has been placed on the transfer list.

Families that request and are granted an exception to the occupancy standards (for either a larger or smaller size unit) in accordance with the policies in Section 5-I.C. will only be required to transfer if it is necessary to comply with the approved exception.

***Demolition, Disposition, Revitalizations, or Rehabilitation, Including Rental Assistance  
Demonstration (RAD) Conversions Transfers***

These transfers permit the PHA to demolish, sell or do major capital or rehabilitation work at a building site [PH Occ GB, page 148].

PHA Policy

The PHA will relocate a family when the unit or site in which the family lives is undergoing major rehabilitation that requires the unit to be vacant, or the unit is being disposed of or demolished. The PHA's relocation plan may or may not require transferring affected families to other available public housing units.

If the relocation plan calls for transferring public housing families to other public housing units, affected families will be placed on the transfer list.

In cases of revitalization or rehabilitation, the family may be offered a temporary relocation if allowed under Relocation Act provisions, and may be allowed to return to their unit, depending on contractual and legal obligations, once revitalization or rehabilitation is complete.

## 12-IL.C. ADVERSE ACTION [24 CFR §966.4(E)(8)(I)]

A PHA required transfer is an adverse action. As an adverse action, the transfer is subject to the requirements regarding notices of adverse actions. If the family requests a grievance hearing within the required timeframe, the PHA may not take action on the transfer until the conclusion of the grievance process.

## 12-IL.D. COST OF TRANSFER

### PHA Policy

The PHA will bear the reasonable costs of transfers that the PHA requires, except that residents will be required to bear the cost of occupancy standards ~~transfers, or transfers to make an accessible unit available.~~

The reasonable costs of transfers include the cost of packing, moving, and unloading.

The PHA will establish a moving allowance based on the typical costs in the community of packing, moving, and unloading. To establish typical costs, the PHA will collect information from companies in the community that provide these services.

The PHA will reimburse the family for eligible out-of-pocket moving expenses up to the PHA's established moving allowance.

~~The reasonable costs of transfers that the PHA requires to make an accessible unit available (see what is on Costs of Transfer for Emergency).~~

## **PART III: TRANSFERS REQUESTED BY TENANTS**

### **12-III.A. OVERVIEW**

HUD provides the PHA with discretion to consider transfer requests from tenants. The only requests that the PHA is required to consider are requests for reasonable accommodation. All other transfer requests are at the discretion of the PHA. To avoid administrative costs and burdens, this policy limits the types of requests that will be considered by the PHA.

Some transfers that are requested by tenants should be treated as higher priorities than others due to the more urgent need for the transfer.

### **12-III.B. TYPES OF RESIDENT REQUESTED TRANSFERS**

#### PHA Policy

The types of requests for transfers that the PHA will consider are limited to requests for transfers to alleviate a serious or life-threatening medical condition, transfers due to a threat of physical harm or criminal activity, reasonable accommodation, transfers to a different unit size as long as the family qualifies for the unit according to the PHA's occupancy standards, and transfers to a location closer to employment. No other transfer requests will be considered by the PHA.

The PHA will consider the following as high priority transfer requests:

- When a transfer is needed to alleviate verified medical problems of a serious or life-threatening nature
- When there has been a verified threat of physical harm or criminal activity. Such circumstances may, at the PHA's discretion, include an assessment by law enforcement indicating that a family member is the actual or potential victim of a criminal attack, retaliation for testimony, or a hate crime.
- When a family requests a transfer as a reasonable accommodation. Examples of a reasonable accommodation transfer include, but are not limited to, a transfer to a first-floor unit for a person with mobility impairment, or a transfer to a unit with accessible features.

The PHA will consider the following as regular priority transfer requests:

- When a family requests a larger bedroom size unit even though the family does not meet the PHA's definition of overcrowded, as long as the family meets the PHA's occupancy standards for the requested size unit
- When the head of household or spouse is employed 25 miles or more from the public housing unit, has no reliable transportation and public transportation is not adequate.

Transfers requested by the tenant are considered optional for the tenant.

### 12-III.C. ELIGIBILITY FOR TRANSFER

Transferring residents do not have to meet the admission eligibility requirements pertaining to income or preference. However, the PHA may establish other standards for considering a transfer request [PH Occ GB, p. 150].

#### PHA Policy

Except where reasonable accommodation is being requested, the PHA will only consider transfer requests from residents that meet the following requirements:

- Have not engaged in criminal activity that threatens the health and safety of residents and staff
- Owe no back rent or other charges, or have a pattern of late payment
- Have no housekeeping lease violations or history of damaging property
- Can get utilities turned on in the name of the head of household (applicable only to properties with tenant-paid utilities)

A resident with housekeeping standards violations will not be transferred until the resident passes a follow-up housekeeping inspection.

Exceptions to the good record requirement may be made when it is to the PHA's advantage to make the transfer.

Exceptions will also be made when the PHA determines that a transfer is necessary to protect the health or safety of a resident who is a victim of domestic violence, dating violence, sexual assault, ~~or stalking~~, or human trafficking, and who provides documentation of abuse in accordance with Section 16-VII.D of this ACOP. Tenants who are not in good standing may still request an emergency transfer under VAWA.

If a family requested to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines, the family will not be eligible to transfer to a larger size unit for a period of two years from the date of admission, unless they have a change in family size or composition, or it is needed as a reasonable accommodation.

## 12-III.D. SECURITY DEPOSITS

### PHA Policy

When a family transfers from one unit to another, the PHA will transfer their security deposit to the new unit. The tenant will be billed for any maintenance or others charges due for the “old” unit.

## 12-III.E. COST OF TRANSFER

The PHA must pay moving expenses to transfer a resident with a disability to an accessible unit as an accommodation for the resident’s disability [Notice PIH 2010-26].

### PHA Policy

The resident will bear all of the costs of transfer s/he requests. However, the PHA will bear the transfer costs when the transfer is done as a reasonable accommodation.  
~~Residents who do not substantiate a disability-related need for a reasonable accommodation will bear all of the costs of a transfer.~~

## 12-III.F. HANDLING OF REQUESTS

### PHA Policy

Residents requesting a transfer to another unit or development will be required to submit a written request for transfer.

In order to request the emergency transfer under VAWA, the resident will be required to submit an emergency transfer request form (HUD-5383) (Exhibit 16-~~43~~ of this ACOP). The PHA may, on a case-by-case basis, waive this requirement and accept a verbal request in order to expedite the transfer process. If the PHA accepts an individual’s statement, the PHA will document acceptance of the statement in the individual’s file in accordance with 16-VII.D. of this ACOP. Transfer requests under VAWA will be processed in accordance with the PHA’s Emergency Transfer Plan (Exhibit 16-3).

In case of a reasonable accommodation transfer, the PHA will encourage the resident to make the request in writing using a reasonable accommodation request form. However, the PHA will consider the transfer request any time the resident indicates that an accommodation is needed whether or not a formal written request is submitted.

The PHA will respond by approving the transfer and putting the family on the transfer list, by denying the transfer, or by requiring more information or documentation from the family, such as documentation of domestic violence, dating violence, sexual assault, ~~or~~ or human trafficking in accordance with section 16-VII.D of this ACOP.

If the family does not meet the “good record” requirements under Section 12-III.C., the manager will address the problem and, until resolved, the request for transfer will be denied.

The PHA will respond within ten (10) business days of the submission of the family's request. If the PHA denies the request for transfer, the family will be informed of its grievance rights.

## **PART IV: TRANSFER PROCESSING**

### **12-IV.A. OVERVIEW**

Generally, families who request a transfer should be placed on a transfer list and processed in a consistent and appropriate order. The transfer process must be clearly auditable to ensure that residents do not experience inequitable treatment.

### **12-IV.B. TRANSFER LIST**

#### PHA Policy

The PHA will maintain a centralized transfer list to ensure that transfers are processed in the correct order and that procedures are uniform across all properties.

Emergency transfers will not automatically go on the transfer list. Instead, emergency transfers will be handled immediately, on a case-by-case basis. If the emergency cannot be resolved by a temporary accommodation, and the resident requires a permanent transfer, the family will be placed at the top of the transfer list.

Transfers will be processed in the following order:

- 1) Emergency transfers (hazardous maintenance conditions, VAWA)
- 2) High-priority transfers (verified medical condition, threat of harm or criminal activity, and reasonable accommodation)
- 3) Transfers to make accessible units available
- 4) Demolition, renovation, etc.
- 5) Occupancy standards
- 6) Other PHA-required transfers
- 7) Other tenant-requested transfers

Within each category, transfers will be processed in order of the date a family was placed on the transfer list, starting with the earliest date.

With the approval of the executive director, the PHA may, on a case-by-case basis, transfer a family without regard to its placement on the transfer list in order to address the immediate need of a family in crisis.

Demolition and renovation transfers will gain the highest priority as necessary to allow the PHA to meet the demolition or renovation schedule.

Transfers will take precedence over waiting list admissions.



#### 12-IV.C. TRANSFER OFFER POLICY

##### PHA Policy

Residents will receive one offer of a transfer.

When the transfer is required by the PHA, the refusal of that offer without good cause will result in lease termination.

When the transfer has been requested by the resident, the refusal of that offer without good cause will result in the removal of the family from the transfer list. In such cases, the family must wait six months to reapply for another transfer.

#### 12-IV.D. GOOD CAUSE FOR UNIT REFUSAL

##### PHA Policy

Examples of good cause for refusal of a unit offer include, but are not limited to, the following:

- The family demonstrates to the PHA's satisfaction that accepting the unit offer will require an adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities.
- The family demonstrates to the PHA's satisfaction that accepting the offer will place a family member's life, health, or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders, other court orders, or risk assessments related to witness protection from a law enforcement agency, or documentation of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking in accordance with section 16-VI.D of this ACOP. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption.
- A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final application) or live-in aide necessary to the care of the principal household member.
- The unit is inappropriate for the applicant's disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to a 30-day notice to move.
- The unit has lead-based paint and the family includes children under the age of six.

The PHA will require documentation of good cause for unit refusals.

#### **12-IV.E. DECONCENTRATION**

##### PHA Policy

If subject to deconcentration requirements, the PHA will consider its deconcentration goals when transfer units are offered. When feasible, families above the Established Income Range will be offered a unit in a development that is below the Established Income Range, and vice versa, to achieve the PHA's deconcentration goals. A deconcentration offer will be considered a "bonus" offer; that is, if a resident refuses a deconcentration offer, the resident will receive one additional transfer offer.

#### **12-IV.F. REEXAMINATION POLICIES FOR TRANSFERS**

##### PHA Policy

The reexamination date will be changed to the first of the month in which the transfer took place.

## Chapter 13

### LEASE TERMINATIONS

#### INTRODUCTION

Either party to the dwelling lease agreement may terminate the lease in accordance with the terms of the lease. A public housing lease is different from a private dwelling lease in that the family's rental assistance is tied to their tenancy. When the family moves from their public housing unit, they lose their rental assistance. Therefore, there are additional safeguards to protect the family's tenancy in public housing.

Likewise, there are safeguards to protect HUD's interest in the public housing program. The PHA has the authority to terminate the lease because of the family's failure to comply with HUD regulations, for serious or repeated violations of the terms of the lease, and for other good cause. HUD regulations also specify when termination of the lease is mandatory by the PHA.

When determining PHA policy on terminations of the lease, the PHA must consider state and local landlord-tenant laws in the area where the PHA is located. Such laws vary from one location to another, and these variances may be either more or less restrictive than federal law or HUD regulation.

This chapter presents the policies that govern voluntary termination of the lease by the family and the mandatory and voluntary termination of the lease by the PHA. It is presented in four parts:

**Part I: Termination by Tenant.** This part discusses the PHA requirements for voluntary termination of the lease by the family.

**Part II: Termination by PHA - Mandatory.** This part describes circumstances when termination of the lease by the PHA is mandatory. This part also explains nonrenewal of the lease for noncompliance with community service requirements and families that have been over the income limit for 24 consecutive months.

**Part III: Termination by PHA – Other Authorized Reasons.** This part describes the PHA's options for lease termination that are not mandated by HUD regulation but for which HUD authorizes PHAs to terminate. For some of these options HUD requires the PHA to establish policies and lease provisions for termination, but termination is not mandatory. For other options the PHA has full discretion whether to consider the options as just cause to terminate as long as the PHA policies are reasonable, nondiscriminatory, and do not violate state or local landlord-tenant law. This part also discusses the alternatives that the PHA may consider in lieu of termination, and the criteria the PHA will use when deciding what actions to take.

**Part IV: Notification Requirements.** This part presents the federal requirements for disclosure of criminal records to the family prior to termination, the HUD requirements and PHA policies regarding the timing and content of written notices for lease

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termination and eviction, and notification of the post office when eviction is due to criminal activity. This part also discusses record keeping related to lease termination.

## **PART I: TERMINATION BY TENANT**

### **13-I.A. TENANT CHOOSES TO TERMINATE THE LEASE [24 CFR §966.4(K)(1)(II) AND 24 CFR §966.4(~~I~~)(1)]**

The family may terminate the lease at any time, for any reason, by following the notification procedures as outlined in the lease. Such notice must be in writing and delivered to the property site office or the PHA central office or sent by pre-paid first-class mail, properly addressed.

#### PHA Policy

If a family desires to move and terminate their tenancy with the PHA, they must give at least 30 calendar days advance written notice to the PHA of their intent to vacate. When a family must give less than 30 days' notice due to circumstances beyond their control the PHA, at its discretion, may waive the 30-day requirement.

The notice of lease termination must be signed by the head of household, spouse, or cohead.

## **PART II: TERMINATION BY PHA – MANDATORY**

### **13-II.A. OVERVIEW**

HUD requires mandatory termination of the lease for certain actions or inactions of the family. There are other actions or inactions ~~is~~ of the family that constitutes *grounds* for lease termination, but the lease termination is not mandatory. The PHA must establish policies for termination of the lease in these cases where termination is optional for the PHA.

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For those tenant actions or failures to act where HUD requires termination, the PHA has no such option. In those cases, the family's lease must be terminated. This part describes situations in which HUD requires the PHA to terminate the lease.

### **13-II.B. FAILURE TO PROVIDE CONSENT [24 CFR §960.259(A) AND (B)]**

The PHA must terminate the lease if any family member fails to sign and submit any consent form s/he is required to sign for any reexamination. See Chapter 7 for a complete discussion of consent requirements.

### **13-II.C. FAILURE TO DOCUMENT CITIZENSHIP [24 CFR §5.514(C) AND (D) AND 24 CFR §960.259(A)]**

The PHA must terminate the lease if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family, resulting in no eligible family members; or (3) a family member, as determined by the PHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. For (3), such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated.

See Chapter 7 for a complete discussion of documentation requirements.

### **13-II.D. FAILURE TO DISCLOSE AND DOCUMENT SOCIAL SECURITY NUMBERS [24 CFR §5.218(C), 24 CFR §960.259(A)(3), NOTICE PIH 2018-24]**

The PHA must terminate assistance if a participant family fails to disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number.

However, if the family is otherwise eligible for continued program assistance, and the PHA determines that the family's failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside of the family's control, the PHA may defer the family's termination and provide the opportunity to comply with

the requirement within a period not to exceed 90 calendar days from the date the PHA determined the family to be noncompliant.

PHA Policy

The PHA will defer the family's termination and provide the family with the opportunity to comply with the requirement for a period of 90 calendar days for circumstances beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency, if there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.

See Chapter 7 for a complete discussion of documentation and certification requirements.

**13-II.E. FAILURE TO ACCEPT THE PHA'S OFFER OF A LEASE REVISION [24 CFR §966.4(~~I~~)(2)(II)(E)]**

The PHA must terminate the lease if the family fails to accept the PHA's offer of a lease revision to an existing lease, provided the PHA has done the following:

- The revision is on a form adopted by the PHA in accordance with 24 CFR §966.3 pertaining to requirements for notice to tenants and resident organizations and their opportunity to present comments.
- The PHA has made written notice of the offer of the revision at least 60 calendar days before the lease revision is scheduled to take effect.
- The PHA has specified in the offer a reasonable time limit within that period for acceptance by the family.

See Chapter 8 for information pertaining to PHA policies for offering lease revisions.

**13-II.F. METHAMPHETAMINE CONVICTION [24 CFR §966.4(L)(5)(I)(A)]**

The PHA must immediately terminate the lease if the PHA determines that any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally assisted housing.

See Part 13-III.B. below for the HUD definition of *premises*.

**13-II.G. LIFETIME REGISTERED SEX OFFENDERS (PIH NOTICE 2012-28)**

Should a PHA discover that a member of an assisted household was subject to a lifetime registration requirement at admission and was erroneously admitted after June 25, 2001, the PHA must immediately terminate assistance for the household member.

In this situation, the PHA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the PHA must terminate assistance for the household.

**13-II.H. NONCOMPLIANCE WITH COMMUNITY SERVICE REQUIREMENTS [24 CFR §966.4(~~II~~)(2)(II)(D), 24 CFR §960.603(B) AND 24 CFR §960.607(B)(2)(II) AND (C)]**

The PHA is prohibited from renewing the lease at the end of the 12-month lease term when the family fails to comply with the community service requirements as described in Chapter 11.

**13-II.I DEATH OF A SOLE FAMILY MEMBER [~~PHH-NOTICE 2010-3~~; PIH 2012-4~~NOTICE 2010-50~~]**

The PHA must immediately terminate the lease following the death of the sole family member.

- The PHA should confirm the death through EIV Deceased report or with the family's head of household or listed emergency contact person.

If the individual is deceased and the only household member (single member household), the PHA should complete an End of Participation (EOP) action on form HUD-50058, and discontinue assistance and/or tenancy.

If there are remaining household members, update the family composition, accordingly, complete an Interim Reexamination action on form HUD-50058, and take any other action in accordance with HUD guidance and PHA-established policies.

If there are unauthorized persons (including a live-in aide) in the unit of a deceased single member household, you must pursue judicial intervention to have them lawfully removed from the unit. You may be found liable for a wrongful eviction if you change the locks on the unit to prevent the unauthorized occupants from entering the unit. Follow your local Tenant and Landlord laws to regain possession of the unit.

Upon notification of the death, either by HUD's EIV system or a third party, the family or designee of the deceased tenant's estate should be allotted a minimum of fourteen (14) consecutive days to remove personal belongings from the unit in accordance with the guidance below. This guidance is designed to afford families a reasonable time frame to remove personal belongings from the public housing unit and enable the PHA to prepare the unit, as quickly as possible, for occupancy by the next eligible family in need of affordable housing.

While there is no HUD requirement for the time frame allotted to the family or designee of the deceased tenant's estate, HUD recommends an allotted time frame of fourteen (14) consecutive days, beginning the day after the date of notification, for the family or designee of the descendant's estate to remove personal belongings from the public housing unit unless:

- 1) There is a state or local law, which requires a shorter or longer time frame to remove personal belongings. In those instances, the PHA must comply with local and/or state law; or



- 2) The rent has been paid for the month in which the death occurs, in advance of the date of death. In those instances, the family or designee of the deceased tenant's estate should be allotted time through the end of the month in which the rent has been paid, or fourteen consecutive days from the date the PHA is notified of the death, whichever is greater.

- (a) **Example 1:** As of August 1, 2010, Joe Jones has paid rent through August 31, 2010. Mr. Jones died on August 22, 2010, and the PHA is notified of the death by Mr. Jones' sister on August 23, 2010. The family or designee of the deceased tenant's estate has until September 6, 2010, to remove personal belongings from the unit, unless state or local landlord laws authorize a shorter or longer time period.
- (b) **Example 2:** As of August 1, 2010, Mary Smith has paid rent through September 30, 2010. Ms. Smith died on August 22, 2010, and the PHA is notified of the death by a 3rd party on August 24, 2010. The family or designee of the deceased tenant's estate has until September 30, 2010, to remove personal belongings from the unit unless state or local landlord laws authorize a shorter or longer time period.
- (c) **Example 3:** As of August 1, 2010, John Doe has not paid rent for August 2010. Mr. Doe died on August 10, 2010, and the PHA is notified of the death by Mr. Doe's friend on August 12, 2010. The family or designee of the deceased tenant's estate has until August 26, 2010, to remove personal belongings from the unit, unless state or local landlord laws authorize a shorter or longer time period.

PHAs are reminded to comply with local and state established tenant-landlord laws with respect to lease termination, possession of premises upon death and removal of personal belongings from the public housing unit.

**Over-Income Families [24 CFR §960.261 and FR 7/26/2018; PIH Notice 2019-11, PIH Notice 2023-03, HOTMA, Section 103]**

A. Subject to certain restrictions, HUD authorizes PHAs to evict or terminate the tenancies of families because they are over income. Unless required to do so by local law, the PHA may not evict or terminate the tenancy of a family solely because the family is over income if: (1) the family has a valid contract of participation in the Family Self-Sufficiency (FSS) program, or (2) the family is currently receiving the earned income disallowance. This rule does not require PHAs to evict over-income residents, but rather gives PHAs the discretion to do so thereby making units available for applicants who are income eligible.

B. The Housing Opportunity Through Modernization Act (HOTMA) of 2016 placed an income limitation on public housing tenancies. The over-income requirement states that after a family's adjusted income has exceeded 120 percent of area median income (AMI) (or a different limitation established by the secretary) for two consecutive years, the PHA must either terminate the family's tenancy within six months of the determination, or charge the family a monthly rent that is the higher

of the applicable fair market rent (FMR) or the amount of monthly subsidy for the unit, including amounts from the operating and capital funds, as determined by regulations. Notice PIH 2019-11 also requires that PHAs publish over-income limits in their ACOP and update them no later than 60 days after HUD publishes new income limits each year. The over-income limit is calculated by multiplying the very low-income limit (VLI) by 2.4, as adjusted for family size. PHAs also have discretion, under 24 CFR §960.261, to adopt policies allowing termination of tenancy for families whose income exceeds the limit for program eligibility. Such policies would exempt families participating in the Family Self-Sufficiency (FSS) program or currently receiving the earned income disallowance.

PHA Policy

The PHA will evict or terminate the tenancies of families if they continue to exceed the over-income limit for a period of two years.

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At annual or interim reexamination, if a family's adjusted income exceeds the applicable over-income limit, the PHA will document the family file and begin tracking the family's over-income status.

If one year after the applicable annual or interim reexamination the family's income continues to exceed the applicable over-income limit, the PHA will notify the family in writing that their income has exceeded the over-income limit for one year, and that if the family continues to be over-income for 12 consecutive months, the family will be subject to the PHA's over-income policies. HUD allows for PHAs to terminate assistance after two years of a family consistently exceeding the over-income limit for their household size. COCHRD will monitor the family's over-income status for the entire two years and the family will be notified of their status at each point of the process during the two years.

If the family continues to be over-income at the end of the two-year period, then the family will be given a final 30-day notice of termination of assistance based on the income information on file.

If the family's income should change before the termination date to the point where the family is no longer over-income, COCHRD will void the termination. The over-income limits are updated when the new income limits are announced by HUD each year.

**HOTMA PIH Notice 2023-03 (effective June 14, 2023), 24 CFR 5.520, 5.628, 960.102, 960.253, 960.601, 964.125, and 966.4**

**24 CFR 5.520 Restrictions on assistance to Noncitizens: A PHA must provide prorated assistance to mixed immigration status families, except as provided in 24 CFR 960.507. Once a mixed family has exceeded the over-income limit for 24 consecutive months, the family will either have their tenancy terminated or they must pay the alternative rent as an NPHOI family. For terminations, mixed families will pay their current, prorated rent then, pursuant to 24 CFR 5.520(d)(1), the mixed family must not receive prorated assistance. Instead the family must pay the full alternate rent.**

PHA Policy

The PHA has chosen to terminate a family once they have 24 consecutive months of income exceeding the over-income limit.

24 CFR 5.628 Family Payment: Options are now available to include alternative rent

24 CFR 960.601 Definition of exempt individual: Updated to include NPHOI family not required to comply with Community Service Activities or Self-Sufficiency Work Activities requirements (CSSR)

24 CFR 960.253—Choice of Rent Options: NPHOI families must pay alternate rent when they have exceeded the grace period and allowed by PHA policy the option of remaining in a public housing unit. During the 24 consecutive months and in the six months before termination, the family will continue to pay their current rent choice.

The three-year annual reexamination option for NPHOI families is no longer applies once the NPHOI family is determined to be over income. The PHA must follow documentation and notification requirement under 960.507©.

24 CFR 960.257 For NPHOI families, the PHA must conduct interim reexaminations; however, the resulting income determination will not make the family eligible to remaining in public housing program beyond the grace period before termination as defined by PHA policy. Over income families who are in their grace period will dictate when income reexaminations occur.

HUD PIH Letter/Notice—Frequently Asked Questions: Implementing the Housing Opportunity Through Modernization Act's (HOTMA) Public Housing Income Limit, January 28, 2022, states a final determination as to what a PHA must do once a family reaches the two-year limit being over income is still pending. In the meantime, HUD allows a PHA choice to terminate families after the two-year timeframe of being over income. HUD also states that an alternative rent or the FMR cannot be used. If the PHA chooses not to terminate, then the flat rent/income-based rent choice is the only alternative.

HUD Pre-Publication of HOTMA Final Rule, Housing Opportunity Through Modernization Act of 2016: Implementation of Sections 102, 103, and 104, January 31, 2013. The “pre-publication” of the Final Rule allows a pre-review of the final rule for Section 102—Income, Section 103—Over Income Families, Section 104—Assets.

The Final Rule allows a PHA to choose to terminate assistance after the expiration of the 24-month grace period for an over-income family in public housing.

It also allows a PHA to allow an over-income family to remain in place after the 24-month-grace period, however they are no longer considered public housing families, and the unit will no longer be considered an assisted unit for subsidy and funding purposes.

Once HUD formalizes the Final Rule, the OI family policy will remain the same for COCHRD, as it chooses termination over leaving them in place.

If, at any time, an over-income family experiences a decrease in income, the family may request an interim redetermination of rent in accordance with PHA policy. If, as a result, the previously over-income family is now below the over-income limit, the family is no longer subject to over-income provisions as of the effective date of the recertification.

The PHA will notify the family in writing that over income policies no longer apply to them. If the family's income later exceeds the over income limit again, the family is entitled to a new two-year grace period.

The PHA will begin tracking over income families once these policies have been adopted, but no later than March 24, 2019\*\*

\*\* Additionally, the requirement to submit an annual report on the number of over income families and the number of families on the public housing waiting lists will be made effective through a separate PIH notice.

The PHA will rely on the following over income limits. These numbers will be updated within 60 days of HUD publishing new income limits each year and will be effective for all annual and interim reexaminations once these policies have been adopted. (HUD issued guidance forthcoming.)

Annually, HUD publishes the annual update to Income Limits. As this ACOP and the Annual Agency Plan must be submitted to HUD no later than April 17 of each year, Income limits and Over income limits will be updated outside of this policy update.

COCHRD will maintain program Income Limits and Over Income Limits in a separate schedule.

Flat rents are incorporated in this policy as set by HUD Final Rules, Notices, and regulatory requirement. See Notice PIH 2022-33 for most recent flat rent policy.

This schedule will be posted in a conspicuous location in the PHA lobby and will be available upon request.

### **13-IL.J. OVER INCOME FAMILIES [24 CFR 960.507; FR Notice 7/26/18; Notice PIH 2023-03; FR Notice 2/14/23]**

In the public housing program, an *over-income family* is defined as a family whose income exceeds the over-income limit for 24 consecutive months. When this occurs, the PHA must either:

- Terminate the family's tenancy within six months of the PHA's final notification of the end of the 24-month grace period; or
- Within 60 days of the PHA's final notification of the end of the 24-month grace period or the next lease renewal (whichever is sooner), have the family execute a new lease that is consistent with 24 CFR 960.509 and charge the family a monthly rent that is the higher of the applicable fair market rent (FMR) or the amount of monthly subsidy for the unit, including amounts from the operating and capital funds.

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However, a PHA that owns or operates fewer than 250 public housing units may continue to lease public housing units to families whose incomes exceed the low-income limit at initial occupancy in accordance with 24 CFR 960.503. Otherwise, the PHA must establish a continued occupancy policy for over-income families in the ACOP indicating which of the above will occur.

#### PHA Policy

For families whose income exceeds the over-income limit for 24 consecutive months, the PHA will evict or terminate the tenancies of families if they continue to exceed the over income limit for a period of two years.

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At annual or interim reexamination, if a family's adjusted income exceeds the applicable over-income limit, the PHA will document the family file and begin tracking the family's over-income status.

If one year after the applicable annual or interim reexamination the family's income continues to exceed the applicable over-income limit, the PHA will notify the family in writing that their income has exceeded the over-income limit for one year, and that if the family continues to be over-income for 12 consecutive months, the family will be subject to the PHA's over-income policies.

HUD allows for PHAs to terminate assistance after two years of a family consistently exceeding the over-income limit for their household size. COCHRD will monitor the family's over-income status for the entire two years and the family will be notified of their status at each point of the process during the two years.

If the family continues to be over-income at the end of the two-year period, then the family will be given a final 30-day notice of termination of assistance based on the income information on file.

If the family's income should change before the termination date to the point where the family is no longer over income, COCHRD will void the termination. The over-income limits are updated when the new income limits are announced by HUD each year.

#### **Over-Income Limit [Notice PIH 2023-03]**

The PHA must publish over-income limits in their ACOP and update them no later than 60 days after HUD publishes new income limits each year. The over-income limit is calculated by multiplying the very low-income limit (VLI) by 2.4, as adjusted for family size.

#### PHA Policy

The PHA will rely on the following over-income limits. These numbers will be updated within 60 days of HUD publishing new income limits each year and will be effective for all annual and interim reexaminations once these policies have been adopted.

<u>Family Size</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>
<u>VLI</u>	<u>\$30,950</u>	<u>\$35,350</u>	<u>\$39,750</u>	<u>\$44,150</u>	<u>\$47,700</u>	<u>\$51,250</u>	<u>\$54,750</u>	<u>\$58,300</u>
<u>Over-Income Limit (2.4 adjustment)</u>	<u>\$74,280</u>	<u>\$84,840</u>	<u>\$95,400</u>	<u>\$105,960</u>	<u>\$114,480</u>	<u>\$123,000</u>	<u>\$131,400</u>	<u>\$139,920</u>

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For families larger than eight persons, the over-income limit will be calculated by multiplying the applicable very low-income limit by 2.4.

#### **Decreases in Income [24 CFR 960.507(c)(4)]**

If, at any time during the consecutive 24-month period following the initial over-income determination, the PHA determines that the family's income is below the over-income limit, the PHA's over-income policies no longer apply to the family. If the PHA later determines that the family's income exceeds the over-income limit at a subsequent annual or interim reexamination, the family is entitled to a new 24 consecutive month period and new notices under this section.

##### PHA Policy

If, at any time during the 24-month period following the initial over-income determination, an over-income family experiences a decrease in income, the family may request an interim redetermination of rent in accordance with PHA policy in Chapter 9.

If, as a result, the previously over-income family is now below the over-income limit, the family is no longer subject to over-income provisions as of the effective date of the recertification. The PHA will notify the family in writing within 10 business days of the determination that over-income policies no longer apply to them.

#### **Initial Notice of Over-Income Status [24 CFR 960.507(c)(1); Notice PIH 2023-03]**

If the PHA determines the family has exceeded the over-income limit during an annual or interim reexamination, the PHA must provide written notice to the family of the over-income determination no later than 30 days after the income examination. The notice must state that the family has exceeded the over-income limit and continuing to do so for a total of 24 consecutive months will result in the PHA following its continued occupancy policy for over-income families. The PHA must afford the family an opportunity for a hearing if the family disputes within a reasonable time the PHA's determination that the family has exceeded the over-income limit. Exhibits 13-1 and 13-2 provide sample initial notices based on HUD's model notices.

##### PHA Policy

At annual or interim reexamination, if a family's income exceeds the applicable over-income limit, within 10 business days of the determination, the PHA will notify the family in writing of the determination. The notice will state that if the family continues to be over-income for 24 consecutive months, the family will be subject to the PHA's over-income policies. The notice will state that the family may request a hearing if the family disputes the PHA's determination in accordance with PHA policies in Chapter 14. The PHA will ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other impairments.

**Second Notice of Over-Income Status [24 CFR 960.507(c)(2); Notice PIH 2023-03; Notice PIH 2023-27]**

The PHA must conduct an income examination 12 months after the initial over-income determination, even if the family is paying flat rent, unless the PHA determined the family's income fell below the over-income limit since the initial over-income determination. This includes when the PHA makes an initial determination that a family is over-income during an interim reexamination. In this case the PHA must conduct a second interim reexamination 12 months after the over-income determination, unless the family's income falls below the over-income limit during the 24-month period. See Chapter 9 for PHA policies on interims for over-income families.

If the PHA determines the family continues to exceed the over-income limit for 12 consecutive months, the PHA must provide written notification of this 12-month over-income determination no later than 30 days after the income examination. The notice must state that the family has exceeded the over-income limit for 12 consecutive months and continuing to do so for a total of 24 consecutive months will result in the PHA following its continued occupancy policy for over-income families. Additionally, if applicable under PHA policy, the notice must include an estimate (based on current data) of the alternative non-public housing rent for the family's unit. The PHA must afford the family an opportunity for a hearing if the family disputes within a reasonable time the PHA's determination that the family has exceeded the over-income limit. Exhibits 13-3 and 13-4 provide sample 12-month notices based on HUD's model notices.

**PHA Policy**

If a family's income continues to exceed the applicable over-income limit after 12 consecutive months, within 10 business days of the determination, the PHA will notify the family in writing of the determination. The notice will state that if the family continues to be over-income for 24 consecutive months, the family will be subject to the PHA's over-income policies. The notice will provide an estimate of the alternative non-public housing rent applicable to the family at the close of the 24 consecutive month period. The notice will also state that the family may request a hearing if the family disputes the PHA's determination in accordance with PHA policies in Chapter 14. The PHA will ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other impairments.



**Final Notice of Over-Income Status [24 CFR 960.507(c)(3) and 960.509;  
Notice PIH 2023-03; Notice PIH 2023-27]**

Unless the PHA determined the family's income fell below the over-income limit since the second over-income determination, the PHA must conduct an income examination 24 months after the initial over income determination, even if the family is paying flat rent. When a PHA makes an initial determination that a family is over-income during an interim reexamination, the PHA must conduct an interim reexamination 12 months after the over-income determination, and then again 12 months after the second over-income determination, unless the family's income falls below the over-income limit during the 24-month period.

If the family continues to be over-income based on this determination, the PHA must provide written notification of this determination no later than 30 days after the income examination. The notice must state that the family has exceeded the over-income limit for 24 consecutive months and that the PHA will follow its continued occupancy policies for over-income families. The PHA must afford the family an opportunity for a hearing if the family disputes within a reasonable time the PHA's determination that the family has exceeded the over-income limit. Exhibits 13-5 and 13-6 provide sample 24-month notices based on HUD's model notices.

**PHA Policy**

If a family's income exceeds the applicable over-income limit for 24 consecutive months, the PHA will notify the family in writing of the determination within 10 business days of the date of the determination. The PHA will ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other impairments. The notice will state that the family will be charged the alternative non-public housing rent in accordance with PHA continued occupancy policies and HUD regulations and provide the family's new rent amount.

The notice will also include a new non-public housing lease and inform the family that the lease must be executed by the family and the PHA no later than 60 days from the date of the notice or at the next lease renewal, whichever is sooner. The family will continue to be a public housing program participant until the family executes the new non-public housing lease. The notice will also state that failure to execute the lease within this time period stated in the notice will result in termination of tenancy no more than six months after the date of the notice. The PHA will permit an over-income family to execute a lease beyond this time period, but before termination of tenancy, if the over-income family pays the PHA the total difference between the alternative non-public housing rent and their public housing rent dating back to the point in time that the over-income family was required to execute the new lease.

Once the family signs the new non-public housing lease, the family will no longer be a public housing participant family. The family will no longer be subject to income examinations, are precluded from participating in the resident council, and cannot participate in any programs that are only for public housing or low-income families. The PHA will not provide such families with hearing or grievance rights.

The non-public housing over-income (NPHOI) lease will contain all required provisions listed at 24 CFR 960.509. The initial term of the lease will be for one year. Upon expiration of the initial lease term, the lease will not renew automatically, and subsequent leases will state renewal terms. At any time, the PHA may terminate tenancy in accordance with 24 CFR 960.509(b)(11) and in accordance with state and local law.

Upon execution of the lease, the tenant will be required pay the amount of monthly tenant rent (known as the alternative non-public housing rent) determined by the PHA in accordance with HUD regulations. The PHA will comply with state and local law in giving the tenant written notice stating any changes in the amount of tenant rent. Charges assessed under the lease will be due in accordance with state and local law.

If an NPHOI family subsequently experiences a decrease in income after signing the NPHOI lease, the family may only be readmitted to the public housing program if they once again become an eligible low-income family and reapply to the public housing program.



## PART III: TERMINATION BY PHA – OTHER AUTHORIZED REASONS

### 13-III.A. OVERVIEW

Besides requiring PHAs to terminate the lease under the circumstances described in Part II, HUD requires the PHA to establish provisions in the lease for termination pertaining to certain criminal activity, alcohol abuse, and certain household obligations stated in the regulations. While these provisions for lease termination must be in the lease agreement, HUD does not require PHAs to terminate for such violations in all cases. The PHA has the discretion to consider circumstances surrounding the violation or, in applicable situations, whether the offending household member has entered or completed rehabilitation, and the PHA may, as an alternative to termination, require the exclusion of the culpable household member. The PHA must adopt policy~~iesy decisions~~ concerning the use of these options.

In addition, HUD authorizes PHAs to terminate the lease for other grounds, but for only those grounds that constitute serious or repeated violations of material terms of the lease or for other good cause. The PHA must develop policies pertaining to what constitutes serious or repeated lease violations, and other good cause, based upon the content of the PHA lease. In the development of the terms of the lease, the PHA must consider the limitations imposed by state and local landlord-tenant law, as well as HUD regulations and federal statutes. Because of variations in state and local landlord-tenant law, and because HUD affords PHAs wide discretion in some areas, a broad range of policies could be acceptable.

The PHA also has the option to terminate the tenancies of certain over-income families~~, who are over income.~~

The PHA may consider alternatives to termination and must establish policies describing the criteria the PHA will use when deciding what action to take, the types of evidence that will be acceptable, and the steps the PHA must take when terminating a family's lease.

### 13-III.B. MANDATORY LEASE PROVISIONS [24 CFR §966.4(~~II~~)(5)]

This section addresses provisions for lease termination that must be included in the lease agreement according to HUD regulations. Although the provisions are required, HUD does not require PHAs to terminate for such violations in all cases, therefore PHA policies are needed.

#### *Definitions [24 CFR §5.100]*

The following definitions will be used for this and other parts of this chapter:

*Affiliated individual* is defined in Section 16-VII.B.

*Covered person* means a tenant, any member of the tenant's household, a guest, or another person under the tenant's control.

*Dating violence* is defined in ~~S~~section 16-VII.B3-III.F.

*Domestic violence* is defined in ~~Section 163-VII.B.H.F.~~

*Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802].

*Drug-related criminal activity* means the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with the intent to manufacture, sell, distribute, or use the drug.

*Guest* means a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.

*Household* means the family and PHA-approved live-in aide. The term household also includes foster children and/or foster adults that have been approved to reside in the unit [HUD-50058, Instruction Booklet, p. 65].

~~*Affiliated individual* is defined in Section 3-III.F.~~

*Other person under the tenant's control* means that the person, although not staying as a guest in the unit, is, or was at the time of the activity in question, on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not *under the tenant's control*.

*Premises* means the building or complex or development in which the public or assisted housing dwelling unit is located, including common areas and grounds.

*Sexual assault* is defined in Section 16-VII.B.

*Stalking* is defined in Section 16-VII.B.

*Violent criminal activity* means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

***Drug Crime On or Off the Premises [24 CFR §966.4(l)(5)(i)(B)]***

The lease must provide that drug-related criminal activity engaged in on or off the premises by the tenant, member of the tenant's household or guest, or any such activity engaged in on the premises by any other person under the tenant's control is grounds for termination.

**PHA Policy**

The PHA will terminate the lease for drug-related criminal activity engaged in, on, or off the premises by any tenant, member of the tenant's household or guest, and any such activity engaged in on the premises by any other person under the tenant's control.

The PHA will consider all credible evidence, including but not limited to, Police Reports, any record of arrests or convictions of covered persons related to the drug-related criminal activity.

A record or records of arrest will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate the lease, the PHA will consider alternatives as described in Section 13-III.D and other factors as described in Section 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate the lease.

***Illegal Use of a Drug [24 CFR §966.4(~~II~~)(5)(i)(B)]***

The lease must provide that a PHA may evict a family when the PHA determines that a household member is illegally using a drug or that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

**PHA Policy**

The PHA will terminate the lease when the PHA determines that a household member is illegally using a drug or the PHA determines that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

A pattern of illegal drug use means more than one incident of any use of illegal drugs during the previous three ~~six~~ 6 months.

The PHA will consider all credible evidence, including but not limited to, Police Reports, or any record of arrests or convictions of household members related to the use of illegal drugs.

A record or records of arrest will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate the lease, the PHA will consider alternatives as described in Section 13-III.D and other factors as described in Section 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate the lease.

State laws purporting to legalize medical and recreational marijuana directly conflict with the admission and continued requirements of the Quality Housing and Work Responsibility Act of 1998 ("Public Housing Reform Act") and are thus subject to preemption. [September 24, 1999, HUD Letter Re: Medical Use of Marijuana]

#### PHA Policy

The use, possession, or growing of marijuana by any household member on the premises of a subsidized unit is grounds for termination of assistance. The “premises” includes, but is not limited to, the interior and exterior of the subsidized unit, patio/balcony, sidewalks, walkways, recreation areas/common areas, laundry room, parking lot, etc.).

Household members with a “medical marijuana card” are not exempt from this rule.

The use of marijuana may include smoking, edibles, or other forms of the drug.

#### ***Threat to Other Residents [24 CFR §966.4(l)(5)(ii)(A)]***

The lease must provide that any criminal activity by a covered person that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including PHA management staff residing on the premises) or by persons residing in the immediate vicinity of the premises ~~is~~<sup>are</sup> grounds for termination of tenancy.

#### PHA Policy

The PHA will terminate the lease when a covered person engages in any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including PHA management staff residing on the premises) or by persons residing in the immediate vicinity of the premises.

*Immediate vicinity* means within a three-block radius of the premises.

The PHA will consider all credible evidence, including but not limited to, Police Reports, any record of arrests or convictions of covered persons related to the criminal activity.

A record or records of arrest will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

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In making its decision to terminate the lease, the PHA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate the lease.

#### ***Alcohol Abuse [24 CFR §966.4(l)(5)(vi)(A)]***

PHAs must establish standards that allow termination of tenancy ~~if~~ the PHA determines that a household member has engaged in abuse or pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

#### PHA Policy

The PHA will terminate the lease if the PHA determines that a household member has engaged in abuse or a pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

A pattern of such alcohol abuse means more than one incident of any such abuse of alcohol during the previous ~~threesix~~ months.

The PHA will consider all credible evidence, including but not limited to, Police Reports, any record of arrests or convictions of household members related to the abuse of alcohol.

A record or records of arrest will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

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In making its decision to terminate the lease, the PHA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate the lease.

***Furnishing False or Misleading Information Concerning Illegal Drug Use or Alcohol Abuse or Rehabilitation [24 CFR §966.4(l)(5)(vi)(B)]***

PHAs must establish standards that allow termination of tenancy if the PHA determines that a household member has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

***PHA Policy***

The PHA will terminate the lease if the PHA determines that a household member has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

The PHA will consider all credible evidence, including but not limited to, Police Reports, any record of arrests or convictions of household members related to the use of illegal drugs or the abuse of alcohol, and any records or other documentation (or lack of records or documentation) supporting claims of rehabilitation of illegal drug users or alcohol abusers.

In making its decision to terminate the lease, the PHA will consider alternatives as described in Section 13-III.D and other factors as described in Section 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate the lease.

***Other Serious or Repeated Violations of Material Terms of the Lease – Mandatory Lease Provisions [24 CFR §966.4(l)(2)(i) and 24 CFR §966.4(f)]***

HUD regulations require certain tenant obligations to be incorporated into the lease. Violations of such regulatory obligations are considered to be serious or repeated violations of the lease and grounds for termination. Incidents of actual or threatened domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking may not be construed as serious or repeated



violations of the lease by the victim or threatened victim ~~of such violence or stalking [Pub.L. 109-162];~~ [24 CFR §5.2005(c)(1)].

#### PHA Policy

The PHA will terminate the lease for the following violations of tenant obligations under the lease:

Failure to make payments due under the lease, including nonpayment of rent (see Chapter 8 for details pertaining to lease requirements for payments due);

Repeated late payment of rent or other charges. ~~F~~-four (4) late payments within a 12 month ~~the last lease~~ period shall constitute a repeated late payment.

Failure to fulfill the following household obligations:

- Not to assign the lease or to sublease the dwelling unit. Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.
- Not to provide accommodations for boarders or lodgers.
- To use the dwelling unit solely as a private dwelling for the tenant and the tenant's household as identified in the lease, and not to use or permit its use for any other purpose.
- To abide by necessary and reasonable regulations promulgated by the PHA for the benefit and well-being of the housing project and the tenants, which shall be posted in the project office and incorporated by reference in the lease.
- To comply with all obligations imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety.
- To keep the dwelling unit and such other areas as may be assigned to the tenant for the tenant's exclusive use in a clean and safe condition.
- To dispose of all ashes, garbage, rubbish, and other waste from the dwelling unit in a sanitary and safe manner.
- To use only in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appurtenances including elevators.
- To refrain from, and to cause the household and guests to refrain from destroying, defacing, damaging, or removing any part of the dwelling unit or project
- To pay reasonable charges (other than for normal wear and tear) for the repair of damages to the dwelling unit, or to the project (including damages to project

buildings, facilities, or common areas) caused by the tenant, a member of the household or a guest

- To act, and cause household members or guests to act, in a manner which will not disturb other residents' peaceful enjoyment of their accommodations and will be conducive to maintaining the project in a decent, safe, and sanitary condition

In making its decision to terminate the lease, the PHA will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate the lease.

### **13-III.C. OTHER AUTHORIZED REASONS FOR TERMINATION [24 CFR §966.4(I)(2) AND (5)(II)(B); ~~§5.851-§5.861~~]**

HUD authorizes PHAs to terminate the lease for reasons other than those described in the previous sections. These reasons are referred to as "other good cause."

#### ***Other Good Cause [24 CFR §966.4(I)(2)(ii)(B) and (C)]***

HUD regulations state that the PHA may terminate tenancy for other good cause. The regulations provide a few examples of other good cause, but do not limit the PHA to only those examples. The Violence against Women Reauthorization Act ~~prohibits of 2013 explicitly prohibits~~ PHAs from considering incidents of actual or threatened domestic violence, dating violence, sexual assault, ~~or~~ stalking, ~~or human trafficking~~ -as "other good cause" for terminating the ~~assistance,~~ tenancy or occupancy rights of the victim ~~or threatened victim of such of such violence.~~ see 24 CFR 5.2005 (c)(1)].

#### **PHA Policy**

The PHA will terminate the lease for the following reasons.

- *Fugitive Felon or Parole Violator.* If a tenant is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or violating a condition of probation or parole imposed under federal or state law.
- *Persons subject to sex offender registration requirement.* If any member of the household has, during their current public housing tenancy, become subject to a registration requirement under a state sex offender registration program.
- Discovery of facts after admission to the program that would have made the tenant ineligible
- Discovery of material false statements or fraud by the tenant in connection with an application for assistance or with reexamination of income

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- Failure to furnish such information and certifications regarding family composition and income as may be necessary for the PHA to make determinations with respect to rent, eligibility, and the appropriateness of the dwelling unit size
- Failure to transfer to an appropriate size dwelling unit based on family composition, upon appropriate notice by the PHA that such a dwelling unit is available
- Failure to permit access to the unit by the PHA after proper advance notification for the purpose of performing routine inspections and maintenance, for making improvements or repairs, or to show the dwelling unit for re-leasing, or without advance notice if there is reasonable cause to believe that an emergency exists
- Failure to promptly inform the PHA of the birth, adoption, or court-awarded custody of a child. In such a case, promptly means within 10 business days of the event.
- Failure to abide by the provisions of the PHA pet policy
- If the family has breached the terms of a repayment agreement entered into with the PHA
- If a family member has violated federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.
- If a household member has engaged in or threatened violent or abusive behavior toward PHA personnel.
  - *Abusive or violent behavior towards PHA personnel* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.
  - *Threatening* refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to terminate the lease, the PHA will consider alternatives as described in Section 13-III.D and other factors described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate the lease.

***Family Absence from Unit [24 CFR §982.551(i)]***

It is reasonable that the family may be absent from the public housing unit for brief periods. However, the PHA needs a policy on how long the family may be absent from the unit. Absence in this context means that no member of the family is residing in the unit.

#### PHA Policy

The family must supply any information or certification requested by the PHA to verify that the family is living in the unit, or relating to family absence from the unit, including any PHA-requested information or certification on the purposes of family absences. The family must cooperate with the PHA for this purpose.

The family must promptly notify the PHA when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. In such a case promptly means within 10 business days of the start of the extended absence.

If a family is absent from the public housing unit for more than 30 consecutive days, and the family does not adequately verify that they are living in the unit; the PHA will terminate the lease for other good cause.

*Abandonment of the unit.* If the family appears to have vacated the unit without giving proper notice, the PHA will follow state and local landlord-tenant law pertaining to abandonment before taking possession of the unit. If necessary, the PHA will secure the unit immediately to prevent vandalism and other criminal activity.

#### *Over-Income Families [24 CFR §960.261 and FR 7/26/2018; PIH Notice 2019-11, PIH Notice 2023-03, HOTMA, Section 103]*

- ~~A. Subject to certain restrictions, HUD authorizes PHAs to evict or terminate the tenancies of families because they are over income. Unless required to do so by local law, the PHA may not evict or terminate the tenancy of a family solely because the family is over income if: (1) the family has a valid contract of participation in the Family Self-Sufficiency (FSS) program, or (2) the family is currently receiving the earned income disallowance. This rule does not require PHAs to evict over income residents, but rather gives PHAs the discretion to do so thereby making units available for applicants who are income eligible.~~
- ~~B. The Housing Opportunity Through Modernization Act (HOTMA) of 2016 placed an income limitation on public housing tenancies. The over income requirement states that after a family's adjusted income has exceeded 120 percent of area median income (AMI) (or a different limitation established by the secretary) for two consecutive years, the PHA must either terminate the family's tenancy within six months of the determination, or charge the family a monthly rent that is the higher of the applicable fair market rent (FMR) or the amount of monthly subsidy for the unit, including amounts from the operating and capital funds, as determined by regulations.~~

Notice PIH 2019-11 also requires that PHAs publish over income limits in their ACOP and update them no later than 60 days after HUD publishes new income limits each year. The over income limit is calculated by multiplying the very low income limit (VLI) by 2.4, as adjusted for family size.

PHAs also have discretion, under 24 CFR §960.261, to adopt policies allowing termination of tenancy for families whose income exceeds the limit for program eligibility. Such policies would exempt families participating in the Family Self-Sufficiency (FSS) program or currently receiving the earned income disallowance.

**PHA Policy**

The PHA will evict or terminate the tenancies of families if they continue to exceed the over income limit for a period of two years.

At annual or interim reexamination, if a family's adjusted income exceeds the applicable over income limit, the PHA will document the family file and begin tracking the family's over income status.

If one year after the applicable annual or interim reexamination the family's income continues to exceed the applicable over income limit, the PHA will notify the family in writing that their income has exceeded the over income limit for one year, and that if the family continues to be over income for 12 consecutive months, the family will be subject to the PHA's over income policies.

HUD allows for PHAs to terminate assistance after two years of a family consistently exceeding the over income limit for their household size. COCHRD will monitor the family's over income status for the entire two years and the family will be notified of their status at each point of the process during the two years.

If the family continues to be over income at the end of the two year period, then the family will be given a final 30-day notice of termination of assistance based on the income information on file.

If the family's income should change before the termination date to the point where the family is no longer over income, COCHRD will void the termination. The over income limits are updated when the new income limits are announced by HUD each year.

**HOTMA PIH Notice 2023-03 (effective June 14, 2023), 24 CFR 5.520, 5.628, 960.102, 960.253, 960.601, 964.125, and 966.4**

***24 CFR 5.520 Restrictions on assistance to Noncitizens:** A PHA must provide prorated assistance to mixed immigration status families, except as provided in 24 CFR 960.507. Once a mixed family has exceeded the over income limit for 24 consecutive months, the family will either have their tenancy terminated or they must pay the alternative rent as an NPHOI family. For terminations, mixed families will pay their current, prorated rent then, pursuant to 24 CFR 5.520(d)(1), the mixed family must not receive prorated assistance. Instead the family must pay the full alternate rent.*

**PHA Policy**

~~The PHA has chosen to terminate a family once they have 24 consecutive months of income exceeding the over-income limit.~~

~~24 CFR 5.628 Family Payment: Options are now available to include alternative rent~~

~~24 CFR 960.601 Definition of exempt individual: Updated to include NPHOI family not required to comply with Community Service Activities or Self-Sufficiency Work Activities requirements (CSSR)~~

~~24 CFR 960.253—Choice of Rent Options: NPHOI families must pay alternate rent when they have exceeded the grace period and allowed by PHA policy the option of remaining in a public housing unit. During the 24 consecutive months and in the six months before termination, the family will continue to pay their current rent choice.~~

~~The three year annual reexamination option for NPHOI families is no longer applies once the NPHOI family is determined to be over-income. The PHA must follow documentation and notification requirement under 960.507©.~~

~~24 CFR 960.257 For NPHOI families, the PHA must conduct interim reexaminations; however, the resulting income determination will not make the family eligible to remaining he public housing program beyond the grace period before termination as defined by PHA policy. Over income families who are in their grace period will dictate when income reexaminations occur.~~

**HUD PIH Letter/Notice—Frequently Asked Questions: Implementing the Housing Opportunity Through Modernization Act’s (HOTMA) Public Housing Income Limit, January 28, 2022**, states a final determination as to what a PHA must do once a family reaches the two year limit being over-income is still pending. In the meantime, HUD allows a PHA choice to terminate families after the two year timeframe of being over-income. HUD also states that an alternative rent or the FMR cannot be used. If the PHA chooses not to terminate, then the flat rent/income-based rent choice is the only alternative.

**HUD Pre-Publication of HOTMA Final Rule, Housing Opportunity Through Modernization Act of 2016: Implementation of Sections 102, 103, and 104, January 31, 2013.** The “pre-publication” of the Final Rule allows a pre-review of the final rule for Section 102—Income, Section 103—Over-Income Families, Section 104—Assets.

The Final Rule allows a PHA to choose to terminate assistance after the expiration of the 24-month grace period for an over-income family in public housing.

It also allows a PHA to allow an over-income family to remain in place after the 24-month grace period, however they are no longer considered public housing families,

and the unit will no longer be considered an assisted unit for subsidy and funding purposes.

Once HUD formalizes the Final Rule, the OI family policy will remain the same for COCHRD, as it chooses termination over leaving them in place.

If, at any time, an over income family experiences a decrease in income, the family may request an interim redetermination of rent in accordance with PHA policy. If, as a result, the previously over income family is now below the over income limit, the family is no longer subject to over income provisions as of the effective date of the recertification. The PHA will notify the family in writing that over income policies no longer apply to them. If the family's income later exceeds the over income limit again, the family is entitled to a new two year grace period.

The PHA will begin tracking over income families once these policies have been adopted, but no later than March 24, 2019\*\*

\*\* Additionally, the requirement to submit an annual report on the number of over income families and the number of families on the public housing waiting lists will be made effective through a separate PIH notice.

The PHA will rely on the following over income limits. These numbers will be updated within 60 days of HUD publishing new income limits each year and will be effective for all annual and interim reexaminations once these policies have been adopted. (HUD issued guidance forthcoming.)

Annually, HUD publishes the annual update to Income Limits. As this ACOP and the Annual Agency Plan must be submitted to HUD no later than April 17 of each year, Income limits and Over income limits will be updated outside of this policy update.

COCHRD will maintain program Income Limits and Over Income Limits in a separate schedule.

Flat rents are incorporated in this policy as set by HUD Final Rules, Notices, and regulatory requirement. See Notice PIH 2022-33 for most recent flat rent policy.

This schedule will be posted in a conspicuous location in the PHA lobby and will be available upon request.

Family Size	1	2	3	4	5	6	7	8
VLI	\$30,950	\$35,350	\$39,750	\$44,150	\$47,700	\$51,250	\$54,750	\$58,300
Over-Income Limit (2.4 adjustment)	\$74,280	\$84,840	\$95,400	\$105,960	\$114,480	\$123,000	\$131,400	\$139,920

The over income limit is calculated by multiplying the very low income limit (VLI) by 2.4, as adjusted for family size.

For families larger than 8 persons, the over income limit will be calculated by multiplying the applicable very low income limit by 2.4.

### 13-III.D. ALTERNATIVES TO TERMINATION OF TENANCY ~~FOR CRIMINAL ACTIVITY OR ALCOHOL ABUSE~~

*Exclusion of Culpable Household Member [24 CFR §966.4(l)(5)(vii)(C)]*

As an alternative to termination of the lease for criminal activity or alcohol abuse HUD provides that the PHA may consider exclusion of the culpable household member. Such an alternative can be used ~~by PHA policy~~, for any other reason where such a solution appears viable in accordance with PHA policy.

Additionally, under the Violence against Women Act, the PHA may bifurcate a lease in order to terminate the tenancy of an individual who is a tenant or lawful occupant of a unit and engages in criminal activity directly related to domestic violence, dating violence, sexual assault, stalking, or human trafficking.

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#### PHA Policy

The PHA will consider requiring the tenant to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

As a condition of the family's continued occupancy, the head of household must certify that the culpable household member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former household member's current address upon PHA request.

#### *Repayment of Family Debts*

#### PHA Policy

If a family owes amounts to the PHA, as a condition of continued occupancy, the PHA will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from the PHA of the amount owed. See Chapter 16 for policies on repayment agreements.

### 13-III.E. CRITERIA FOR DECIDING TO TERMINATE TENANCY

A PHA that has grounds to terminate a tenancy is not required to do so, except as explained in Part II of this chapter, and may consider all of the circumstances relevant to a particular case before making a decision.



***Evidence [24 CFR §982.553(c)]***

For criminal activity, HUD permits the PHA to terminate the lease if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted, and without satisfying the standard of proof used for a criminal conviction.

**PHA Policy**

The PHA will use the preponderance of the evidence as the standard for making all termination decisions.

*Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not.

Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

The fact that an applicant or tenant was arrested for a disqualifying offense shall not be treated or regarded as proof that the applicant or tenant engaged in disqualifying criminal activity. The arrest may, however, trigger an investigation to determine whether the applicant or tenant actually engaged in disqualifying criminal activity. As part of its investigation, CCHRD may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. CCHRD may also consider any statements made by witnesses or the applicant or tenant not included in the police report; whether criminal charges were filed; whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal; and any other evidence relevant to determining whether or not the applicant or tenant engaged in disqualifying activity. [PIH Notice 2015-19]

***Consideration of Circumstances [24 CFR §966.4(l)(5)(vii)(B)]***

Although it is required that certain lease provisions exist for criminal activity and alcohol abuse, HUD provides that the PHA may consider all circumstances relevant to a particular case in order to determine whether or not to terminate the lease.

Such relevant circumstances can also be considered when terminating the lease for any other reason.

#### PHA Policy

The PHA will consider the following facts and circumstances ~~to~~ before deciding whether to terminate the lease for any of the HUD required lease provisions or for any other reasons:

- The seriousness of the offending action, especially with respect to how it would affect other residents' safety or property
- The extent of participation or culpability of the leaseholder, or other household members, in the offending action, including whether the culpable member is a minor, a person with disabilities, or (as discussed further in Section 13-III.F) a victim of domestic violence, dating violence, sexual assault, or human trafficking
- The effects that the eviction will have on other family members who were not involved in the action or failure to act
- The effect on the community of the termination, or of the PHA's failure to terminate the tenancy
- The effect of the PHA's decision on the integrity of the public housing program
- The demand for housing by eligible families who will adhere to lease responsibilities
- The extent to which the leaseholder has shown personal responsibility and whether they have taken all reasonable steps to prevent or mitigate the offending action
- The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history, and the likelihood of favorable conduct in the future
- While a record or records of arrest will not be used as the sole basis for termination, an arrest may, however, trigger an investigation to determine whether the participant actually engaged in disqualifying criminal activity. As part of its investigation, the PHA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The PHA may also consider:
  - Any statements made by witnesses, or the participant not included in the police report
  - Whether criminal charges were filed
  - Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal
  - Any other evidence relevant to determining whether or not the participant engaged in disqualifying activity
- Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property.
- In the case of program abuse, the dollar amount of the underpaid rent and whether or not a false certification was signed by the family.

#### ***Consideration of Rehabilitation [24 CFR§ 966.4(l)(5)(vii)(D)]***

HUD authorizes PHAs to take into consideration whether a household member who had used illegal drugs or abused alcohol and is no longer engaging in such use or abuse is participating in or has successfully completed a supervised drug or alcohol rehabilitation program.

##### PHA Policy

In determining whether to terminate the lease for illegal drug use or a pattern of illegal drug use, or for abuse or a pattern of abuse of alcohol, by a household member who is no longer engaging in such use or abuse, the PHA will consider whether such household member has successfully completed a supervised drug or alcohol rehabilitation program.

For this purpose, the PHA will require the tenant to submit evidence of the household member's successful completion of a supervised drug or alcohol rehabilitation program (~~i.e., drug or alcohol or anger management~~).

#### ***Reasonable Accommodation [24 CFR §966.7]***

If the family includes a person with disabilities, the PHA's decision to terminate the family's lease is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

##### PHA Policy

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of lease, the PHA will determine whether the behavior is related to the disability. If so, upon the family's request, the PHA will determine whether alternative measures are appropriate as a reasonable accommodation. The PHA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed lease termination. See Chapter 2 for a discussion of reasonable accommodation.

#### ***Nondiscrimination Limitation [24 CFR §966.4(l)(5)(vii)(F)]***

The PHA's eviction actions must be consistent with fair housing and equal opportunity provisions of 24 CFR §5.105.

#### **13-III.F. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, ~~OR STALKING~~, OR HUMAN TRAFFICKING**

This section addresses the protections against termination of tenancy that the Violence against Women Act ~~of 2013~~ (VAWA) provides for public housing residents who are victims of domestic violence, dating violence, sexual assault, ~~or stalking~~, or human trafficking. For general VAWA requirements and PHA policies pertaining to notification, documentation, and confidentiality, see Section 16-VII of this ACOP, where definitions of key VAWA terms are also located.

### ***VAWA Protections against Termination [24 CFR §5.2005(c)]***

VAWA provides that no person may deny assistance, tenancy, or occupancy rights to public housing to a tenant on the basis or as a direct result of criminal activity directly relating to domestic violence, dating violence, sexual assault, ~~or~~ or stalking that is engaged in by a member of the household of the tenant or any guest or other person under the control of the tenant, if the tenant or affiliated individual is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking [FR Notice 8/6/13].

VAWA further provides that incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking may not be construed either as serious or repeated violations of the lease by the victim or threatened victim of such violence or as good cause for terminating the tenancy or occupancy rights of the victim of such violence [24 CFR §5.2005(c)(1), FR Notice 8/36/13].

- Although the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror HUD's recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.

PHAs and owners may not coerce, intimidate, threaten, interfere with, or retaliate against any person who exercises or assists or encourages a person to exercise any rights or protections under VAWA [FR Notice 1/4/23].

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### ***Limitations on VAWA Protections [24 CFR §5.2005(d) and (e), FR Notice 8/6/13]***

While VAWA prohibits a PHA from using domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking as the cause for a termination or eviction action against a public housing tenant who is the victim of the abuse, the protections it provides are not absolute. Specifically:

- VAWA does not limit a PHA's otherwise available authority to terminate assistance to or evict a victim for lease violations not premised on an act of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking providing that the PHA does not subject the victim to a more demanding standard than the standard to which it holds other tenants.
- VAWA does not limit a PHA's authority to terminate the tenancy of any public housing tenant if the PHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant's tenancy is not terminated.

HUD regulations define *actual and imminent threat* to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm [24 CFR §5.2005(d)(2) and (e)]. In

determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk
- The nature and severity of the potential harm
- The likelihood that the potential harm will occur
- The length of time before the potential harm would occur [24 CFR §5.2005(e)]

In order to demonstrate an actual and imminent threat, the PHA must have objective evidence of words, gestures, actions, or other indicators. Even when a victim poses an actual and imminent threat, however, HUD regulations authorize a PHA to terminate the victim's assistance "only when there are no other actions that could be taken to reduce or eliminate the threat, including but not limited to transferring the victim to a different unit, barring the perpetrator from the property, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat" [24 CFR §5.2005(d)(3)]. Additionally, HUD regulations state that restrictions "predicated on public safety cannot be based on stereotypes but must be tailored to particularized concerns about individual residents" [24 CFR 5.2005(d)(3)].



#### PHA Policy

In determining whether a public housing tenant who is a victim of domestic violence, dating violence, sexual assault, ~~or~~ sexual assault, or human trafficking is an actual and imminent threat to other tenants or those employed at or providing service to a property, the PHA will consider the following, and any other relevant, factors:

- Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, sexual assault, or human trafficking
- Whether the threat is a physical danger beyond a speculative threat
- Whether the threat is likely to happen within an immediate time frame
- Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location, transferring the victim to another unit, or seeking a legal remedy to prevent the perpetrator from acting on the threat

If the tenant wishes to contest the PHA's determination that they are an actual and imminent threat to other tenants or employees, the tenant may do so as part of the grievance hearing or in a court proceeding.

#### ***Documentation of Abuse [24 CFR §5.2007]***

##### PHA Policy

When an individual facing termination of tenancy for reasons related to domestic violence, dating violence, sexual assault, ~~or~~ sexual assault, or human trafficking claims protection under VAWA, the PHA will request in writing that the individual provide documentation supporting the claim in accordance with the policies in Section 16-VII.D of this ACOP.

The PHA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases the PHA will document the waiver in the individual's file.

#### ***Terminating or Evicting a Perpetrator of Domestic Violence***

Although VAWA provides protection from termination for victims of domestic violence, it does not provide such protection for perpetrators. In fact, VAWA gives the PHA the explicit authority to bifurcate a lease, or remove a household member from a lease, "in order to evict, remove, ~~terminate occupancy rights,~~ or terminate assistance to any individual who is a tenant or lawful occupant of the housing and who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual, acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing ~~the~~ victim of such criminal activity

violence who is also a tenant or lawful occupant of the housing” [FR Notice 8/6/13]. [24 CFR §5.2009(a)]. Moreover, HUD regulations impose on the PHA the obligation to consider lease bifurcation in any circumstances involving domestic violence, dating violence, sexual assault, or stalking, or human trafficking [see 24 CFR §966.4(e)(9)].

Specific lease language affirming the PHA’s authority to bifurcate a lease is not necessary, and the authority supersedes any local, state, or federal law to the contrary. However, if the PHA chooses to exercise its authority to bifurcate a lease, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law for eviction, lease termination, or termination of assistance. This means that the PHA must follow the same rules when terminating or evicting an individual as it would when terminating or evicting an entire family [FR Notice 3/16/07 ~~Federal Register notice on the applicability of VAWA to HUD programs~~]. ~~However, perpetrators should be given no more than 30 days’ notice of termination in most cases he PHA must not initiate eviction procedures until 30 days after the lease bifurcation~~ [No Notice PIH 2017-18].

#### PHA Policy

The PHA will bifurcate a family’s lease and terminate the tenancy of a family member if the PHA determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the tenancy or program assistance of the remaining, nonculpable family members.

In making its decision, the PHA will consider all credible evidence, including, but not limited to, a signed certification (form HUD-5382) or other documentation of abuse submitted to the PHA by the victim in accordance with this section and Section 16-VII.D. The PHA will also consider the factors in Section 13.III.E. Upon such consideration, the PHA may, on a case-by-case basis, choose not to bifurcate the lease and terminate the tenancy of the culpable family member.

If the PHA does bifurcate the lease and terminate the tenancy of the culpable family member, it will do so in accordance with the lease, applicable law, and the policies in this ACOP. ~~If the person removed from the lease was the only tenant eligible to receive assistance, the PHA must provide any remaining tenant a chance to establish eligibility for the unit. If the remaining tenant cannot do so, the PHA must provide the tenant reasonable time to find new housing or to establish eligibility for another housing program covered under VAWA. necessary, the PHA will also take steps to ensure that the remaining family members have a safe place to live during the termination process. For example, the PHA may offer the remaining family members another public housing unit, if available; it may help them relocate to a confidential location; or it may refer them to a victim service provider or other agency with shelter facilities.~~

The PHA may consider trespassing the perpetrator.



## **PART IV: NOTIFICATION REQUIREMENTS, EVICTION PROCEDURES, AND RECORD KEEPING**

### **13-IV.A. OVERVIEW**

HUD regulations specify the requirements for the notice that must be provided prior to lease termination. This part discusses those requirements and the specific requirements that precede and follow termination for certain criminal activities, which are addressed in the regulations. This part also discusses specific requirements pertaining to the actual eviction of families and record keeping.

### **13-IV.B. CONDUCTING CRIMINAL RECORDS CHECKS [24 CFR §5.903(E)(II) AND 24 CFR §960.259]**

HUD authorizes PHAs to conduct criminal records checks on public housing residents for lease enforcement and eviction. PHA policy determines when the PHA will conduct such checks.

#### PHA Policy

The PHA will conduct criminal records checks for all adult household members at the annual reexamination and when it has come to the attention of the PHA, either from local law enforcement or by other means that an individual has engaged in the destruction of property, engaged in violent activity against another person, or has interfered with the right to peaceful enjoyment of the premises of other residents.

Such checks will also include sex offender registration information. In order to obtain such information, all adult household members must sign consent forms for release of criminal conviction and sex offender registration records on an annual basis.

The PHA may not pass along to the tenant the costs of a criminal records check.

### **13-IV.C. DISCLOSURE OF CRIMINAL RECORDS TO FAMILY [24 CFR §5.903(F), 24 CFR §5.905(D) AND 24 CFR §966.4(~~II~~)(5)(IV)]**

In conducting criminal records checks, if the PHA uses the authority of 24 CFR §5.903 and §5.905 to obtain such information, certain protections must be afforded the tenant before any adverse action is taken. In such cases if the PHA obtains criminal records information from a state or local agency showing that a household member has been convicted of a crime, or is subject to a sex offender registration requirement, relevant to lease enforcement or eviction, the PHA must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of such information, and an opportunity to dispute the accuracy and relevance of the information before an eviction or lease enforcement action is taken.

#### PHA Policy

In all cases where criminal record or sex offender registration information would result in lease enforcement or eviction, the PHA will notify the household in writing of the proposed adverse action and will provide the subject of the record and the tenant a

redacted copy of such information, and an opportunity to dispute the accuracy and relevance of the information before an eviction or lease enforcement action is taken.

The family will be given 10 business days from the date of the PHA notice, to dispute the accuracy and relevance of the information. If the family does not contact the PHA to dispute the information within that 10-business day period, the PHA will proceed with the termination action.

Should the tenant not exercise their right to dispute prior to any adverse action, the tenant still has the right to dispute in the grievance hearing or court trial.

**13-IV.D. LEASE TERMINATION NOTICE [24 CFR §966.4(~~1~~)(3); ~~NOTICE PIH-2020-32~~; PIH 2021-29]**

***Form, Delivery, and Content of the Notice ~~(PIH-2020-32)~~***

Notices of lease termination must be in writing. The notice must state the specific grounds for termination; the date the termination will take place, the resident's right to reply to the termination notice, and their right to examine PHA documents directly relevant to the termination or eviction. If the PHA does not make the documents available for examination upon request by the tenant, the PHA may not proceed with the eviction [24 CFR §996.4(m)].

PHA Policy

The PHA has the sole discretion to require that informal hearings be conducted remotely.

At the time the notice is sent to the resident informing them of the right to request a hearing, the resident will be notified how the hearing will be conducted (remotely or in person). If remote, the resident will be informed of the processes involved in a remote hearing and that the PHA will provide technical assistance, if needed, before the hearing.

Remote hearings will allow the PHA to provide a reasonable accommodation for a person with a disability, if an applicant does not have childcare or transportation that would enable them to attend the informal hearing, or if the applicant believes an in-person informal hearing would create an undue health risk. The PHA will consider other reasonable requests for a remote informal hearing on a case-by-case basis.

(24 CFR §966.56(a), states, "The hearing must be scheduled promptly for a time and place reasonably convenient to both the complainant and the PHA and held before a hearing officer.)

Further, during the period of time for which HUD determines that a national emergency requires additional time for families to secure funding, all termination notifications for nonpayment of rent must include, at a minimum, the language provided in the Appendix of Notice PIH 2021-29.

When the PHA is required to offer the resident an opportunity for a grievance hearing, the notice must also inform the resident of their right to request a hearing in accordance with the PHA's grievance procedure. In these cases, the tenancy shall not terminate until the time for the tenant to request a grievance hearing has expired and the grievance procedure has been completed.

When the PHA is not required to offer the resident an opportunity for a grievance hearing because HUD has made a due process determination and the lease termination is for criminal activity that threatens health, safety or right to peaceful enjoyment or for drug-related criminal activity, the notice of lease termination must state that the tenant is not entitled to a grievance hearing on the termination. It must specify the judicial eviction procedure to be used by the PHA for eviction of the tenant, and state that HUD has determined that the eviction procedure provides the opportunity for a hearing in court that contains the basic elements of due process as defined in HUD regulations. The notice must also state whether the eviction is for a criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of the PHA, or for a drug-related criminal activity on or off the premises.

#### PHA Policy

The PHA will attempt to deliver notices of lease termination directly to the tenant or an adult member of the household. If such attempt fails, the notice will be sent by first-class mail the same day.

All notices of lease termination will include a copy of the forms HUD-5382 and HUD-5380 to accompany the termination notice. Any tenant who claims that the cause for termination involves domestic violence, dating violence, sexual assault, stalking, or human trafficking of which the tenant or affiliated individual of the tenant is the victim will be given the opportunity to provide documentation in accordance with the policies in sections 13-III.F and 16-VII.D.

All notices of lease termination will include information about the protection against termination provided by the Violence against Women Act of 2013 (VAWA) for victims of domestic violence, dating violence, sexual assault, or stalking (see Section 16-VII.C).

The PHA will include a copy of the forms HUD-5382 and HUD-5380. Any family member who claims that the cause for termination involves (a) criminal acts of physical violence against family members or others or (b) incidents of domestic violence, dating violence, sexual assault, or stalking of which a family member is the victim will be given the opportunity to provide documentation in accordance with the policies in Sections 13-III.F and 16-VII.D.

#### ***Timing of the Notice [24 CFR §966.4(l)(3)(i); 24 CFR §966.8; Notice PIH 2021-29]***

The PHA must give written notice of lease termination of:

During the period of time for which HUD determines that a national emergency requires additional time for families to secure federal funding that is available due to a Presidential declaration of a national emergency, at least 30 days from the date the tenant receives the notice in the case of failure to pay rent

- During the period of time for which HUD determines that a national emergency requires additional time for families to secure federal funding that is available due to a Presidential declaration of a national emergency, at least 30 days from the date the tenant receives the notice in the case of failure to pay rent
- When such emergency is not present, 14 calendar days, or such longer period as may be required by HUD, in the case of failure to pay rent
- 30 calendar days in the case of failure to pay rent or other charges due
- When such an emergency is not declared, 14 calendar days in the case of failure to pay rent
- A reasonable period of time considering the seriousness of the situation (but not to exceed 30 calendar days)
  - If the health or safety of other residents, PHA employees, or persons residing in the immediate vicinity of the premises is threatened
  - If any member of the household has engaged in any drug-related criminal activity or violent criminal activity
  - If any member of the household has been convicted of a felony
- 30 calendar days in any other case, except that if a state or local law allows a shorter notice period, such shorter period shall apply

#### PHA Policy

~~In accordance with the CARES Act,~~ The PHA will give written notice of ~~1430~~ calendar days, or such longer period as may be required by HUD, from the date ~~of the the tenant receives the notice~~ for nonpayment of rent ~~(during nationwide emergency orders) or 14 calendar days from the date the tenant receives the notice for nonpayment of rent (upon expiration of nationwide emergency orders).~~ The PHA will give written notice of 5 calendar days for utilities not in service.

For all other lease terminations, the PHA will give a 30-day written notice or, if state or local law allows less than 30 days, such shorter notice will be given.

The Notice to Vacate that may be required under state or local law may be combined with or run concurrently with the notice of lease termination.

#### PHA Policy

Any Notice to Vacate or Notice to Quit that is required by state or local law will either be combined with or run concurrently with the Notice of Lease Termination under this section.

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***Notice of Nonrenewal Due to Community Service Noncompliance [24 CFR §966.4(l)(2)(ii) (D), 24 CFR §960.603(b) and 24 CFR §960.607(b)]***

When the PHA finds that a family is in noncompliance with the community service requirement, the tenant and any other noncompliant resident must be notified in writing of this determination.

Notices of noncompliance will be issued in accordance with the requirements and policies in Section 11-I.E.

**PHA Policy**

If after receiving a notice of initial noncompliance the family does not request a grievance hearing or does not take either corrective action required by the notice within the required timeframe, a termination notice will be issued in accordance with the policies above.

If a family agreed to cure initial noncompliance by signing an agreement and is still in noncompliance after being provided the 12-month opportunity to cure, the family will be issued a notice of continued noncompliance. The notice of continued noncompliance will be sent in accordance with the policies in Section 11-I.E. and will also serve as the notice of termination of tenancy.

***Notice of Termination Based on Citizenship Status [24 CFR §5.514 (c) and (d)]***

In cases where termination of tenancy is based on citizenship status, HUD requires the notice of termination to contain additional information. In addition to advising the family of the reasons their assistance is being terminated, the notice must also advise the family of any of the following that apply: the family's eligibility for proration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, the family's right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal, and the family's right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Please see Chapter 14 for the PHA's informal hearing procedures.

**13-IV.E. EVICTION [24 CFR §966.4(~~I~~)(4) AND §966.4(M)]**

Eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The PHA may only evict the tenant from the unit by instituting a court action, unless the law of the jurisdiction permits eviction by administrative action, after a due process administrative hearing, and without a court determination of the rights and liabilities of the parties.

**PHA Policy**

When a family does not vacate the unit after receipt of a termination notice, by the deadline given in the notice, the PHA will follow state and local landlord-tenant law in filing an eviction action with the local court that has jurisdiction in such cases.

If the eviction action is finalized in court and the family remains in occupancy beyond the deadline to vacate given by the court, the PHA will seek the assistance of the court to remove the family from the premises as per state and local law.

The PHA may not proceed with an eviction action if the PHA has not made available the documents to be used in the case against the family and has not afforded the family the opportunity to examine and copy such documents in accordance with the provisions of 24 CFR §966.4(l)(3) and (m).

#### **13-IV.F. NOTIFICATION TO POST OFFICE [24 CFR §966.4~~(I)~~(5)(III)(B)]**

When the PHA evicts an individual or family for criminal activity, including drug-related criminal activity, the PHA must notify the local post office serving the dwelling unit that the individual or family is no longer residing in the unit.

#### **13-IV.G. RECORD KEEPING**

For more information concerning general record keeping, see Chapter 16.

##### PHA Policy

A written record of every termination and/or eviction will be maintained by the PHA at the development where the family was residing, and will contain the following information:

- Name of resident, number and identification of unit occupied
- Date of the notice of lease termination and any other notices required by state or local law; these notices may be on the same form and will run concurrently
- Specific reason(s) for the notices, citing the lease section or provision that was violated, and other facts pertinent to the issuing of the notices described in detail (other than any criminal history reports obtained solely through the authorization provided in 24 CFR §5.903 and §5.905)
- Date and method of notifying the resident
- Summaries of any conferences held with the resident including dates, names of conference participants, and conclusions

**EXHIBIT 13-1: SAMPLE NOTICE FOR OVER-INCOME FAMILIES –  
INITIAL NOTIFICATION FOR NPHOI FAMILY OPTION<sup>2</sup>**

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***These Sample Notices include provisions required per 24 CFR 960.507(c). Anything included in brackets and italic is meant as instruction to the PHA in creating its own notices. Example: [This text is meant as instruction to the PHA.]***

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<sup>2</sup> This sample notice is presented verbatim from HUD's sample forms used in the HOTMA Income and Assets Training Series, available at <https://www.hudexchange.info/resource/6849/hotma-sample-notices-for-overincome-families/>. Only the formatting has been changed to be consistent with the formatting used throughout this ACOP.

## OVER-INCOME FAMILY INITIAL NOTIFICATION

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*[name of PHA]*

Resident name:

Address:

Date:

### Purpose

The purpose of this notice is to inform you that *[name of PHA]* has determined that your family's income is above the income limit (over-income) according to federal rules for the public housing program. This is your **initial** (first) notice.

### What happens next?

For now, your rent will continue to be calculated as usual, you will continue to be offered a choice between income-based and flat rent, and **you do not have to move**. If your family remains over-income for the following 24 consecutive months, you will no longer be eligible for assistance under the public housing program but may remain in a public housing unit paying an alternative non-public housing rent calculated under federal rules for non-public housing tenants.

If you think that we have made a mistake and your family should not be considered over-income, you may request a hearing by calling: XXX-XXX-XXXX or emailing *[address]* or requesting more information from PHA staff at: *[location]*. If you wish to request a hearing, please do so as soon as possible. If you do not wish to request a hearing, you do not need to do anything at this time.



### **What about changes to my income?**

We will continue to reexamine your income every 12 months as usual. After each reexamination, you will receive a notification like this one if your family is still over-income.

If your family's income drops below the over-income limit before the end of the 24 consecutive-month grace period, you will no longer be considered over-income. If your family's income increases again to an amount that is over-income, you will receive another 24 consecutive month grace period.

If your income changes, contact us using the information provided below to learn the policy for requesting an interim reexamination.

*[PHA: Please note that the following section is optional. The regulations only require this level of detail for the second notice.]*

### **What if my family remains over-income in 24 consecutive months?**

According to the Continued Occupancy Policy, your family may continue to reside in a public housing unit even if you remain over-income after 24 months. However, your unit will no longer receive assistance from the federal public housing program so your rent will be calculated differently.

If you choose to stay in your unit after remaining over-income for 24 consecutive months, you will:

- Pay an "alternative non-public housing rent" (currently estimated at \$ \_\_\_\_\_)
  - > The alternative rent is adjusted annually and subject to change.
  - > You will receive a notification with more details on what to expect next if you decide to remain in a public housing unit after 24 consecutive months of being over-income.
- Need to sign a new lease for Non-Public Housing Over-Income (NPHOI) families.
  - > The NPHOI lease will need to be signed no later than 60 days after receiving notification of the end of the 24-month grace period or at the next lease renewal, whichever is sooner.

*[INSERT PHA CONTACT INFORMATION]*

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**EXHIBIT 13-2: SAMPLE NOTICE FOR OVER-INCOME FAMILIES –  
INITIAL NOTIFICATION FOR TERMINATE ONLY OPTION<sup>3</sup>**

This material is based upon work supported, in whole or in part, by Federal award number NAL-C-17-094-05 awarded to NALCAB by the U.S. Department of Housing and Urban Development. The substance and findings of the work are dedicated to the public. Neither the United States Government, nor any of its employees, makes any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately-owned rights. Reference herein to any individuals, agencies, companies, products, process, services, service by trade name, trademark, manufacturer, or otherwise does not constitute or imply an endorsement, recommendation, or favoring by the author(s), contributor(s), the U.S. Government or any agency thereof. Opinions contained herein are those of the author(s) and do not necessarily reflect the official position of, or a position that is endorsed by, HUD or any Federal agency.

***These Sample Notices include provisions required per 24 CFR 960.507(c). Anything included in brackets and italic is meant as instruction to the PHA in creating its own notices. Example: [This text is meant as instruction to the PHA.]***

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<sup>3</sup> This sample notice is presented verbatim from HUD's sample forms used in the HOTMA Income and Assets Training Series, available at <https://www.hudexchange.info/resource/6849/hotma-sample-notices-for-overincome-families/>. Only the formatting has been changed to be consistent with the formatting used throughout this ACOP.

## OVER-INCOME FAMILY INITIAL NOTIFICATION

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*[name of PHA]*

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Resident name:

Address:

Date:

### Purpose

The purpose of this notice is to inform you that \_\_\_\_\_ *[name of PHA]* has determined that your family's income is above the income limit (over-income) according to federal rules for the public housing program. This is your **initial** (first) notice.

### What happens next?

For now, your rent will continue to be calculated as usual, you will continue to be offered a choice between income-based and flat rent, and **you do not have to move**. If your family remains over-income for the following 24 consecutive months, you will no longer be eligible for assistance under the public housing program.

If you think that we have made a mistake and your family should not be considered over-income, you may request a hearing by calling: XXX-XXX-XXXX or emailing *[address]* or requesting more information from PHA staff at: *[location]*. If you wish to request a hearing, please do so as soon as possible. If you do not wish to request a hearing, you do not need to do anything at this time.

### **What about changes to my income?**

We will continue to reexamine your income every 12 months as usual. After each reexamination, you will receive a notification like this one if your family is still over-income.

If your family's income drops below the over-income limit before the end of the 24 consecutive-month grace period, you will no longer be considered over-income. If your family's income increases again to an amount that is over-income, you will receive another 24 consecutive month grace period.

If your income changes, contact us using the information provided below to learn the policy for requesting an interim reexamination.

*[PHA: Please note that the following section is optional. The regulations only require this level of detail for the second notice.]*

### **What if my family remains over-income for 24 consecutive months?**

Within 30 days of the recertification, you will receive a notice like this one informing you that your family has remained over-income for 24 consecutive months. According to the Continued Occupancy Policy, families that remain over-income for 24 consecutive months must leave their units and find other housing in no more than \_\_\_\_ *[up to 6 depending on PHA policy]* months after receiving notification.

If your family continues to reside in the unit after \_\_\_\_ *[restate date]*, the PHA will begin eviction proceedings by issuing a notice to vacate.

Until the time of lease termination, you will continue to be a public housing program participant and will continue to be charged your choice of income-based or flat rent.

*[INSERT PHA CONTACT INFORMATION]*

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**EXHIBIT 13-3: SAMPLE NOTICE FOR OVER-INCOME FAMILIES –  
12-MONTH NOTIFICATION FOR NPHOI FAMILY OPTION<sup>4</sup>**

This material is based upon work supported, in whole or in part, by Federal award number NAL-C-17-094-05 awarded to NALCAB by the U.S. Department of Housing and Urban Development. The substance and findings of the work are dedicated to the public. Neither the United States Government, nor any of its employees, makes any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately-owned rights. Reference herein to any individuals, agencies, companies, products, process, services, service by trade name, trademark, manufacturer, or otherwise does not constitute or imply an endorsement, recommendation, or favoring by the author(s), contributor(s), the U.S. Government or any agency thereof. Opinions contained herein are those of the author(s) and do not necessarily reflect the official position of, or a position that is endorsed by, HUD or any Federal agency.

***These Sample Notices include provisions required per 24 CFR 960.507(c). Anything included in brackets and italic is meant as instruction to the PHA in creating its own notices. Example: [This text is meant as instruction to the PHA.]***

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<sup>4</sup> This sample notice is presented verbatim from HUD's sample forms used in the HOTMA Income and Assets Training Series, available at <https://www.hudexchange.info/resource/6849/hotma-sample-notices-for-overincome-families/>. Only the formatting has been changed to be consistent with the formatting used throughout this ACOP.

## OVER-INCOME FAMILY 12 MONTH NOTIFICATION

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*[name of PHA]*

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Resident name:

Address:

Date:

### Purpose

The purpose of this notice is to inform you that \_\_\_\_\_ [name of PHA] has determined that your family's income is above the income limit (over-income) according to federal rules for public housing. This is your **12-month** (second) notice.

### What happens next?

For now, your rent will continue to be calculated as usual, you will continue to be offered a choice between income-based and flat rent, and **you do not have to move**. If your family remains over-income for the following 12 consecutive months, you will no longer be eligible for assistance under the public housing program but may remain in a public housing unit paying an alternative non-public housing rent calculated under federal rules for non-public housing tenants.

If you think that we have made a mistake and your family should not be considered over-income, you may request a hearing by calling: XXX-XXX-XXXX or emailing *[address]* or requesting more information from PHA staff at: *[location]*. If you wish to request a hearing, please do so as soon as possible. If you do not wish to request a hearing, you do not need to do anything at this time.

### **What about changes to my income?**

We will need to re-examine your income in 12 months. After the reexamination, you will receive a notification like this one if your family is still over-income.

If your family's income drops below the over-income limit before the end of the 24 consecutive-month grace period, you will no longer be considered over-income. If your family's income increases again to an amount that is over-income, you will receive another 24 consecutive month grace period.

If your income changes, contact us using the information provided below to learn the policy for requesting an interim reexamination.

### **What if my family remains over-income in consecutive 12 months?**

According to the Continued Occupancy Policy, your family may continue your tenancy even if you remain over-income for another 12 months (24 consecutive months total). However, your unit will no longer receive assistance from the federal public housing program so your rent will be calculated differently.

If you choose to remain in a public housing unit after the 24 month grace period, you will:

- No longer be a public housing program participant and will therefore not be eligible to participate in the resident council or programs specifically for public housing residents.
- Pay an "alternative non-public housing rent" (currently estimated at \$\_\_\_\_\_)
- Need to sign a new lease

[INSERT PHA CONTACT INFORMATION]

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**EXHIBIT 13-4: SAMPLE NOTICE FOR OVER-INCOME FAMILIES –  
12-MONTH NOTIFICATION FOR TERMINATE ONLY OPTIONS<sup>5</sup>**

This material is based upon work supported, in whole or in part, by Federal award number NAL-C-17-094-05 awarded to NALCAB by the U.S. Department of Housing and Urban Development. The substance and findings of the work are dedicated to the public. Neither the United States Government, nor any of its employees, makes any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately-owned rights. Reference herein to any individuals, agencies, companies, products, process, services, service by trade name, trademark, manufacturer, or otherwise does not constitute or imply an endorsement, recommendation, or favoring by the author(s), contributor(s), the U.S. Government or any agency thereof. Opinions contained herein are those of the author(s) and do not necessarily reflect the official position of, or a position that is endorsed by, HUD or any Federal agency.

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<sup>5</sup> This sample notice is presented verbatim from HUD's sample forms used in the HOTMA Income and Assets Training Series, available at <https://www.hudexchange.info/resource/6849/hotma-sample-notices-for-overincome-families/>. Only the formatting has been changed to be consistent with the formatting used throughout this ACOP.

## OVER-INCOME FAMILY 12 MONTH NOTIFICATION

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*[name of PHA]*

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Resident name:

Address:

Date:

### Purpose

The purpose of this notice is to inform you that \_\_\_\_\_ *[name of PHA]* has determined that your family's income is above the income limit (over-income) according to federal rules for public housing. This is your **12-month** (second) notice.

### What happens next?

For now, your rent will continue to be calculated as usual, you will continue to be offered a choice between income-based and flat rent, and **you do not have to move**. If your family remains over-income for the following 12 consecutive months, you will no longer be eligible for assistance under the public housing program.

If you think that we have made a mistake and your family should not be considered over-income, you may request a hearing by calling: XXX-XXX-XXXX or emailing *[address]* or requesting more information from PHA staff at: *[location]*. If you wish to request a hearing, please do so as soon as possible. If you do not wish to request a hearing, you do not need to do anything at this time.

### **What about changes to my income?**

We will need to re-examine your income in 12 months. After the reexamination, you will receive a notification like this one if your family is still over-income.

If your family's income drops below the over-income limit before the end of the 24 consecutive-month grace period, you will no longer be considered over-income. If your family's income increases again to an amount that is over-income, you will receive another 24 consecutive month grace period.

If your income changes, contact us using the information provided below to learn the policy for requesting an interim reexamination.

### **What if my family remains over-income in consecutive 12 months?**

Within 30 days of the recertification, you will receive a notice like this one informing you that your family has remained over-income for 24 consecutive months. According to the Continued Occupancy Policy, families that remain over-income for 24 consecutive months must leave their units and find other housing in no more than \_\_\_\_ *[up to 6 depending on PHA policy]* months after receiving notification.

If your family continues to reside in the unit after \_\_\_\_ *[restate date]*, \_\_\_\_ *[name of PHA]* will begin eviction proceedings by issuing a notice to vacate.

Until the time of lease termination, you will continue to be a public housing program participant and will continue to be charged your choice of income-based or flat rent.

*[INSERT PHA CONTACT INFORMATION]*

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**EXHIBIT 13-5: SAMPLE NOTICE FOR OVER-INCOME FAMILIES –  
24-MONTH NOTIFICATION FOR NPHOI FAMILY OPTION<sup>6</sup>**

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*These Sample Notices include provisions required per 24 CFR 960.507(c). Anything included in brackets and italic is meant as instruction to the PHA in creating its own notices. Example: [This text is meant as instruction to the PHA.]*

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<sup>6</sup> This sample notice is presented verbatim from HUD's sample forms used in the HOTMA Income and Assets Training Series, available at <https://www.hudexchange.info/resource/6849/hotma-sample-notices-for-overincome-families/>. Only the formatting has been changed to be consistent with the formatting used throughout this ACOP.

## OVER-INCOME FAMILY 24 MONTH NOTIFICATION

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*[name of PHA]*

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Resident name:

Address:

Date:

### Purpose

The purpose of this notice is to inform you that [name of PHA] has determined that your family's income is above the income limit (over-income) according to federal rules for public housing. This is your **24-month** (third) notice.

You are no longer eligible for assistance under the public housing program. However, you do not have to move – see below for details.

### What if I disagree that my family is over-income?

If you think that we have made a mistake and your family should not be considered over-income, you may request a hearing by calling: XXX-XXX-XXXX or emailing [address] or requesting more information from PHA staff at: [location]. If you wish to request a hearing, please do so as soon as possible.

### What about changes to my income?

Changes to your income after you receive this notice will not change our determination. Because your family has been over-income for 24 months, you are no longer eligible for assistance under the public housing program.

**What do I need to do now?**

According to the Continued Occupancy Policy, your family may continue your tenancy. However, because you will not receive assistance from the federal public housing program, your rent will be calculated differently.

If you choose to remain in a public housing unit, you will:

- Pay an “alternative non-public housing rent” (currently \$ \_\_\_\_\_)
- Need to sign a new lease within 60 days or at your next lease renewal (whichever is sooner)

If the lease is not signed within this time period, the PHA must terminate your tenancy by \_\_\_\_\_ [no more than 6 months after this notification]. However, per policy, \_\_\_\_\_ [name of PHA] may permit an over-income family to execute the lease after this period (up to 60 days), but before termination of the tenancy. In this case, the family must pay the total difference between the alternative non-public housing rent and your public housing rent dating back to the date when you were required to execute the lease.

If you choose to leave your unit, please inform us as soon as possible according to your existing lease.

To inform the PHA if you do not plan to remain in a public housing unit: [Use this space to detail when and how and family can inform the PHA if they decline to stay in the unit.]

[INSERT PHA CONTACT INFORMATION]

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**EXHIBIT 13-6: SAMPLE NOTICE FOR OVER-INCOME FAMILIES –  
24-MONTH NOTIFICATION FOR TERMINATION ONLY OPTION<sup>7</sup>**

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***These Sample Notices include provisions required per 24 CFR 960.507(c). Anything included in brackets and italic is meant as instruction to the PHA in creating its own notices. Example: [This text is meant as instruction to the PHA.]***

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<sup>7</sup> This sample notice is presented verbatim from HUD's sample forms used in the HOTMA Income and Assets Training Series, available at <https://www.hudexchange.info/resource/6849/hotma-sample-notices-for-overincome-families/>. Only the formatting has been changed to be consistent with the formatting used throughout this ACOP.

## OVER-INCOME FAMILY 24 MONTH NOTIFICATION

[name of PHA]

Resident name:

Address:

Date:

### Purpose

The purpose of this notice is to inform you that [name of PHA] has determined that your family's income is above the income limit (over-income) according to federal rules for public housing. This is your **24-month** (third) notice.

You are no longer eligible for assistance under the public housing program.

### What if I disagree that my family is over-income?

If you think that we have made a mistake and your family should not be considered over-income, you may request a hearing by calling: XXX-XXX-XXXX or emailing [address] or requesting more information from PHA staff at: [location]. If you wish to request a hearing, please do so as soon as possible.

### What about changes to my income?

Changes to your income after you receive this notice will not change our determination. If necessary, you may request an interim reexamination, but a decrease in income or rent will not make you eligible to remain. Because your family has been over-income for 24 consecutive months, you are no longer eligible for assistance under the public housing program.

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**What do I need to do now?**

According to the Continued Occupancy Policy, your family cannot continue your tenancy. You must find other housing as soon as possible. Our policy is to allow families up to \_\_\_\_\_ [up to 6 depending on PHA policy] months to find other housing.

If your family continues to reside in the unit after \_\_\_\_\_ [restate date], the PHA will begin eviction proceedings by issuing a notice to vacate.

Until the time of lease termination, you will continue to be a public housing program participant and will continue to be charged your choice of income-based or flat rent.

[The following is an optional section where the PHA may include referral services to support a family in finding new housing.]

The following services are available to assist you:

[INSERT PHA CONTACT INFORMATION]

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## CHAPTER 14

### GRIEVANCES AND APPEALS ~~[24 CFR §966.54-§966.57]~~

#### INTRODUCTION

This chapter discusses grievances and appeals pertaining to PHA actions or failures to act that adversely affect public housing applicants or residents. The policies are discussed in the following three parts:

**Part I: Informal Hearings for Public Housing Applicants.** This part outlines the requirements and procedures for informal hearings for public housing applicants.

**Part II: Informal Hearings with Regard to Noncitizens.** This part discusses informal hearings regarding citizenship status and where they differ from the requirements for general applicant and tenant grievances.

**Part III: Grievance Procedures for Public Housing Residents.** This part outlines the requirements and procedures for handling grievances for public housing residents.

Note that this chapter is not the PHA's grievance procedure. The grievance procedure is a document separate from the ACOP. This chapter of the ACOP provides the policies that drive the grievance procedure. A sample grievance procedure is provided as Exhibit 14-1. However, please note that the procedure provided is only a sample and is designed to match up with the default policies in the model ACOP. As such, the PHA would need to modify accordingly should any alternative policy decisions be adopted.

#### ~~***Failure to Appear [24 CFR §966.56(e)]***~~

#### ~~**Failure to appear applies to all types of remote hearings.**~~

~~If the complainant or the PHA fails to appear at a scheduled hearing, the hearing officer/panel may make a determination to postpone the hearing for not to exceed five business days or may make a determination that the party has waived his/her right to a hearing. Both the complainant and the PHA must be notified of the determination by the hearing officer/panel: Provided, that a determination that the complainant has waived his/her right to a hearing will not constitute a waiver of any right the complainant may have to contest the PHA's disposition of the grievance in an appropriate judicial proceeding.~~

~~There may be times when a complainant does not appear due to unforeseen circumstances, which are out of their control and are no fault of their own.~~

#### PHA Policy

~~If the tenant does not appear at the scheduled time of the hearing, the hearing officer will wait up to 20 minutes. If the tenant appears within 20 minutes of the scheduled time, the hearing will be held. If the tenant does not arrive within 20 minutes of the scheduled time, they will be considered to have failed to appear.~~

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~~If the tenant fails to appear and was unable to reschedule the hearing in advance, the tenant must contact the PHA within 24 hours of the scheduled hearing date, excluding weekends and holidays. The hearing officer will reschedule the hearing only if the tenant can show good cause for the failure to appear, or it is needed as a reasonable accommodation for a person with disabilities.~~

~~“Good cause” is defined as an unavoidable conflict, which seriously affects the health, safety, or welfare of the family.~~

## PART I: INFORMAL HEARINGS FOR PUBLIC HOUSING APPLICANTS

~~[24 CFR 960.208(a) and PH Occ GB, p. 58]~~

### 14-I.A. OVERVIEW

When the PHA makes a decision that has a negative impact on an applicant family, the family is often entitled to appeal the decision. For applicants, the appeal takes the form of an informal hearing. HUD regulations do not provide a structure for or requirements regarding informal hearings for applicants (except with regard to citizenship status, to be covered in Part II). This part discusses the PHA policies necessary to respond to applicant appeals through the informal hearing process.

#### *Ensuring Accessibility for Persons with Disabilities and LEP Individuals*

~~As with in-person informal settlement of Grievances and the associated hearings, the method for conducting remote informal settlement of Grievances and the associated hearings must be accessible to persons with disabilities and the settlement/hearing must be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities.~~

~~Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual.~~

~~PHAs may never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote informal settlement of Grievances and the associated hearing.~~

~~PHAs are required to make reasonable accommodations in policies, practices, and procedures to ensure persons with disabilities have a full and equal opportunity to participate in and benefit from all aspects of the informal settlement/hearing process. See Chapter 2 for a more detailed discussion of reasonable accommodation requirements.~~

~~If no method of conducting a remote informal settlement of Grievances or the associated hearing is available that appropriately accommodates an individual's disability, the PHA may not hold against the individual their inability to participate in the remote settlement/hearing, and the PHA should consider whether postponing the hearing to a later date is appropriate or whether there is a suitable alternative.~~

~~Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation, will depend on the specific circumstances and requirements.~~

~~As with in-person settlements/hearings, Limited English Proficiency (LEP) requirements also apply to remote informal settlements/hearings, including the use of interpretation services and document translation. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements, all of which apply in the context of remote informal settlements/hearings.~~

#### **14-I.B. INFORMAL HEARING PROCESS [24 CFR §960.208(A) ~~AND §966.53(A)~~; PH OCC GB, P. 58]**

Informal hearings are provided for public housing applicants. An applicant is someone who has applied for admission to the public housing program but is not yet a tenant in the program. Informal hearings are intended to provide a means for an applicant to dispute a determination of ineligibility for admission to a project [24 CFR § 960.208(a)]. Applicants to public housing are not entitled to the same hearing process afforded tenants under the PHA grievance procedure [24 CFR §966.53(a) and PH Occ GB, p. 58].

Informal hearings provide applicants the opportunity to review the reasons for denial of admission and to present evidence to refute the grounds for denial.

##### ***Use of Informal Hearing Process***

While the PHA must offer the opportunity of an informal hearing to applicants who have been determined as ineligible for admission, the PHA could make the informal hearing process available to applicants who wish to dispute other PHA actions that adversely affect them.

##### **PHA Policy**

The PHA will only offer informal hearings to applicants for the purpose of disputing denials of admission.

##### ***Notice of Denial [24 CFR §960.208(a) ~~PH 2020-32~~]***

The PHA must give an applicant prompt notice of a decision denying eligibility for admission. The notice must contain a brief statement of the reasons for the PHA decision and must also state that the applicant may request an informal hearing to dispute the decision. The notice must describe how to obtain the informal hearing.

##### **PHA Policy**

The PHA has the sole discretion to require that informal hearings be conducted remotely.

The PHA's notice of denial will include information about how the hearing will be conducted (remotely or in person). If remote, the resident will be informed of the processes involved in a remote hearing and that the PHA will provide technical assistance, if needed, before the hearing.

Remote hearings will allow the PHA to provide a reasonable accommodation for a person with a disability, if an applicant does not have childcare or transportation that would enable them to attend the informal hearing, or if the applicant believes an in-person

informal hearing would create an undue health risk. The PHA will consider other reasonable requests for a remote informal hearing on a case-by-case basis.

(24 CFR §966.56. (a), states, “The hearing must be scheduled promptly for a time and place reasonably convenient to both the complainant and the PHA and held before a hearing officer.)

When denying eligibility for admission, the PHA must provide the family a notice of VAWA rights (form HUD-5380) as well as the HUD VAWA self-certification form (form HUD-5382) in accordance with the Violence against Women Reauthorization Act ~~of 2013~~, and as outlined in Section 16-VII.C. The notice and self-certification form must accompany the written notification of the denial of eligibility determination.

Prior to notification of denial based on information obtained from criminal or sex offender registration records, the family, in some cases, must be given the opportunity to dispute the information in those records which would be the basis of the denial. See Section 3-III.G for details concerning this requirement.

### ***Scheduling an Informal Hearing***

#### **PHA Policy**

A request for an informal hearing must be made in writing and delivered to the PHA either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of the PHA’s notification of denial of admission.

The PHA will schedule and send written notice of the informal hearing within 10 business days of the family’s request.

If the informal hearing will be conducted remotely, at the time the notice is sent to the family, the family will be informed:

- Regarding the processes involved in a remote informal hearing;
- That the PHA will provide technical assistance prior to and during the informal hearing, if needed; and
- That if the family or any individual witness has any technological, resource, or accessibility barriers preventing them from fully accessing the remote informal hearing, the family may inform the PHA and the PHA will assist the family in either resolving the issues or allow the family to participate in an in-person informal hearing, as appropriate.

### ***Conducting an Informal Hearing [PH Occ GB, p. 58]***

#### **PHA Policy**

The informal hearing will be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant will be provided an opportunity to present written or oral objections to the decision of the PHA.

The person conducting the informal hearing will make a recommendation to the PHA, but the PHA is responsible for making the final decision as to whether admission should be granted or denied.

***Remote Informal Hearings [Notice PIH 2020-32; ~~24 CFR §960.208; 24 CFR §966.56~~]***

There is no requirement that informal hearings be conducted in-person, and as such, HUD allows PHAs to conduct all or a portion of their informal hearings remotely either over the phone, via video conferencing, or through other virtual platforms. If the PHA chooses to conduct remote informal hearings, applicants may still request an in-person informal hearing, as applicable.

**PHA Policy**

All PHA policies and processes for remote informal hearings will be conducted in accordance with due process requirements and compliance with HUD regulations.

The PHA has the sole discretion to require that informal hearings be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster.

24 CFR §966.56.(a), states, “The hearing must be scheduled promptly for a time and place reasonably convenient to both the complainant and the PHA and held before a hearing officer.

In addition, the PHA will conduct an informal hearing remotely upon request of the applicant as a reasonable accommodation for a person with a disability, if an applicant does not have child care or transportation that would enable them to attend the informal hearing, or if the applicant believes an in-person informal hearing would create an undue health risk. The PHA will consider other reasonable requests for a remote informal hearing on a case-by-case basis.

~~Remote hearings as a standard of customer service, will allow the PHA to provide a reasonable accommodation for a person with a disability, if an applicant does not have child care or transportation that would enable them to attend the informal hearing, or if the applicant believes an in-person informal hearing would create an undue health risk.~~

**Ensuring Accessibility for Persons with Disabilities and LEP Individuals**

As with in-person informal hearings, the platform for conducting remote informal hearings must be accessible to persons with disabilities and the informal hearing must be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual. PHAs may never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote informal hearings.

If no method of conducting a remote informal hearing is available that appropriately accommodates an individual's disability, the PHA may not hold against the individual their inability to participate in the remote informal review, and the PHA should consider whether postponing the remote informal hearing to a later date is appropriate or whether there is a suitable alternative.

Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation, will depend on the specific circumstances and requirements.

As with in-person hearings, Limited English Proficiency (LEP) requirements also apply to remote informal hearings, including the use of interpretation services and document translation. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements, all of which apply in the context of remote informal hearings.



### ***Conducting Remote Informal Hearings [PIH 2020-32; ~~28 CFR §35.104~~]***

The PHA must ensure that the lack of technology or inability to use technology for remote informal hearings does not pose a disadvantage to families that may not be apparent to the PHA. The PHA should determine through a survey or other means if these barriers exist prior to conducting the remote informal hearing and, if the family does not have the proper technology to fully participate, either postpone the informal hearing or provide an alternative means of access.

As with in-person informal hearings, the PHA must provide all materials presented, whether paper or electronic, to the family prior to the remote informal hearing. The family must also be provided with an accessible means by which to transmit their own evidence.

The PHA must ensure that the applicant has the right to hear and be heard. All PHA policies and processes for remote informal hearings will be conducted in accordance with due process requirements and will be in compliance with HUD regulations at 24 CFR 966.56 and the guidance for conducting remote hearings specified in Notice PIH 2020-32.

The PHA must ensure that the applicant has the right to hear and be heard. The PHA shall ensure due process and that all parties are able to have full access to the hearing.

The PHA must ensure that the lack of technology or inability to use technology for remote reviews does not pose a disadvantage to families that may not be apparent to the PHA.

The PHA must ensure that the family has appropriate technological access in order to fully participate in the remote review.

The PHA should determine through a survey to the family or other means (See PIH Notice 2020-32, Section 6) if these barriers exist prior to conducting the remote informal review and, if the family does not have the proper technology to fully participate, either postpone the informal review until access can be provided or provide an alternative means of access.

The PHA must provide all materials presented, whether paper or electronic, to the family prior to the remote informal review. The family must also be provided with an accessible means by which to transmit their own evidence.

All PHA policies and processes for remote informal reviews must be conducted in accordance with due process requirements and be in compliance with HUD regulations at 24 CFR §966.56 and the guidance for conducting remote hearings specified in Notice PIH 2020-32.

#### **PHA Policy**

The PHA will conduct remote informal hearings via a video conferencing platform, when available. If, after attempting to resolve any barriers, applicants are unable to adequately access the video conferencing platform at any point, or upon applicant request, the informal hearing will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in at any point, the remote informal hearing will be postponed, and an in-person alternative will be provided promptly within a reasonable time.

At least five business days prior to scheduling the remote hearing, the PHA will provide the family with login information and/or conferencing call-in information and an electronic copy of all materials being presented via first class mail and/or email. The notice will advise the family of technological requirements for the hearing and request the family notify the PHA of any known barriers. The PHA will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person hearing.

If the informal hearing is to be conducted remotely, the PHA will require the family to provide any documents directly relevant to the informal hearing at least 24 hours before the scheduled hearing through the mail, via email, or text. The PHA will scan and email copies of these documents to the PHA representative and to the person conducting the informal hearing the same day.

Documents will be shared electronically whenever possible.

The PHA will follow up the email with a phone call and/or email to the applicant at least one business day prior to the remote informal hearing to ensure that the applicant received all information and is comfortable accessing the video conferencing or call-in platform.

The PHA will ensure that all electronic information stored or transmitted with respect to the informal hearing is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP.

~~The PHA will conduct remote informal hearings via videoconferencing or telephone conferencing.~~

~~If the informal hearing will be conducted via videoconferencing, the PHA will ensure the following:~~

- ~~• All applicants, applicant representatives, PHA representatives, and the person conducting the informal hearing can adequately access the platform (i.e., hear, be heard, see, and be seen).~~
- ~~• At least 48 hours prior to date and time of the remote hearing, the PHA will provide the family with login information and/or conferencing call in information.~~
- ~~• At least 48 hours prior to the hearing, COCHRD will contact the family to advise of the technological requirements for the hearing and request the family notify the PHA of any known barriers.~~

- ~~COCHRD will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person hearing.~~
- ~~PHA will send all hearing-related documents to the family by US Mail to ensure delivery to the correct address, and via email, if a current email address for the family is available.~~
- ~~At least 24 hours in advance of the hearing, the PHA will verify that all parties have received the documentation to be presented at the hearing and can access it.~~
- ~~The family must also be provided with an accessible means by which to transmit their own evidence.~~
  - ~~Within 48 hours in advance of the hearing, the applicant has provided the PHA with any documents directly relevant to the hearing.~~
  - ~~The PHA will accept documentation by US Mail, email, or hand-delivered to the housing office.~~
  - ~~The PHA will scan and email copies of these documents to the PHA representative and to the person conducting the informal hearing the same day as received.~~
- ~~On the day of the hearing and in advance of the scheduled time, the PHA will test access with the participants to ensure delays due to inability to access will be at a minimum.~~
- 
- ~~Documents will be shared electronically whenever possible.~~
- ~~The PHA will follow up the email with a phone call and/or email to the applicant at least one business day prior to the remote informal hearing to ensure that the applicant received all information and is comfortable accessing the video conferencing or call-in platform.~~
- ~~The PHA will ensure that all electronic information stored or transmitted with respect to the informal hearing is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP.~~

If any applicant, applicant representative, PHA representative, or person conducting the informal hearing is unable to effectively utilize the videoconferencing platform, the informal hearing will be conducted allowing those participants to utilize telephone conferencing call-in for those that cannot access video conferencing.

***Informal Hearing Decision [PH Occ GB, p. 58]***

**PHA Policy**

The PHA will notify the applicant of the PHA's final decision, including a brief statement of the reasons for the final decision.

In rendering a decision, the PHA will evaluate the following matters:

- Whether or not the grounds for denial were stated factually in the notice
- The validity of grounds for denial of admission. If the grounds for denial are not specified in the regulations or in PHA policy, then the decision to deny assistance will be overturned. See Chapter 3 for a detailed discussion of the grounds for applicant denial.
- The validity of the evidence. The PHA will evaluate whether the facts presented prove the grounds for denial of admission. If the facts prove that there are grounds for denial, and the denial is required by HUD, the PHA will uphold the decision to deny admission.
- If the facts prove the grounds for denial, and the denial is discretionary, the PHA will consider the recommendation of the person conducting the informal hearing in making the final decision whether to deny admission.

The PHA will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed, with return receipt requested, within 10 business days of the informal hearing, to the applicant and their representative, if any.

If the informal hearing decision overturns the denial, processing for admission will resume.

If the family fails to appear for their informal hearing, the denial of admission will stand, and the family will be so notified.

***Reasonable Accommodation for Persons with Disabilities [24 CFR §966.7]***

Persons with disabilities may request reasonable accommodations to participate in the informal hearing process and the PHA must consider such accommodations. The PHA must also consider reasonable accommodation requests pertaining to the reasons for denial if related to the person's disability. See Chapter 2 for more detail pertaining to reasonable accommodation requests.

## **PART II: INFORMAL HEARINGS WITH REGARD TO NONCITIZENS**

### **14-II.A. HEARING AND APPEAL PROVISIONS FOR NONCITIZENS [24 CFR §5.514]**

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. These special hearings are referred to in the regulations as informal hearings, but the requirements for such hearings are different from the informal hearings used to deny applicants for reasons other than immigration status.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the PHA hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the PHA informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

#### ***Notice of Denial or Termination of Assistance [24 CFR §5.514(d)]***

As discussed in Chapters 3 and 13, the notice of denial or termination of assistance for noncitizens must advise the family of any of the following that apply:

- That financial assistance will be denied or terminated; and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a tenant, the criteria, and procedures for obtaining relief under the provisions for preservation of families [24 CFR §5.514 and §5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

#### ***United States Citizenship and Immigration Services Appeal Process [24 CFR §5.514(e)]***

When the PHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the PHA must notify the family of the results of the USCIS

verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide the PHA with a copy of the written request for appeal and proof of mailing.

PHA Policy

The PHA will notify the family in writing of the results of the USCIS secondary verification within 10 business days of receiving the results.

The family must provide the PHA with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to the PHA, of its decision. When the USCIS notifies the PHA of the decision, the PHA must notify the family of its right to request an informal hearing.

PHA Policy

The PHA will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision regarding the family's immigration status.

***Informal Hearing Procedures for Applicants [24 CFR §5.514(f)]***

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, an applicant family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA notice of denial, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

***Informal Hearing Officer ~~[24 CFR §966.4(n)(2); §966.53(e), PIH 2016-05]~~***

The PHA must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision. Such individual or individuals do not need legal training.

PHA Policy

The PHA will contract a hearing officer.

Efforts will be made to assure that the person selected is neither a friend, nor enemy, of the complainant that they do not have a personal stake in the matter under dispute and will otherwise not appear to lack impartiality.

### ***Evidence***

The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of the PHA pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

#### **PHA Policy**

The family will be allowed to copy any documents related to the hearing at a cost of \$.25 per page. This is for documents in addition to what is provided for the hearing.

The family must request discovery of PHA documents no later than 12:00 p.m. on the business day prior to the hearing.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by the PHA, and to confront and cross-examine all witnesses on whose testimony or information the PHA relies.

### ***Representation and Interpretive Services***

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to request an interpreter. The PHA is obligated to provide a competent interpreter, free of charge, upon request. The family may also or instead provide its own interpreter, at the expense of the family.

### ***Recording of the Hearing***

The family is entitled to have the hearing recorded by audiotape. The PHA may, but is not required to, provide a transcript of the hearing.

#### **PHA Policy**

The family will be allowed to have a copy of the informal hearing tape at a prepaid cost of \$5.00 per tape.

### ***Hearing Decision***

The PHA must provide the family with a written notice of the final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The notice must state the basis for the decision.



#### PHA Policy

The hearing decision may be provided to the family by the hearing officer in which case, the PHA will not need to mail one out; however, it is the PHA's responsibility to ensure the hearing decision is mailed out within 14 calendar days of the date of the informal hearing.

#### ***Retention of Documents [24 CFR 5.514(h)]***

The PHA must retain for a minimum of 5 years the following documents that may have been submitted to the PHA by the family, or provided to the PHA as part of the USCIS appeal or the PHA informal hearing process:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision

#### ***Informal Hearing Procedures for Residents [24 CFR §5.514(f)]***

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, a resident family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA notice of termination, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for resident families whose tenancy is being terminated based on immigration status is the same as for any grievance under the grievance procedures for resident families found in Part III below.

## PART III: GRIEVANCE PROCEDURES FOR PUBLIC HOUSING RESIDENTS

### 14-III.A. REQUIREMENTS [24 CFR §966.52]

PHAs must have a grievance procedure in place through which residents of public housing are provided an opportunity to grieve any PHA action or failure to act involving the lease or PHA policies which adversely affect their rights, duties, welfare, or status. The PHA must not only meet the minimal procedural due process requirements provided under the regulations but must also meet any additional requirements imposed by local, state or federal law.

The PHA grievance procedure must be included in, or incorporated by reference in, -the lease.

#### PHA Policy

The PHA grievance procedure will be incorporated by reference in the tenant lease.

The PHA must provide at least 30-day notice to tenants and resident organizations setting forth proposed changes in the PHA grievance procedure, and provide an opportunity to present written comments. Comments submitted must be considered by the PHA before adoption of any changes to the grievance procedure by the PHA.

#### PHA Policy

Residents and resident organizations will have 30 calendar days from the date they are notified by the PHA of any proposed changes in the PHA grievance procedure, to submit written comments to the PHA.

The PHA must furnish a copy of the grievance procedure to each tenant and to resident organizations.

### 14-III.B. DEFINITIONS [24 CFR §966.53; 24 CFR §966.51(A)(2)(I)]

There are several terms used by HUD with regard to public housing grievance procedures, which take on specific meanings different from their common usage. These terms are as follows:

- **Grievance** – any dispute which a tenant may have with respect to PHA action or failure to act in accordance with the individual tenant’s lease or PHA regulations which adversely affect the individual tenant’s rights, duties, welfare, or status
- **Complainant** – any tenant whose grievance is presented to the PHA or at the project management office
- **Due Process Determination** – a determination by HUD that law of the jurisdiction requires that the tenant must be given the opportunity for a hearing in court which provides the basic elements of due process before eviction from the dwelling unit
- **Expedited Grievance** – a procedure established by the PHA for any grievance or termination that involves:

- Any criminal activity that threatens the health, safety, or right to peaceful enjoyment or the PHA’s public housing premises by other residents or employees of the PHA; or
- Any drug-related criminal activity on or off the premises

- **Elements of Due Process** – an eviction action or a termination of tenancy in a state or local court in which the following procedural safeguards are required:
  - Adequate notice to the tenant of the grounds for terminating the tenancy and for eviction
  - Right of the tenant to be represented by counsel
  - Opportunity for the tenant to refute the evidence presented by the PHA including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the tenant may have
  - A decision on the merits
- **Hearing Officer/Panel** – a impartial person/panel or selected by the PHA, other than the person who made or approved the decision under review, or a subordinate of that person. The individual or individuals do not need legal training. selected in accordance with HUD regulations to hear grievances and render a decision with respect thereto
- **Tenant** – the adult person (or persons) (other than a live-in aide)
  - Who resides in the unit, and who executed the lease with the PHA as lessee of the dwelling unit, or, if no such person now resides in the unit,
  - Who resides in the unit, and who is the remaining head of household of the tenant family residing in the dwelling unit.
- **Resident Organization** – includes a resident management corporation

#### 14-III.C. APPLICABILITY [24 CFR §966.51]

Grievances could potentially address most aspects of a PHA’s operation. However, there are some situations for which the grievance procedure is not applicable.

The grievance procedure is applicable only to individual tenant issues relating to the PHA. It is not applicable to disputes between tenants not involving the PHA. Class grievances are not subject to the grievance procedure and the grievance procedure is not to be used as a forum for initiating or negotiating policy changes of the PHA.

If HUD has issued a due process determination, a PHA may exclude from the PHA grievance procedure any grievance concerning a termination of tenancy or eviction that involves:

- Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of the PHA

- Any violent or drug-related criminal activity on or off such premises; or
- Any criminal activity that resulted in felony conviction of a household member

In states without due process determinations, PHAs must grant opportunity for grievance hearings for all lease terminations, regardless of cause, with the following exception: PHAs may use expedited grievance procedures for the ~~first two of the three~~ excluded categories listed above. These expedited grievance procedures are described in Section 14-III.E., below.

If HUD has issued a due process determination, the PHA may evict through the state/local judicial eviction procedures. In this case, the PHA is not required to provide the opportunity for a hearing under the PHA's grievance procedure as described above.

#### PHA Policy

The PHA is located in a HUD-declared due process state. Therefore, the PHA will not offer grievance hearings for lease terminations involving criminal activity that resulted in a felony conviction of a household member or that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of the PHA, or for violent or drug-related criminal activity on or off the premises, or for any criminal activity that resulted in felony conviction of a household member.

See Chapter 13 for related policies on the content of termination notices.

#### ***Ensuring Accessibility for Persons with Disabilities and LEP Individuals***

~~As with in-person informal settlement of Grievances and the associated hearings, the method for conducting remote informal settlement of Grievances and the associated hearings must be accessible to persons with disabilities and the settlement/hearing must be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities.~~

~~Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual.~~

~~PHAs may never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote informal settlement of Grievances and the associated hearing.~~

~~PHAs are required to make reasonable accommodations in policies, practices, and procedures to ensure persons with disabilities have a full and equal opportunity to participate in and benefit from all aspects of the informal settlement/hearing process. See Chapter 2 for a more detailed discussion of reasonable accommodation requirements.~~

~~If no method of conducting a remote informal settlement of Grievances or the associated hearing is available that appropriately accommodates an individual's disability, the PHA may not hold against the individual his or her inability to participate in the remote settlement/hearing, and the PHA should consider whether postponing the hearing to a later date is appropriate or whether there is a suitable alternative.~~

~~Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation, will depend on the specific circumstances and requirements.~~

~~As with in person settlements/hearings, Limited English Proficiency (LEP) requirements also apply to remote informal settlements/hearings, including the use of interpretation services and document translation. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements, all of which apply in the context of remote informal settlements/hearings.~~

#### **14-III.D. INFORMAL SETTLEMENT OF GRIEVANCE [24 CFR §966.54] [SEE LOCAL PROCEDURE, "GRIEVANCE POLICY AND FLOWCHART" FOR DETAILS]**

HUD regulations state that any grievance must be personally presented, either orally or in writing, to the PHA office or to the office of the housing development in which the complainant resides so that the grievance may be discussed informally and settled without a hearing.

The informal settlement is the first step in the Public Housing Grievance process, and is performed internally, between the tenant and PHA. As of March 8, 2016, HUD no longer mandates the grievance process, instead allowing local authority to determine the process.

##### PHA Policy

The PHA will accept requests for an informal settlement of a grievance ~~either in~~ orally or in writing (including emailed requests), to the PHA office ~~or to the office of the housing development in which the complainant resides,~~ within 10 business days of the grievable event, ~~to~~ allow the grievance to be discussed informally and settled without a hearing.

Within 10 business days of receipt of the request, the PHA will mail and/or email the tenant the date and time of the appointment. The tenant must notify the PHA in writing 48 hours in advance to reschedule the appointment.

The PHA has the option to conduct the informal settlement via writing only, or it may be conducted remotely, telephonically, or in person. The PHA has the sole discretion regarding the method of an informal settlement.

If a tenant fails to attend the scheduled meeting without prior notice, the PHA will reschedule the appointment only if the tenant can show good cause for failing to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

Good cause is defined as an unavoidable conflict, which seriously affects the health, safety, or welfare of the family.

HUD regulations require that a summary of such discussion will be prepared within a reasonable time and one copy will be given to the tenant and one retained in the PHA's tenant file.

The summary must specify the names of the participants, dates of meeting, the nature of the proposed disposition of the complaint and the specific reasons therefore, and will specify the procedures by which a hearing may be obtained if the complainant is not satisfied.

PHA Policy

The PHA has the sole discretion to determine the method of holding the informal grievance settlement meeting.

The PHA will prepare a summary of the informal settlement within 5 business days; one copy to be given to the tenant and one copy to be retained in the PHA's tenant file.

For PHAs who have the option to establish an expedited grievance procedure, and who exercise this option, the informal settlement of grievances is not applicable to those grievances for which the expedited grievance procedure applies.

**14-III.E. PROCEDURES TO OBTAIN A HEARING AFTER THE INFORMAL SETTLEMENT MEETING [24 CFR §966.56(A)]**

***Requests for Hearing and Failure to Request [24 CFR §966.56(a), (c)]***

All grievances must be presented in accordance with the informal settlement procedures prescribed above as a condition prior to a grievance hearing.

PHA Policy

The resident must submit a written request (including emailed requests) for a grievance hearing to the PHA within 5 business days of the tenant's receipt of the summary of the informal settlement.

If the complainant does not request a hearing, the PHA's disposition of the grievance under the informal settlement process will become final.

However, failure to request a hearing does not constitute a waiver by the complainant of the right to contest the PHA's action in disposing of the complaint in an appropriate judicial proceeding [24 CFR §966.56(c)].

**Scheduling of Hearings [24 CFR §966.56(a)-and-(b)]**

If the complainant has complied with all requirements for requesting a hearing as described above, a hearing must be scheduled by the PHA promptly for a time and place reasonably convenient to both the complainant and the PHA.

A written notification specifying the time, place, and the procedures governing the hearing must be delivered to the complainant and the appropriate PHA official.

PHA Policy

Within 10 business days of receiving a written request for a hearing, the hearing will be scheduled, and a written notice of the hearing will be sent the complainant.

- If the PHA hearing will be conducted remotely, at the time the notice is sent to the family, the family will be notified;
- Regarding the processes involved in a remote grievance hearing;
- That the PHA will provide technical assistance prior to and during the hearing, if needed; and
- That if the family or any individual witness has any technological, resource, or accessibility barriers, the family may inform the PHA and the PHA will assist the family in either resolving the issue or allow the family to participate in an in-person hearing, as appropriate.

The PHA may wish to permit the tenant to request to reschedule a hearing for good cause.

#### PHA Policy

The tenant may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict, which seriously affects the health, safety, or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, the PHA may request documentation of the “good cause” prior to rescheduling the hearing.

~~The PHA will not offer expedited grievance procedures.~~

#### Expedited Grievance Procedure [24 CFR 966.52(a)]

The PHA may establish an expedited grievance procedure for any grievance concerning a termination of tenancy or eviction that involves:

- Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or employees of the PHA;
- Any drug-related criminal activity on or near such premises; or
- Any criminal activity that resulted in felony conviction of a household member.

In such expedited grievances, the informal settlement of grievances as discussed in 14-III.D is not applicable.

The PHA may adopt special procedures concerning expedited hearings, including provisions for expedited notice or scheduling, or provisions for expedited decision on the grievance.

#### PHA Policy

The PHA will not offer expedited grievance procedures.

**14-III.F. SELECTION OF HEARING OFFICER/PANEL [24 CFR ~~§966.4(N)(2)~~;  
§966.53(E), PIH 2016-05**

The grievance hearing must be conducted by an impartial person or persons appointed by the PHA, other than the person who made or approved the PHA action under review, or a subordinate of such person. Such individual or individuals do not need legal training. PHAs must describe their policies for selection of a hearing officer in their lease ~~forms as required by §966.4.~~

PHA Policy

PHA grievance hearings will be conducted by a single hearing officer and not a panel. The PHA will contract a hearing officer.

The PHA must determine the methodology for appointment of the hearing officer, and it must be stated in the grievance procedure.

PHA Policy

The PHA will appoint a person who has been selected in the manner required under the grievance procedure. Efforts will be made to assure that the person selected is neither a friend, nor enemy, of the complainant that they do not have a personal stake in the matter under dispute and will otherwise not appear to lack impartiality.

The PHA must include the method of selection in the Public Housing Lease. (24 CFR §966.4) (See Public Housing Lease Agreement, effective 7/1/2019, Section XVI.)

**14-III.G. REMOTE HEARINGS [PIH 2020-32]**

There is no requirement that grievance hearings be conducted in-person, and as such, HUD allows PHAs to conduct all or a portion of their grievance hearings remotely either over the phone, via video conferencing, or through other virtual platforms. If the PHA chooses to conduct remote grievance hearings, applicants may still request an in-person hearing, as applicable.

PHA Policy

The PHA has the sole discretion to require that hearings be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster.

In addition, the PHA will conduct a hearing remotely upon request as a reasonable accommodation for a person with a disability, if a tenant does not have child care or transportation that would enable them to attend the hearing, or if the tenant believes an in-person hearing would create an undue health risk. The PHA will consider other reasonable requests for a remote hearing on a case-by-case basis.  
~~The PHA has the sole discretion to require informal hearings be conducted remotely.~~

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24 CFR §966.56 (a) states, “The hearing must be scheduled promptly for a time and place reasonably convenient to both the complainant and the PHA and held before a hearing officer.

Remote hearings as a standard of customer service, will allow the PHA to provide a reasonable accommodation for a person with a disability, if an applicant does not have childcare or transportation that would enable them to attend the informal hearing, or if the applicant believes an in-person informal hearing would create an undue health risk.

#### ***Discovery of Documents Before the Remote Hearing [PIH 2020-32]***

##### **PHA Policy**

If the hearing will be conducted remotely, the PHA will compile a hearing packet, consisting of all documents the PHA intends to produce at the hearing.

The PHA will deliver by mail, email or hand-delivery, copies of the hearing packet to the tenant, the tenant’s representatives, if any, and the hearing officer at least three (3) days before the scheduled remote hearing. The original hearing packet will be in the possession of the PHA representative and retained by the PHA.

If the hearing is to be held in person, the packet will be available at the front desk for the tenant to pick up at least three (3) days before the scheduled hearing.

If the hearing is to be conducted remotely, the PHA will require the resident to provide any documents directly relevant to the hearing at least 24 hours before the scheduled hearing, through US Mail, via email, or text.

The PHA will scan and email copies of these documents to the hearing officer the same day they are received.

Documents will be shared electronically whenever possible.

#### **Ensuring Accessibility for Persons with Disabilities and LEP Individuals**

As with in-person grievance hearings, the platform for conducting remote grievance hearings must be accessible to persons with disabilities and the grievance hearings must be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and

independence of the individual. PHAs may never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote grievance hearings.

If no method of conducting a remote grievance hearing is available that appropriately accommodates an individual's disability, the PHA may not hold against the individual their inability to participate in the remote grievance hearing, and the PHA should consider whether postponing the remote hearing to a later date is appropriate or whether there is a suitable alternative.

Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation will depend on the specific circumstances and requirements.

As with in-person reviews, Limited English Proficiency (LEP) requirements also apply to remote grievance hearings, including the use of interpretation services and document translation. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements, all of which apply in the context of remote grievance hearings.

### Conducting ~~Remote Grievance Hearings~~ Remotely ~~[PIH 2020-32; 28 CFR §35.104]~~

The PHA must ensure that the tenant has the right to hear and be heard.

The PHA must ensure that the lack of technology or inability to use technology for remote grievance hearings does not pose a disadvantage to families that may not be apparent to the PHA. The PHA should determine through a survey or other means if these barriers exist prior to conducting the remote grievance hearing and, if the family does not have the proper technology to fully participate, either postpone the hearing or provide an alternative means of access.

As with in-person grievance hearings, the PHA must provide all materials presented, whether paper or electronic, to the family prior to the remote grievance hearing. The family must also be provided with an accessible means by which to transmit their own evidence.

The PHA's essential responsibility is to ensure grievance hearings meet the requirements of due process and comply with HUD regulations. Therefore, all PHA policies and processes for remote grievance hearings will be conducted in accordance with due process requirements and will be in compliance with HUD regulations at 24 CFR 966.56 and the guidance for conducting remote hearings specified in Notice PIH 2020-32.

#### PHA Policy

The PHA will conduct remote grievance hearings via a video conferencing platform, when available. If, after attempting to resolve any barriers, participants are unable to adequately access the video conferencing platform at any point, or upon request, the grievance hearing will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in at any point, the remote grievance hearing will be postponed, and an in-person alternative will be provided promptly within a reasonable time.

At least five business days prior to scheduling the remote hearing, the PHA will provide the family with login information and/or conferencing call-in information and an electronic copy of all materials being presented via first class mail and/or email. The notice will advise the family of technological requirements for the hearing and request the family notify the PHA of any known barriers. The PHA will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person hearing.

The PHA will follow up with a phone call and/or email to the family at least one business day prior to the remote grievance hearing to ensure that the family received all information and is comfortable accessing the video conferencing or call-in platform.

The PHA will ensure that all electronic information stored or transmitted with respect to the grievance hearing is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP.

The PHA will conduct remote grievance hearings via videoconferencing or telephone conferencing.

~~If the grievance will be conducted via videoconferencing, the PHA will ensure the following:~~

- ~~• All tenants, tenant's representatives, witnesses, and PHA representatives can adequately access the platform (i.e., hear, be heard, see, and be seen).~~
- ~~• All parties who must have necessary documentation from the PHA have received it and makes it available for the grievance via US mail and/or email.~~
- ~~• At least 48 hours in advance of the grievance, all parties have received the documentation to be presented.~~
- ~~• At least 48 hours in advance of the grievance, all parties have received information on how to access the video or telephone conference.~~
  - ~~— The PHA has tested the access with the participants to ensure on the day and time of the grievance, delays due to inability to access will be at a minimum.~~

#### **14-III.H. PROCEDURES GOVERNING THE HEARING [24 CFR §966.56]**

##### ***Rights of Complainant [24 CFR §966.56(b)]***

The complainant will be afforded a fair hearing. This includes:

- The opportunity to examine before the grievance hearing any PHA documents, including records and regulations that are directly relevant to the hearing. The tenant must be allowed to copy any such document at the tenant's expense. If the PHA does not make the document available for examination upon request by the complainant, the PHA may not rely on such document at the grievance hearing.

##### PHA Policy

The tenant will be allowed to copy any documents related to the hearing at a cost of \$.25 per page.

~~There will be no charge for documents emailed by the PHA. The family must request discovery of PHA documents no later than 12:00 p.m. on the business day prior to the hearing.~~

~~For documents determined by the PHA to be relevant, there will be no charge for documents emailed by the PHA. The family must request discovery of PHA documents no later than 12:00 p.m. on the business day prior to the hearing.~~

- The right to be represented by counsel or other person chosen to represent the tenant and to have such person make statements on the tenant's behalf.

##### PHA Policy

Hearings may be attended by the following applicable persons:

- The PHA representative(s) and any witnesses for the PHA
  - The tenant and any witnesses for the tenant
  - The tenant's counsel or other representative
  - PHA's counsel
  - Any other person approved by the PHA as a reasonable accommodation for a person with a disability
- The right to a private hearing unless the complainant requests a public hearing.
  - The right to present evidence and arguments in support of the tenant's complaint, to controvert evidence relied on by the PHA or project management, and to confront and cross-examine all witnesses upon whose testimony or information the PHA or project management relies.
  - A decision based solely and exclusively upon the facts presented at the hearing.

#### **Failure to Appear [24 CFR 966.56(c)]**

If the complainant or the PHA fails to appear at a scheduled hearing, the hearing officer may make a determination to postpone the hearing for no more than five business days or may make a determination that the party has waived their right to a hearing. Both the complainant and the PHA must be notified of the determination by the hearing officer: Provided, That a determination that the complainant has waived their right to a hearing will not constitute a waiver of any right the complainant may have to contest the PHA's disposition of the grievance in an appropriate judicial proceeding.

There may be times when a complainant does not appear due to unforeseen circumstances which are out of their control and are no fault of their own.

#### **PHA Policy**

If the tenant does not appear at the scheduled time of the hearing, the hearing officer will wait up to 20 minutes. If the tenant appears within 20 minutes of the scheduled time, the hearing will be held. If the tenant does not arrive within 20 minutes of the scheduled time, they will be considered to have failed to appear.

If the tenant fails to appear and was unable to reschedule the hearing in advance, the tenant must contact the PHA within 24 hours of the scheduled hearing date, excluding weekends and holidays. The hearing officer will reschedule the hearing only if the tenant

can show good cause for the failure to appear, or it is needed as a reasonable accommodation for a person with disabilities.

“Good cause” is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family.

### ***General Procedures [24 CFR §966.56~~(b)~~, (d), (e), and ~~(f)~~]***

At the hearing, the complainant must first make a showing of an entitlement to the relief sought and thereafter the PHA must sustain the burden of justifying the PHA action or failure to act against which the complaint is directed [24 CFR §966.56(d)].

The hearing is conducted informally ~~must be conducted~~ by the hearing officer/panel. The PHA and the tenant must be given the opportunity to present oral or documentary evidence pertinent to the facts and issues raised by the complaint and question any witnesses. In general, all evidence is admissible and may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings [24 CFR §966.56(b), (d)].

#### **PHA Policy**

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence:

- **Oral evidence:** the testimony of witnesses
- **Documentary evidence:** a writing that is relevant to the case, for example, a letter written to the PHA. Writings include all forms of recorded communication or representation, including letters, emails, words, pictures, sounds, videotapes or symbols or combinations thereof.
- **Police Reports are documentary evidence and will take the place of an officer's presence at the informal hearing.**
- **Demonstrative evidence:** Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart, or other diagram.
- **Real evidence:** A tangible item relating directly to the case.

*Hearsay Evidence* is evidence based not on a witness' personal knowledge. In and of itself, hearsay evidence carries no weight when making a finding of fact. The hearing officer may include hearsay evidence when considering their decision if it is corroborated by other evidence. Even though hearsay evidence is generally admissible in a hearing, the hearing officer will not base a hearing decision on hearsay alone unless there is clear probative value and credibility of the evidence, and the party seeking the change has met the burden of proof.

If the PHA fails to comply with the discovery requirements (providing the tenant with the opportunity to examine PHA documents prior to the grievance hearing), the hearing officer will refuse to admit such evidence.

Other than the failure of the PHA to comply with discovery requirements, the hearing officer has the authority to overrule any objections to evidence.

PHA Policy

The hearing officer/panel must require the PHA, the complainant, counsel and other participants or spectators to conduct themselves in an orderly fashion. Failure to comply with the directions of the hearing officer/panel 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.

The complainant or the PHA may arrange, in advance and at the expense of the party making the arrangement, for a transcript of the hearing. Any interested party may purchase a copy of such transcript [24 CFR §966.56(e)].

PHA Policy

If the complainant would like the PHA to record the proceedings by audiotape, the request must be made to the PHA by 12:00 p.m. on the business day prior to the hearing.

The PHA will consider that an audio tape recording of the proceedings is a transcript.

***Accommodations of Persons with Disabilities [24 CFR §966.56(f)]***

The PHA must provide reasonable accommodation for persons with disabilities to participate in the hearing. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants.

If the tenant is visually impaired, any notice to the tenant, which is required in the grievance process, must be in an accessible format.

See Chapter 2 for a thorough discussion of the PHA's responsibilities pertaining to reasonable accommodation.

***Limited English Proficiency (LEP) (24 CFR §966.56(g))***

The PHA must comply with HUD's LEP Final Rule in providing language services throughout the grievance process.

**14-III.L. DECISION OF THE HEARING OFFICER/PANEL [24 CFR §966.57]**

The hearing officer/panel must issue a written decision, stating the reasons for the decision, within a reasonable time after the hearing. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the decision must be sent to the tenant and the PHA. The PHA must retain a copy of the decision in the tenant's folder. A log of all hearing officer decisions must also be maintained by the PHA and made available for inspection by a prospective complainant, their representative, or the hearing officer [24 CFR 966.57(a)].



~~A copy of the decision, with all names and identifying references deleted, must also be maintained on file by the PHA and made available for inspection by a prospective complainant, their representative, or the hearing officer/panel [24 CFR §966.57(a)].~~

#### PHA Policy

In rendering a decision, the hearing officer will consider the following matters:

- **PHA Notice to the Family:** The hearing officer will determine if the reasons for the PHA’s decision are factually stated in the notice.
- **Discovery:** The hearing officer will determine if the family was given the opportunity to examine any relevant documents in accordance with PHA policy.
- **PHA Evidence to Support the PHA Decision:** The evidence consists of the facts presented. Evidence is not conclusion, and it is not argument. The hearing officer will evaluate the facts to determine if they support the PHA’s conclusion.
- **Validity of Grounds for Termination of Tenancy (when applicable):** The hearing officer will determine if the termination of tenancy is for one of the grounds specified in the HUD regulations and PHA policies. If the grounds for termination are not specified in the regulations or in compliance with PHA policies, then the decision of the PHA will be overturned.

The hearing officer will issue a written decision to the family and the PHA no later than 10 business days after the hearing. ~~The PHA will provide a copy to the family.~~ The report will contain the following information:

- **Hearing Information:**
  - Name of the complainant
  - Date, time, and place of the hearing
  - Name of the hearing officer
  - Name of the PHA representative(s)
  - Name of family representative (if any)
  - Names of witnesses (if any)
- **Background:** A brief, impartial statement of the reason for the hearing and the date(s) on which the informal settlement was held, who held it, and a summary of the results of the informal settlement. Also includes the date the complainant requested the grievance hearing.
- **Summary of the Evidence:** The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of their testimony and that are admitted into evidence.

- **Findings of Fact:** The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which 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.
- **Conclusions:** The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the PHA's decision.
- **Order:** The hearing report will include a statement of whether the PHA's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the PHA to change the decision in accordance with the hearing officer's determination. In the case of termination of tenancy, the hearing officer will instruct the PHA to restore the family's status.

#### ***Procedures for Further Hearing***

##### PHA Policy

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of the PHA will take effect and another hearing will not be granted.

#### ***Final Decision [24 CFR §966.57(b)]***

The decision of the hearing officer/panel is binding on the PHA which must take the action, or refrain from taking the action cited in the decision unless the PHA Board of Commissioners determines within a reasonable time, and notifies the complainant that:

- The grievance does not concern PHA action or failure to act in accordance with or involving the complainant's lease on PHA policies which adversely affect the complainant's rights, duties, welfare, or status; or
- The decision of the hearing officer/panel is contrary to Federal, state, or local law, HUD regulations or requirements of the annual contributions contract between HUD and the PHA

##### PHA Policy

When the PHA considers the decision of the hearing officer to be invalid due to the reasons stated above, it will present the matter to the PHA Board of Commissioners within 10 business days of the date of the hearing officer's decision. The Board has 30 calendar days to consider the decision. If the Board decides to reverse the hearing officer's decision, it must notify the complainant within 10 business days of this decision.

A decision by the hearing officer/panel, or Board of Commissioners in favor of the PHA or which denies the relief requested by the complainant in whole or in part must not constitute a waiver of any rights, nor effect in any manner whatever, any rights the complainant may have to a subsequent trial or judicial review in court [24 CFR §966.57(c)].

#### **EXHIBIT 14-1: GRIEVANCE PROCEDURE**

**The sample procedure provided below is a sample only and is designed to match up with the default policies in the model ACOP. If your PHA has made further policy decisions after NMA has provided you with this chapter, you would need Definitions applicable to the grievance procedure [24 CFR 966.53].**

#### **I. Introduction**

Public housing tenants have the right to request a grievance hearing for any PHA action or failure to act in accordance with the tenant's lease.

Grievance procedures do not apply in the following circumstances:

- A. Disputes between tenants not involving the PHA or class grievances [24 CFR 966.51(b)].
- B. The grievance procedure is not intended as a forum for initiating or negotiating policy changes between a group or groups of tenants and the PHA's Board of Commissioners [24 CFR 966.51(b)].
- C. When the PHA is in a HUD-declared due process state, HUD allows the PHA to exclude from the PHA grievance procedure any grievance concerning a termination of tenancy or eviction that involves:
  - i. Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of the PHA;
  - ii. Any violent or drug-related criminal activity on or off such premises; or
  - iii. Any criminal activity that resulted in felony conviction of a household member [24 CFR 966.51(a)(2)].

## **II. Definitions [24 CFR 966.53]**

- A. Grievance:** Any dispute a tenant may have with respect to PHA action or failure to act in accordance with the individual tenant's lease or PHA regulations that adversely affects the individual tenant's rights, duties, welfare, or status.
- B. Complainant:** Any tenant (as defined below) whose grievance is presented to the PHA or at the project management office in accordance with the requirements presented in this procedure.
- C. Elements of due process:** An eviction action or a termination of tenancy in a state or local court in which the following procedural safeguards are required:
- i. Adequate notice to the tenant of the grounds for terminating the tenancy and for eviction**
  - ii. Right of the tenant to be represented by counsel**
  - iii. Opportunity for the tenant to refute the evidence presented by the PHA, including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense that the tenant may have**
  - iv. A decision on the merits of the case**
- D. Hearing officer:** An impartial person or persons selected by the PHA other than the person who made or approved the decision under review, or a subordinate of that person. Such individuals do not need legal training.
- E. Tenant:** The adult person (or persons other than a live-in aide) who resides in the unit and who executed the lease with the PHA as lessee of the dwelling unit, or if no such person now resides in the unit, the person who resides in the unit and is the remaining head of the household of the tenant family residing in the dwelling unit.
- F. Resident organization:** An organization of residents, which also may include a resident management corporation.

### **III. This grievance procedure [24 CFR 966.51]**

This grievance procedure is included by reference in all tenant dwelling leases and will be furnished to each tenant and all resident organizations [24 CFR 966.52 (b) and (d)].

Any changes proposed in this grievance procedure must provide for at least 30 days' notice to tenants and resident organizations, explaining the proposed changes and providing an opportunity to present written comments. Comments will be considered by the PHA before any revisions are made to the grievance procedure [24 CFR 966.52(c)].

### **IV. Informal settlement of a grievance [24 CFR 966.54]**

Any grievance request must be personally presented, either orally or in writing (including email), to the PHA's central office or the management office of the development in which the tenant resides within 10 days after the violation.

As soon as the grievance request is received, it will be reviewed by the PHA to ensure it meets the requirements for a grievance hearing. If the tenant is not entitled to a grievance, the PHA will notify the tenant that they may instead seek judicial review and the procedures for requesting such a review [24 CFR 966.4(l)(3)(i)(C)(v)(B)].

Otherwise, within 10 business days, the tenant will be contacted to arrange a mutually convenient time to meet so the grievance may be discussed and settled without a hearing. At the informal settlement, the tenant will present their grievance.

Within five business days following the informal settlement, the PHA will prepare and either hand deliver, mail, or email to the tenant a summary of the discussion. The summary will specify the names of the participants; the date of the meeting; the nature of the proposed resolution of the complaint, with specific reason(s); and will specify the procedures by which a formal hearing under this procedure may be obtained if the tenant is not satisfied [24 CFR 966.54]. A copy of this summary will also be placed in the tenant's file.

### **V. Requesting a formal grievance hearing**

If the tenant is not satisfied with the outcome of the informal settlement, the tenant must submit a written request for a hearing to the management office of the development where the tenant lives no later than five business days after receiving the summary of the informal settlement.

The written request must specify the reasons for the request and the action or relief sought from the PHA.

## **VI. Selecting the hearing officer**

A grievance hearing will be conducted by an impartial person appointed by the PHA as described below:

- A. The hearing officer will be appointed directly by the executive director.
- B. The hearing officer will be someone who did not make or approve the decision under review and who is not a subordinate of such persons [24 CFR 966.54(e)].
- C. The PHA's method for selecting a hearing officer will be included in the lease [24 CFR 966.54(e)].

## **VII. Scheduling hearings [24 CFR 966.56(a)]**

When a tenant submits a timely request for a grievance hearing, the PHA will immediately appoint an impartial hearing officer.

Once the hearing has been scheduled, the tenant will receive written notice of the hearing, sent by mail or email, return receipt requested.

Within 10 days of receiving the written request, the hearing will be scheduled. The tenant, PHA, and hearing officer will be notified in writing of the date, time and location of the hearing. If the hearing will be held remotely, the PHA will also include information on the remote hearing process.

The tenant may request to reschedule a hearing once. Should the tenant need to reschedule a second time, they may only do so for good cause, or if needed as a reasonable accommodation for a person with disabilities. *Good cause* is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family. Requests to reschedule a hearing must be made orally or in writing at least one day prior to the hearing date.

### **VIII. Procedures governing the hearing [24 CFR 966.56]**

The hearing will be held before a hearing officer as described above in Section VI. The tenant will be afforded a fair hearing, which will include:

- A. The opportunity to examine any PHA documents before the hearing, including records and regulations, that are directly relevant to the hearing.

The tenant must request to view and copy PHA documents relevant to the hearing by noon of the day before the hearing. The tenant is allowed to copy any such document at no cost to the tenant.

If the PHA does not make the document available for examination upon request by the tenant, the PHA may not rely on such document at the grievance hearing.

- B. The right to be represented by counsel or any other person chosen as the tenant's representative, at the tenant's expense, and to have such person make statements on the tenant's behalf.

- C. The right to a private hearing unless the tenant requests a public hearing.

- D. The right to present evidence and arguments in support of the tenant's complaint, to refute evidence relied on by the PHA or project management, and to confront and cross-examine all witnesses upon whose testimony or information the PHA or project management relies.

- E. A decision based solely and exclusively upon the facts presented at the hearing [24 CFR 966.56(b)].

The hearing is conducted informally by the hearing officer. The PHA and the tenant must be given the opportunity to present oral or documentary evidence that is relevant to the facts and issues raised, and to question any witnesses.

The hearing decision will be based on the preponderance of the evidence, defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

The tenant or the PHA may arrange in advance for a transcript or recording of the hearing at the expense of the party making the arrangement.

The PHA must provide reasonable accommodation for persons with disabilities to participate in the hearing. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants. If the tenant is visually impaired, any notice to the tenant that is required under this procedure must be in an accessible format [24 CFR 966.56(f)].

The PHA must comply with HUD's requirements regarding limited English proficiency (LEP). The tenant has the right to request competent oral interpretation, free of charge.

LEP requirements can be found at:

[https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/promotingfh/lep-faq](https://www.hud.gov/program_offices/fair_housing_equal_opp/promotingfh/lep-faq)



## **IX. Remote Hearings**

The PHA has the authority to require that hearings be conducted remotely in certain situations.

## **X. Failure to appear at the hearing**

If the tenant does not arrive within 15 minutes of the scheduled time, it will be considered a failure to appear, which means they have given up their right to a hearing.

Both the tenant and the PHA must be notified of the determination by the hearing officer. A determination that the tenant has waived their right to a hearing will not constitute a waiver of any right the tenant may have to contest the PHA's disposition of the grievance in an appropriate judicial setting [24 CFR 966.56(c)].

## **XI. Decision of the hearing officer [24 CFR 966.57]**

The hearing officer will prepare a written decision together with the reasons for the decision within 10 business days after the hearing. A copy of the decision will be sent to the tenant and the PHA.

The PHA will retain a copy of the decision in the tenant's file.

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date before reaching a decision. If the family misses a deadline ordered by the hearing officer, the hearing officer will make a decision based on the evidence presented.

The decision of the hearing officer will be binding on the PHA unless the PHA's Board of Commissioners determines within a reasonable time and notifies the tenant of its determination that:

- A. The grievance does not concern PHA action or failure to act in accordance with or involving the tenant's lease or PHA regulations, which adversely affect the tenant's rights, duties, welfare, or status; or
- B. The decision of the hearing officer is contrary to applicable federal, state, or local law, HUD regulations, or requirements of the annual contributions contract (ACC) between HUD and the PHA.

When the PHA considers the decision of the hearing officer to be invalid for either of the reasons stated above, it will present the matter to the PHA Board of Commissioners within 10 business days of the date of the hearing officer's decision. The Board will have 30 calendar days to consider the decision. If the Board decides to reverse the hearing officer's decision, it must notify the tenant within 10 business days of this decision.

A decision by the hearing officer or Board of Commissioners in favor of the PHA or which denies the relief requested by the tenant, in whole or in part, will not constitute a

waiver of nor affect in any way the tenant's right to a trial or judicial review in any court proceedings, which may be brought in the matter later [24 CFR 966.57].

## Chapter 15

### PROGRAM INTEGRITY

#### INTRODUCTION

The PHA is committed to ensuring that funds made available to the PHA are spent in accordance with HUD requirements.

This chapter covers HUD and PHA policies designed to prevent, detect, investigate, and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

**Part I: Preventing, Detecting, and Investigating Errors and Program Abuse.** This part presents PHA policies related to preventing, detecting, and investigating errors and program abuse.

**Part II: Corrective Measures and Penalties.** This part describes the corrective measures the PHA must and may take when errors or program abuses are found.

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## PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

### 15-I.A. PREVENTING ERRORS AND PROGRAM ABUSE

HUD created the Enterprise Income Verification (EIV) system to provide PHAs with a powerful tool for preventing errors and program abuse. PHAs are required to use the EIV system ~~in its entirety~~ at annual reexamination in accordance with HUD administrative guidance [24 CFR §5.233]. PHAs are further required to:

- Provide applicants and residents with form HUD-52675, “Debts Owed to PHAs and Terminations”
- Require all adult members of an applicant or participant family to acknowledge receipt of form HUD-52675 by signing a copy of the form for retention in the family file

#### PHA Policy

The PHA anticipates that the vast majority of families and PHA employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure that the PHA’s program is administered effectively and according to the highest ethical and legal standards, the PHA will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

- The PHA will provide each applicant and resident with a copy of “Is Fraud Worth It?” (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse.
- The PHA will provide each applicant and resident with a copy of “What You Should Know about EIV,” a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12. In addition, the PHA will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.
- The PHA will require mandatory orientation sessions for all prospective residents either prior to or upon execution of the lease. The PHA will discuss program compliance and integrity issues. At the conclusion of all program orientation sessions, the family representative will be required to sign a program briefing certificate to confirm that all rules and pertinent regulations were explained to them.
- The PHA will routinely provide resident counseling as part of every reexamination interview in order to clarify any confusion pertaining to program rules and requirements.

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- PHA staff will be required to review and explain the contents of all HUD- and PHA-required forms prior to requesting family member signatures.
- The PHA will place a warning statement about the penalties for fraud (as described in 18 U.S.C. 1001 and 1010+9) on key PHA forms and form letters that request information from a family member.
- The PHA will provide each PHA employee with the necessary training on program rules and the organization's standards of conduct and ethics.
- At every regular reexamination the PHA staff will explain any changes in HUD regulations or PHA policy that affect residents.

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For purposes of this chapter the term *error* refers to an unintentional error or omission. *Program abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive, or mislead.

#### 15-I.B. DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, the PHA will use a variety of activities to detect errors and program abuse.

##### *Quality Control and Analysis of Data*

###### PHA Policy

The PHA will employ a variety of methods to detect errors and program abuse, including:

- The PHA routinely will use EIV and other non-HUD sources of up-front income verification. This includes the Work Number and any other private or public databases available to the PHA.
- At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.
- The PHA will compare family-reported income and expenditures to detect possible unreported income.

##### *Independent Audits and HUD Monitoring*

Notice PIH 2015-16 requires all PHAs that expend \$750,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of PHA activities and notifies the PHA of errors and potential cases of program abuse.

###### PHA Policy

The PHA will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of the PHA's error detection and abuse prevention efforts.

#### ***Individual Reporting of Possible Errors and Program Abuse***

##### **PHA Policy**

The PHA will encourage staff, residents, and the public to report possible program abuse.

### **15-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE**

#### ***When the PHA Will Investigate***

##### **PHA Policy**

The PHA will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for the PHA to investigate, the allegation must contain at least one independently verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

The PHA will investigate when inconsistent or contradictory information is detected through file reviews and the verification process.

#### ***Consent to Release of Information [24 CFR §960.259]***

The PHA may investigate possible instances of error or abuse using all available PHA and public records. If necessary, the PHA will require families to sign consent forms for the release of additional information.

#### ***Analysis and Findings***

##### **PHA Policy**

The PHA will base its evaluation on a preponderance of the evidence collected during its investigation.

*Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence that as a whole shows that the fact sought to be proved is more probable than not. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

For each investigation the PHA will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed the PHA, and (3) what corrective measures or penalties will be assessed.

### ***Consideration of Remedies***

All errors and instances of program abuse must be corrected prospectively. Whether the PHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

#### **PHA Policy**

In the case of family-caused errors or program abuse, the PHA will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, (4) the effects of a particular remedy on family members who were not involved in the offense.

### ***Notice and Appeals***

#### **PHA Policy**

The PHA will inform the relevant party in writing of its findings and remedies within 10 business days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which the PHA determined the error or program abuses, (3) the remedies to be employed, and (4) the family's right to appeal the results through an informal hearing or grievance hearing (see Chapter 14).

## **PART II: CORRECTIVE MEASURES AND PENALTIES**

### **15-II.A. UNDER- OR OVERPAYMENT**

An under- or overpayment includes an incorrect tenant rent payment by the family, or an incorrect utility reimbursement to a family.

#### ***Corrections***

Whether the incorrect rental determination is an overpayment or underpayment, the PHA must promptly correct the tenant rent and any utility reimbursement prospectively.

##### **PHA Policy**

Increases in the tenant rent will be implemented on the first of the month following a written 30-day notice.

Any decreases in tenant rent will become effective the first of the month following the discovery of the error.

#### ***Reimbursement***

Whether the family is required to reimburse the PHA or the PHA is required to reimburse the family depends upon which party is responsible for the incorrect payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

### **15-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE**

General administrative requirements for participating in the program are discussed throughout the ACOP. This section deals specifically with errors and program abuse by family members.

An incorrect rent determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows the PHA to use incorrect information provided by a third party.

#### ***Family Reimbursement to PHA***

##### **PHA Policy**

In the case of family-caused errors or program abuse, the family will be required to repay any amounts of rent underpaid. The PHA may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the amount owed, the PHA will terminate the family's lease in accordance with the policies in Chapter 13.



### ***PHA Reimbursement to Family***

#### **PHA Policy**

The PHA will not reimburse the family for any overpayment of rent when the overpayment clearly is caused by the family.

### ***Prohibited Actions***

An applicant or resident in the public housing program must not knowingly:

- Make a false statement to the PHA [Title 18 U.S.C. Section 1001].
- Provide incomplete or false information to the PHA [24 CFR §960.259(a)(4)].
- Commit fraud or make false statements in connection with an application for assistance or with reexamination of income [24 CFR §966.4(l)(2)(iii)(C)].

#### **PHA Policy**

Any of the following will be considered evidence of family program abuse:

- Offering bribes or illegal gratuities to the PHA Board of Commissioners, employees, contractors, or other PHA representatives
- Offering payments or other incentives to a third party as an inducement for the third party to make false or misleading statements to the PHA on the family's behalf
- Use of a false name or the use of falsified, forged, or altered documents
- Intentional misreporting of family information or circumstances (e.g., misreporting of income or family composition)
- Omitted facts that were obviously known by a family member (e.g., not reporting employment income)
- Admission of program abuse by an adult family member

The PHA may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

### ***Penalties for Program Abuse***

In the case of program abuse caused by a family the PHA may, at its discretion, impose any of the following remedies.

- The PHA may require the family to repay any amounts owed to the program (see Section 15-II.B., Family Reimbursement to PHA).

- The PHA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 13 (for residents).
- The PHA may deny admission or terminate the family's lease following the policies set forth in Chapter 3 and Chapter 13 respectively.
- The PHA may refer the family for state or federal criminal prosecution as described in section 15-II.D.

## **15-II.C. PHA-CAUSED ERRORS OR PROGRAM ABUSE**

The responsibilities and expectations of PHA staff with respect to normal program administration are discussed throughout the ACOP. This section specifically addresses actions of a PHA staff member that are considered errors or program abuse related to the public housing program. Additional standards of conduct may be provided in the PHA personnel policy.

PHA-caused incorrect rental determinations include (1) failing to correctly apply public housing rules regarding family composition, income, assets, and expenses, and (2) errors in calculation.

### **De Minimis Errors [24 CFR 5.609(c)(4); Notice PIH 2023-27]**

The PHA will not be considered out of compliance when making annual income determinations solely due to de minimis errors in calculating family income. 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.

PHAs must take corrective action to credit or repay a family if the family was overcharged rent, including when PHAs make de minimis errors in the income determination. Families will not be required to repay the PHA in instances where the PHA miscalculated income resulting in a family being undercharged for rent. PHAs state in their policies how they will repay or credit a family the amount they were overcharged as a result of the PHA's de minimis error in income determination.

#### PHA Policy

The PHA will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff-caused error, staff program abuse, or a de minimis error.

### ***Repayment to the PHA***

~~The family is not required to repay an underpayment of rent if the error or program abuse is caused by PHA staff.~~

### ***PHA Reimbursement to Family***

#### PHA Policy

~~The PHA will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff caused error or staff program abuse.~~

### ***Prohibited Activities***

#### PHA Policy

Any of the following will be considered evidence of program abuse by PHA staff:

- Failing to comply with any public housing program requirements for personal gain
- Failing to comply with any public housing program requirements as a result of a conflict-of-interest relationship with any applicant or resident
- Seeking or accepting anything of material value from applicants, residents, vendors, contractors, or other persons who provide services or materials to the PHA
- Disclosing confidential or proprietary information to outside parties
- Gaining profit as a result of insider knowledge of PHA activities, policies, or practices
- Misappropriating or misusing public housing funds
- Destroying, concealing, removing, or inappropriately using any records related to the public housing program
- Committing any other corrupt or criminal act in connection with any federal housing program
- Committing sexual harassment or other harassment based on race, color, religion, national origin, familial status, disability, sexual orientation, or gender identity, either quid pro quo (supervisory harassment) or hostile environment
- Allowing sexual harassment or other harassment based on race, color, religion, national origin, familial status, disability, sexual orientation, or gender identity, either quid pro quo (supervisory harassment) or hostile environment, where the PHA knew or should have known such harassment was occurring
- Retaliating against any applicant, resident, or staff reporting sexual harassment or other harassment based on race, color, religion, national origin, familial status, disability, sexual orientation, or gender identity, either quid pro quo (supervisory harassment) or hostile environment

## 15-IL.D. CRIMINAL PROSECUTION

### PHA Policy

When the PHA determines that program abuse by a family or PHA staff member has occurred and the amount of underpaid rent meets or exceeds the threshold for prosecution under local or state law, the PHA will refer the matter to the appropriate entity for prosecution. When the amount of underpaid rent meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the public housing program will be referred to the appropriate local, state, or federal entity.

Criminal violations related to the HCV program will be referred to the appropriate local, state, or federal entity.

In determining prosecution, the City of Chandler Housing and Redevelopment Division will examine each case by case using a three-prong approach. The three-prong approach is as follows:

- 1) Loss
- 2) Criminal intent that is it egregious
- 3) Extenuating Circumstances. The City of Chandler reserves the right to terminate assistance in high profile or violent crime cases.

## 15-IL.E. FRAUD AND PROGRAM ABUSE RECOVERIES

PHAs who enter into a repayment agreement with a family to collect rent owed, initiate litigation against the family to recover rent owed, or begin eviction proceedings against a family may retain 100 percent of program funds that the PHA recovers [Notice PIH 2007-27 (HA)].

If the PHA does none of the above, all amounts that constitute an underpayment of rent must be returned to HUD.

The family must be afforded the opportunity for a hearing through the PHA's grievance process.

## Chapter 16

### PROGRAM ADMINISTRATION

#### INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this ACOP. The policies are discussed in seven parts as described below:

**Part I: Setting Utility Allowances.** This part describes how utility allowances are established and revised. Also discussed are the requirements to establish surcharges for excess consumption of PHA-furnished utilities.

**Part II: Establishing Flat Rents and Public Housing Maximum Rents.** This part describes the requirements and policies related to establishing and updating flat rent amounts and public housing maximum rents.

**Part III: Repayment of Family Debts.** This part contains policies for recovery of monies that have been underpaid by families and describes the circumstances under which the PHA will offer repayment agreements to families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

**Part IV: Public Housing Assessment System (PHAS).** This part describes the PHAS indicators, how PHAs are scored under PHAS, and how those scores affect a PHA.

**Part V: Record-Keeping.** All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies the PHA will follow.

**Part VI: Reporting and Record Keeping for Children with Elevated Blood Lead Level.** This part describes the PHA's reporting responsibilities related to children with elevated blood lead levels that are living in public housing.

**Part VII: Violence against Women Act (VAWA): Notification, Documentation, and Confidentiality.** This part contains key terms used in VAWA and describes requirements related to notifying families about their rights and responsibilities under VAWA; requesting documentation from victims of domestic violence, dating violence, sexual assault, ~~and~~ stalking; and human trafficking; and maintaining the confidentiality of information obtained from victims.

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## **PART I: SETTING UTILITY ALLOWANCES**

### **[24 CFR §965 Subpart E]**

#### **16-I.A. OVERVIEW**

PHAs must establish allowances for PHA-furnished utilities for all check metered utilities and for resident-purchased utilities for all utilities purchased directly by residents from a utility supplier [24 CFR §965.502(a)].

PHAs must also establish surcharges for excess consumption of PHA-furnished utilities [24 CFR §965.506].

The PHA must maintain a record that documents the basis on which utility allowances and scheduled surcharges are established and revised, and the record must be made available for inspection by residents [24 CFR §965.502(b)].

#### **16-I.B UTILITY ALLOWANCES**

The PHA must establish separate allowances for each utility and for each category of dwelling units the PHA determines to be reasonably comparable as to factors affecting utility usage [24 CFR §965.503].

The objective of a PHA in establishing utility allowances for each dwelling unit category and unit size is to approximate a reasonable consumption of utilities by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment [24 CFR §965.505].

Utilities include gas, electricity, fuel for heating, water, sewerage, and solid waste disposal for a dwelling unit. In addition, if the PHA does not furnish a range and refrigerator, the family must be granted a utility allowance for the range and refrigerator they provide [24 CFR §965.505].

Costs for telephone, cable/satellite TV, and internet services are not considered utilities [PH Occ GB, p. 138].

Utility allowance amounts will vary by the rates in effect, size and type of unit, climatic location and siting of the unit, type of construction, energy efficiency of the dwelling unit, and other factors related to the physical condition of the unit. Utility allowance amounts will also vary by residential demographic characteristics affecting home energy usage [PH Occ GB, p. 138].

Chapter 14 of the *PH Occupancy Guidebook* provides detailed guidance to the PHA about establishing utility allowances.

### ***Air-Conditioning***

“If a PHA installs air conditioning, it shall provide, to the maximum extent economically feasible, systems that give residents the option of choosing to use air conditioning in their units.

The design of systems that offer each resident the option to choose air conditioning shall include retail meters or check meters, and residents shall pay for the energy used in its operation. For systems that offer residents the option to choose air conditioning but cannot be check metered, residents are to be surcharged in accordance with 965.506. If an air conditioning system does not provide for resident option, residents are not to be charged, and these systems should be avoided whenever possible.” [24 CFR §965.505(e)].

#### **PHA Policy**

The PHA has installed air-conditioning.

#### **PHA Policy**

The United States Department of Housing and Urban Development (HUD) does not generally allow Housing Authorities to include air conditioning as a part of the utility allowance for Public Housing. Per 24 CFR §965.508 (Individual Relief), Public Housing Authorities may provide relief to resident purchased utilities on reasonable grounds. Housing staff and the Public Housing Authority Commission have determined that in Chandler, Arizona, the desert climate meets the ‘special factors’ criteria of a ‘health and safety’ (healthy living environment) and therefore grants relief to the residents by providing Public Housing residents with a reasonable air conditioning utility allowance. Every resident who signs a Public Housing Lease Agreement is deemed qualified and therefore request an air conditioning utility allowance.

### ***Utility Allowance Revisions [24 CFR §965.507]***

The PHA must review at least annually the basis on which utility allowances have been established and must revise the allowances, if necessary, in order to adhere to the standards for establishing utility allowances that are contained in 24 CFR §965.505.

The review must include all changes in circumstances (including completion of modernization and/or other energy conservation measures implemented by the PHA) indicating probability of a significant change in reasonable requirements and changes in utility rates [24 CFR §965.507(a)].

The PHA must revise its allowances for resident-purchased utilities between annual reviews if there is a rate change, and is required to do so if such change, by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rate on which the allowance was based NEW PH OCC GB, 4.1, Other Requirements for Resident-Paid Utilities and Utility Allowances .]

Adjustments to resident payments as a result of such changes must be retroactive to the first day of the month following the month in which the last rate change taken into account became effective. Such rate changes are not subject to the 60-day notice [24 CFR §965.507(b)].

PHA Policy

Between annual reviews of utility allowances, the PHA will only revise its utility allowances due to a rate change, when required to by the regulation.

**16-I.C. SURCHARGES FOR PHA-FURNISHED UTILITIES [24 CFR §965.506]**

For dwelling units subject to allowances for PHA-furnished utilities where check meters have been installed, the PHA must establish surcharges for utility consumption in excess of the allowances. Surcharges may be computed on a straight per unit of purchase basis or for stated blocks of excess consumption and must be based on the PHA's average utility rate. The basis for calculating the surcharges must be described in the PHA's schedule of allowances. Changes in the amount of surcharges based directly on changes in the PHA's average utility rate are not subject to the advance notice requirements discussed under 16-I.D.

For dwelling units served by PHA-furnished utilities where check meters have not been installed, the PHA must establish schedules of surcharges indicating additional dollar amounts residents will be required to pay by reason of estimated utility consumption attributable to resident-owned major appliances or to optional functions of PHA-furnished equipment. The surcharge schedule must state the resident-owned equipment (or functions of PHA-furnished equipment) for which surcharges will be made and the amounts of such charges. Surcharges must be based on the cost to the PHA of the utility consumption estimated to be attributable to reasonable usage of such equipment.

PHA Policy

The PHA does have PHA-furnished utilities (water only for family sites).

**16-I.D. NOTICE REQUIREMENTS [24 CFR §965.502]**

The PHA must give notice to all residents of proposed allowances and scheduled surcharges, and revisions thereof. The notice must be given in the manner provided in the lease and must:

- Be provided at least 60 days before the proposed effective date of the allowances, scheduled surcharges, or revisions.
- Describe the basis for determination of the allowances, scheduled surcharges, or revisions, including a statement of the specific items of equipment and function whose utility consumption requirements were included in determining the amounts of the allowances and schedule of surcharges.
- Notify residents of the place where the PHA's documentation on which allowances and surcharges are based is available for inspection.



- Provide all residents an opportunity to submit written comments during a period expiring not less than 30 days before the proposed effective date of the allowances, scheduled surcharges, or revisions.

#### **16-I.E. REASONABLE ACCOMMODATION AND INDIVIDUAL RELIEF [24 CFR §965.508]**

On request from a family, PHAs must approve a utility allowance that is higher than the applicable amount for the dwelling unit if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family with a disability [24 CFR 8 and 100, PH Occ GB, p. 172].

~~On request from a family that includes a disabled or elderly person, the PHA must 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 in accordance with 24 CFR Part 8 to make the program accessible to and usable by the family with a disability [24 CFR §965.508; PH OCC GB, 14.5 Reasonable Accommodation of Residents With Disabilities] (See 6 III.C)~~

Likewise, residents with disabilities may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability [24 CFR 8 and 100, PH Occ GB, p. 172]~~PH OCC GB, 14.5 Reasonable Accommodation of Residents With Disabilities]~~.

See Chapter 2 for policies regarding the request and approval of reasonable accommodations.

Further, the PHA may grant requests for relief from charges in excess of the utility allowance on reasonable grounds, such as special needs of the elderly, ill, or residents with disabilities, or special factors not within control of the resident, as the PHA deems appropriate. The family must request the higher allowance and provide the PHA with information ~~an explanation~~ about the additional allowance required.

PHAs should develop criteria for granting individual relief and to ~~to~~ notify residents about the availability of individual relief, and also to notify participants about the availability of individual relief programs (sometimes referred to as “Medical Baseline discounts”) offered by the local utility company [24 CFR §965.508]. (See also Chp 6 III.C. Utility Allowances GB, p. 19. 24 CFR 965.508 Reasonable Accommodation.)]

## PART II: ESTABLISHING FLAT RENTS

### 16-II.A. OVERVIEW

Flat rents are designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient.

Flat rents are also used to prorate assistance for a mixed family. A mixed family is one whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigrations status [24 CFR §5.504].

This part discusses how the PHA establishes and updates flat rents. Policies related to the use of flat rents, family choice of rent, flat rent hardships, and proration of rent for a mixed family are discussed in Chapter 6.

### 16-II.B. FLAT RENTS [24 CFR §960.253(B) AND NOTICE PIH 2022-33~~27~~]

#### *Establishing Flat Rents*

The 2015 Appropriations Act requires that flat rents must be set at no less than 80 percent of the applicable fair market rent (FMR). Alternatively, the PHA may set flat rents at no less than 80 percent of the applicable small area FMR(SAFMR) for metropolitan areas, or 80 percent of the applicable unadjusted rents for nonmetropolitan areas.

For areas where HUD has not determined a SAFMR or an unadjusted rent, PHAs must set flat rents at no less than 80 percent of the FMR or apply for an exception flat rent.

The 2015 Appropriations Act permits PHAs to apply for an exception flat rent that is lower than either 80 percent of the FMR or SAFMR/unadjusted rent if the PHA can demonstrate, through the submission of a market analysis, that these FMRs do not reflect the market value of a particular property or unit and HUD agrees with the PHA's analysis. The market analysis must be submitted using form HUD-5880, "Flat Rent Market Analysis Summary."

PHAs must receive written HUD approval before implementing exception flat rents. PHAs with a previously approved flat rent exception request may submit a written request to extend the approved flat rents for up to two additional years, provided local market conditions remain unchanged. Detailed information on how to request exception flat rents can be found in Notice PIH 2022-33.

PHAs are now required to apply a utility allowance to flat rents as necessary. Flat rents set at 80 percent of the FMR must be reduced by the amount of the unit's utility allowance, if any.

~~The FY 2014 Appropriations Act required PHAs to establish flat rents at no less than 80 percent of the applicable Fair Market Rent (FMR), and established rent increase phase in requirements 2 to prevent family rental payments from increasing by more than 35 percent.~~

~~The FY 2015 Appropriations Act (Act) maintained the FY 2014 rent increase phase in requirements and amended the 2014 Act to require that flat rents be set at no less than the lower of:~~

- ~~1. . 80 percent of the applicable FMR established under Section 8(c) of this Act; or~~
- ~~2. —At the discretion of the Secretary, 80 percent 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 under Section 8(c) of this Act (such as the applicable Small Area Fair Market Rent (SAFMR) or unadjusted rent).~~

~~For some areas for which HUD does not publish a SAFMR, HUD will permit PHAs to use 80 percent of the unadjusted rent to satisfy Option 2, which HUD will publish annually on its website.~~

~~If a PHA does not believe the 80 percent FMR is reflective of its local market conditions (flat rent setting Option 1), it may use a HUD established FMR that is based on an area geographically smaller than the effective FMR published in the Federal Register to determine the minimum flat rent amount (flat rent setting Option 2).~~

PHA Policy

~~COCHRD will use the published FMRs only to determine annual flat rents.~~

**Review of Flat Rents**

No later than 90 days after the effective date of the new annual FMRs/SAFMRs/unadjusted rent, PHAs must implement new flat rents as necessary based changes to the FMR/SAFMR/unadjusted rent or request an exception.

If the FMR falls from year to year, the PHA may, but is not required to, lower the flat rent to 80 percent of the current FMR/SAFMR/unadjusted rent.

PHA Policy

If the FMR/SAFMR/unadjusted rent is lower than the previous year, the PHA will reduce flat rents to 80 percent of the current FMR/SAFMR.

**Applying Flat Rents**

PHA Policy

The PHA will apply updated flat rents at each family's next annual reexamination or flat rent update after implementation of the new flat rents.

#### **Posting of Flat Rents**

##### PHA Policy

The PHA will publicly post the schedule of flat rents in a conspicuous manner in the applicable PHA or project office.

#### **Documentation of Flat Rents [24 CFR 960.253(b)(5)]**

The PHA must maintain records that document the method used to determine flat rents, and that show how flat rents were determined by the PHA in accordance with this method.

### ***Exception Flat Rents***

HUD only requires flat rent exception requests when PHAs are setting flat rents at an amount that is lower than the lesser of the following (less utility allowances, if applicable):

1. 80 percent of the FMR, or
2. 80 percent of the SAFMR (or if a SAFMR is not available, 80 percent of the unadjusted rent).

PHAs do not need to submit exception requests to set flat rents at or above 80 percent of the FMR or SAFMR, or if the SAFMR is not available, 80 percent of the unadjusted rent.

**The flat rent exception request process** is for a PHA that wishes to base its flat rents on specific market conditions supported by a market analysis.

PHAs do not need to submit a request to HUD in order to use the FMR, SAFMR, or unadjusted rent to set flat rents in accordance with Sections 3 and 4 of this Notice.

However, PHAs are encouraged to maintain the justification locally for all flat rent amounts. If the flat rent amount is set above 80% of the FMR, PHAs are encouraged to maintain whatever records are appropriate documenting their rent levels.

A market analysis must be submitted using HUD Form 5880 “Flat Rent Market Analysis Summary”, which can be accessed at <https://www.hud.gov/sites/dfiles/OCHCO/documents/5880.xlsx>. Training for how to use the tool can be accessed at <https://youtu.be/jpGUiepzVTM>.

All requirements for submitting a Flat Rent Exception request are found in PIH Notice 2021-27, Section 5.

PHAs must receive written HUD approval before implementing exception flat rents. Until such a determination has been received, the PHA should continue to use its current flat rent schedule.

PHAs with a previously approved flat rent exception request may request an extension of this approval under specific circumstance, which can be found in PIH Notice 2021-27.

### ***HUD will not approve extension requests that include changes or additions to previously approved exception flat rents. FMR's and Utility Payments [PIH 2021-27]***

FMRs are gross rent estimates that cover the rent plus the cost of all necessary utilities regardless of who actually pays the utilities.

Although the inclusion of utilities in the FMR is an accurate estimate of the cost of renting a unit in a particular area, their inclusion for purposes of setting Public Housing flat rents may

lead to families paying more in gross rent if the rent is not adjusted to reflect any utility allowance (UA) that are the family's responsibility.

To address this issue when establishing flat rents, PHAs must consider who is responsible for direct utility payments to the utility company and provide for a utility allowance as necessary. Such utility allowances must be established consistent with the requirements of 24 CFR §960.253(b)(4) and 24 CFR §965, Subpart E.

**Flat rents are always inclusive of utilities.** *In the case of a flat rent set using the FMR, utilities should be subtracted before setting the rent.*

**The formula to calculate an FMR-based flat rent is:**

$$(\text{FMR [or SAFMR, Unadjusted Rent (UR) as applicable]} \times 80\%) - \text{Utility Allowance (UA)} = \text{Flat Rent.}$$

**PHA Policy**

When analyzing flat rents, COCHRD will calculate 80 percent of the FMR, then subtract the UA. The result is the final Flat Rent.

Housing Specialists will then include the amount for any applicable UA into the rent calculation portion of the annual reexamination.

If a 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.

For example, if a PHA has a flat rent of \$500 per month and a utility allowance for that size unit is \$75, then:

- A. The FMR based flat rent would be \$500 (FMR x 80%), minus the utility allowance (\$500 - \$75), resulting in the final flat rent amount of \$425.
- B. Or, if a market study is used, the flat rent derived from a market study would be \$500.

***Flat Rent Policies***

***Review of Flat Rents***

1. No later than 90 days after the effective date of new FMRs/SAFMRs/unadjusted rent that are published by HUD, PHAs must revise flat rents as necessary based on changes to the HUD published FMRs/SAFMRs/unadjusted rent.
2. Using the formula above to calculate an FMR-based flat rent, compare the current flat rent amount to the applicable FMR and SAFMR/unadjusted rent. If the PHA is in compliance with this law, no further steps are necessary.

- a) ~~If the flat rent is at least equal to the lower of:~~
- i. ~~80 percent of the FMR, or~~
  - ii. ~~80 percent of the SAFMR (or if no SAFMR is available, 80 percent of unadjusted rent).~~
- b) ~~If the current flat rent is less than the lower of either option above, the PHA must set flat rents at no less than 80 percent of the lower of the 80 percent FMR or 80 percent SAFMR/80 percent unadjusted rent, subject to the utilities adjustment in Section 6 of this Notice, or the PHA may request an exception flat rent pursuant to the requirements of Section 5 of this Notice:~~

~~PHA Policy~~

~~COCHRD will adjust the flat rents annually based on the HUD published FMR for each bedroom size.~~

***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 percent 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 percent.~~

~~In order to determine how to phase in increases in rental payments, on a case-by-case basis at the family's next annual rent option, PHA must:~~

- ~~Compare the updated flat rent amount for the unit size to the rent that was being paid by the family:~~
  - ~~— If the new flat rent amount would not increase a family's rental payment by more than 35 percent, the family may choose to pay either the updated flat rent amount or the previously calculated income-based rent;~~
  - ~~— If the PHA determines that the updated flat rent amount would increase a household's rental payment by more than 35 percent, the family may choose to pay—~~
    - ▲ ~~the phased-in flat rent amount, determined by the flat rent impact analysis;~~
    - ▲ ~~or the previously calculated income-based rent.~~

~~PHA Policy~~

~~COCHRD will compare the newly updated flat rent amount for the unit size/location, to the rent amount being paid by the family at the time of the annual reexamination (either based on last year's flat rent or income-based rent).~~

COCHRD will follow the steps above to determine both, the new flat rent amount, and an income-based rent amount for the family, allowing them to make an informed decision regarding the monthly rental amount.

**Example—Flat Rent Increase Does Not Require Phase In—**

Gordon family is currently paying a flat rent of \$350 per month, instead of an income-based rent of \$500. During the annual reexamination meeting, the PHA informs the family that the flat rent has increased to \$450 per month. Because the increase in the flat rent amount does not represent an increase of more than 35 percent from the Gordon's previous rental payment amount, they have the option to pay the new flat rent amount of \$450 or pay the income-based rent of \$500. The Gordon family chooses to pay the new flat rent amount of \$450. Initial Flat Rent: \$350 New Flat Rent: \$450

**Family Rent Increase Impact Analysis—**

Initial Household Rent (HR)	Impact Analysis ( $HR \times 1.35$ )	New Flat Rent amount	Income-Based Rent	New Household Rent
\$350	\$472.50	\$450	\$500	\$450

**Example—Flat Rent Increase Requires Phase In—**

The Jones family is currently paying the flat rent amount of \$500 per month. When the Jones family meets with the PHA to discuss rent options, the PHA tells the family that the flat rent amount has increased to \$700. However, the PHA tells the family that the family's flat rent payment would only increase to \$675 because flat rent changes must be phased in as necessary to ensure that the family's existing rental payment does not increase by 35 percent or more annually. The family has the option to pay either the \$675 per month, or an income-based rent of \$800 per month based on the most recent examination of the Jones' family income. The Jones family chooses to pay the flat rent amount of \$675.

Initial Household Rent: \$500

New Flat Rent: \$700

New Household Rent: \$675

At the next annual rent option meeting between the Jones family and the PHA, the PHA informs the Jones family that the flat rent amount has increased to \$750 per month due to an increase in the FMR. Because the new flat rent amount represents less than a 35 percent increase from the previous rental payment, the Jones family has the option to pay the new flat rent amount of \$750 or the income-based rent amount of \$800 based on the most recent examination of family income and composition. The Jones family chooses to pay the new flat rent amount of \$750.

Initial Household Rent: \$675



New Flat Rent: \$750

New Household Rent: \$750

**Family Rent Increase Impact Analysis:**

Year	Initial Household Rent (HR)	New Flat Rent Amount	Impact Analysis (HR x 1.35)	Income-Based Rent	New Household Rent
1	\$500	\$700	\$675	\$800	\$675
2	\$675	\$750	\$911.25	\$800	\$750

***Posting of Flat Rents***

PHA Policy

The PHA will publicly post the schedule of flat rents in a conspicuous manner in the applicable PHA or project office.

***Applying Flat Rents***

PHA Policy

The PHA will apply updated flat rents at each family's next annual reexamination or flat rent update after implementation of the new flat rents.

***Documentation of Flat Rents [24 CFR §960.253(b)(5)]***

The PHA must maintain records that document the method used to determine flat rents, and that show how flat rents were determined by the PHA in accordance with this method.

## PART III: FAMILY DEBTS TO THE PHA

### 16-III.A. OVERVIEW

Families are required to reimburse the PHA if they were charged less rent than required because the family either underreported or failed to report income. PHAs are required to determine retroactive rent amounts as far back as the PHA has documentation of family unreported income [Notice PIH 2018-18].

This part describes the PHA's policies for recovery of monies owed to the PHA by families.

#### PHA Policy

When an action or inaction of a resident family results in the underpayment of rent or other amounts, the PHA holds the family liable to return any underpayments to the PHA.

The PHA will enter into repayment agreements in accordance with the policies contained in this part as a means to recover underpayments~~overpayments~~.

~~When a family refuses to repay monies owed to the PHA, the PHA will utilize other available collection alternatives including, but not limited to, the following:~~

- ~~• Collection agencies~~
- ~~• Small claims court~~
- ~~• Civil lawsuit~~
- ~~• State income tax set-off program~~
- ~~• Termination of assistance for refusal to repay funds owed to a PHA (see also 13-III.D, Repayment of Family Debts; 15-II.B, Family Reimbursement to PHA)~~

### 16-III.B. REPAYMENT POLICY

#### *Family Debts to the PHA*

#### PHA Policy

Any amount owed to the PHA by a public housing family must be repaid. If the family is unable to repay the debt within 30 days, the PHA will offer to enter into a repayment agreement in accordance with the policies below.

~~If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the PHA will terminate the family's tenancy in accordance with the policies in Chapter 13. The PHA will also pursue other modes of collection.~~

### **Refusal to Enter into An Agreement**

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the PHA will terminate the family's tenancy.

#### PHA Policy

When a family refuses to repay monies owed to the PHA, in addition to termination of program assistance, the PHA will utilize other available collection alternatives including, but not limited to, the following:

Collection agencies

Small claims court

Civil lawsuit

State income tax set-off program

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### ***Repayment Agreement [24 CFR §792.103]***

The term *repayment agreement* refers to a formal written document signed by a tenant or owner and provided to the PHA in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

### ***General Repayment Agreement Guidelines***

#### **Down Payment Requirement**

##### PHA Policy

Before executing a repayment agreement with a family, the PHA will generally require a down payment of 10 percent of the total amount owed. If the family can provide evidence satisfactory to the PHA that a down payment of 10 percent would impose an undue hardship, the PHA may, in its sole discretion, require a lesser percentage or waive the requirement.

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### ***Payment Thresholds***

Notice PIH 2018-18 recommends that the total amount that a family must pay each month—the family's monthly share of rent plus the monthly debt repayment amount—should not exceed 40 percent of the family's monthly adjusted income, which is considered "affordable." Moreover, Notice PIH 2018-18 acknowledges that PHAs have the discretion to establish "thresholds and policies" for repayment agreements with families [24 CFR §982.552(c)(1)(vii)].

#### PHA Policy

If a family is paying less than 40 percent of its monthly adjusted income (MAI) in rent, the minimum monthly payment amount will be the greater of the following two amounts:

The difference between 40 percent of the family's MAI and the TTP at the time the agreement is executed

\$50

If a family can provide evidence satisfactory to the PHA that a monthly payment amount of \$50 would impose an undue hardship, the PHA may, in its sole discretion, require a lower monthly payment amount.

If the family's income increases or decreases during the term of a repayment agreement, either the PHA or the family may request that the monthly payment amount be adjusted accordingly.

The PHA has established the following thresholds for repayment of debts:

- Amounts between \$3,000 and more must be repaid within 18-36 months.
- Amounts between \$1,000 and \$2,999 must be repaid within 12-18 months.
- Amounts between \$501 and \$999 must be repaid within 6-10 months.
- Amounts under \$500 must be repaid within 3-6 months.
- The minimum monthly amount of monthly payment for any payment agreement is \$50. Any payment agreement in excess of 36 months requires the approval from the Housing Manager.

### ***Execution of the Agreement***

All repayment agreements must be in writing, dated, and signed by both the family and the PHA [Notice PIH 2018-18].

### **PHA Policy**

Any repayment agreement between the PHA and a family must be in writing, signed and dated by the PHA and by the head of household and spouse/cohead (if applicable), include the total retroactive rent amount owed, amount of lump sum payment made at time of execution, if applicable, and the monthly repayment amount [PIH 2018-18].

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### ***Due Dates***

#### PHA Policy

All payments are due by the close of business on the agreed upon date.

### ***Late or Missed Payments***

#### PHA Policy

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by the PHA, the PHA will send the family a delinquency notice giving the family ~~14~~<sup>10</sup> business days to make the late payment.

If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and the PHA will terminate tenancy in accordance with the policies in Chapter 13.

If a family receives three delinquency notices for unexcused late payments in a 12-month period, the repayment agreement will be considered in default, and the PHA will terminate tenancy in accordance with the policies in Chapter 13.

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### ***No Offer of Repayment Agreement***

#### PHA Policy

The PHA will not enter into a repayment agreement with a family if there is already a repayment agreement in place with the family, or if the amount owed by the family exceeds the federal or state threshold for criminal prosecution.

### ***Repayment Agreements ~~Terms Involving Improper Payments~~***

All repayment agreements must be in writing, dated, signed by both the family and the PHA, include the total retroactive rent amount owed, amount of lump sum payment made at time of execution, if applicable, and the monthly repayment amount. Notice PIH 2018-18 requires certain provisions to be included in any repayment agreement involving amounts owed by a family because it underreported or failed to report income:

~~Notice PIH 2017-12 requires certain provisions to be included in any repayment agreement involving amounts owed by a family because it underreported or failed to report income:~~

- A reference to the items in the public housing lease that state the family's obligation to provide true and complete information at every reexamination and the grounds on which the PHA may terminate assistance because of a family's action or failure to act

- A statement clarifying that each month the family not only must pay to the PHA the monthly payment amount specified in the agreement but must also pay to the PHA the monthly tenant rent
- A statement that the terms of the repayment agreement may be renegotiated if the family's income decreases or increases
- A statement that late or missed payments constitute default of the repayment agreement and may result in termination of tenancy

## PART IV: PUBLIC HOUSING ASSESSMENT SYSTEM (PHAS)

### 16-IV.A. OVERVIEW

The purpose of the Public Housing Assessment System (PHAS) is to improve the delivery of services in public housing and enhance trust in the public housing system among PHAs, public housing residents, HUD, and the general public by providing a management tool for effectively and fairly measuring the performance of a public housing agency in essential housing operations.

### 16-IV.B. PHAS INDICATORS [24 CFR §902 SUBPARTS A, B, C, D, AND E]

The table below lists each of the PHAS indicators, the points possible under each indicator, and a brief description of each indicator. A PHA's performance is based on a combination of all four indicators.

<p><b><i>Indicator 1: Physical condition of the PHA's projects</i></b></p> <p><b>Maximum Score: 40</b></p> <ul style="list-style-type: none"><li>• The objective of this indicator is to determine the level to which a PHA is maintaining its public housing in accordance with the standard of <del>decent, safe, sanitary, and in good repair</del><u>safe, habitable dwelling units</u>.</li><li>• To determine the physical condition of a PHA's projects, inspections are performed <del>of the following five major areas of each public housing project: site, building exterior, building systems, dwelling units, and common areas</del><u>using the National Standards for the Inspection of Real Estate (NSPIRE)</u>. The inspections are performed by an independent inspector arranged by HUD, and include a statistically valid sample of the units in each project in the PHA's public housing portfolio</li></ul>
<p><b><i>Indicator 2: Financial condition of the PHA's projects</i></b></p> <p><b>Maximum score: 25</b></p> <ul style="list-style-type: none"><li>• The objective of this indicator is to measure the financial condition of the PHA's public housing projects for the purpose of evaluating whether the PHA has sufficient financial resources and is capable of managing those financial resources effectively to support the provision of housing that is decent, safe, sanitary, and in good repair.</li><li>• A PHA's financial condition is determined by measuring each public housing project's performance in each of the following sub-indicators: quick ratio, month's expendables net assets ratio, and debt service coverage ratio.</li></ul>
<p><b><i>Indicator 3: Management operations of the PHA's projects</i></b></p> <p><b>Maximum Score 25</b></p> <ul style="list-style-type: none"><li>• The objective of this indicator is to measure certain key management operations and responsibilities of a PHA's projects for the purpose of assessing the PHA's management operations capabilities.</li></ul>

- Each project's management operations are assessed based on the following sub-indicators: occupancy, tenant accounts receivable, and accounts payable.
- An on-site management review may be conducted as a diagnosis and feedback tool for problem performance areas, and for compliance. Management reviews are not scored.

***Indicator 4: Capital Fund***

**Maximum Score 10**

- The objective of this indicator is to measure how long it takes the PHA to obligate capital funds and to occupy units.
- The PHA's score for this indicator is measured at the PHA level and is based on the following sub-indicators: timeliness of find obligation and occupancy rate.

**16-IV.C. PHAS SCORING [24 CFR 902 SUBPART F]**

HUD's Real Estate Assessment Center (REAC) issues overall PHAS scores, which are based on the scores of the four PHAS indicators, and the sub indicators under each indicator. The PHA's indicator scores are based on a weighted average of the PHA's public housing projects' scores. PHAS scores translate into a designation for each PHA as high performing, standard, substandard, or troubled.

A high performer is a PHA that achieves an overall PHAS score of 90 or greater and achieves a score of at least 60 percent of the points available under the physical, financial, and management indicators and at least 50 percent of the points available under the capital fund indicator.

A standard performer is a PHA that has an overall PHAS score between 60 and 89, and achieves a score of at least 60 percent of the points available under the physical, financial, and management indicators and at least 50 percent of the points available under the capital fund indicator.

A substandard performer is a PHA that has an overall PHAS score of at least 60 percent and achieves a score of less than 60 percent under one or more of the physical, financial, or management indicators.

A troubled performer is a PHA that achieves an overall PHAS score of less than 60, or achieves less than 50 percent of the total points available under the capital fund indicator.

These designations can affect a PHA in several ways:

- High-performing PHAs are eligible for incentives including relief from specific HUD requirements and bonus points in funding competitions [24 CFR §902.71].
- PHAs that are standard performers may be required to submit and operate under a corrective action plan to eliminate deficiencies in the PHA's performance [24 CFR §902.73(a)(1)].



- PHAs that are substandard performers will be required to submit and operate under a corrective action plan to eliminate deficiencies in the PHA's performance [24 CFR §902.73(a)(2)].
- PHAs with an overall rating of "troubled" are subject to additional HUD oversight and are required to enter into a memorandum of agreement (MOA) with HUD to improve PHA performance [24 CFR §902.75].
- PHAs that fail to execute or meet MOA requirements may be referred to the Assistant Secretary to determine remedial actions, including, but not limited to, remedies available for substantial default [24 CFR §902.75(g) and 24 CFR Part §907].

PHAs must post a notice of its final PHAS score and status in appropriate conspicuous and accessible locations in its offices within two weeks of receipt of its final score and designation [24 CFR §902.64(b)(2)].

## PART V: RECORD KEEPING

### 16-V.A. OVERVIEW

The PHA must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, the PHA must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights, and that comply with VAWA confidentiality requirements.

### 16-V.B. RECORD RETENTION

The PHA must keep the last three years of the Form HUD-50058 and supporting documentation during the term of each assisted lease, and for a period of at least three years from the end of participation (EOP) date [24 CFR §908.101].

The PHA must maintain Enterprise Income Verification (EIV) system Income Reports in the tenant file for the duration of the tenancy but for a period not to exceed three years from the EOP date [Notice PIH 2018-18].

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Notice PIH 2014-20 requires the PHA to keep records of all complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act or the equal access final rule.

The PHA must keep confidential records of all emergency transfer requested under the PHA's Emergency Transfer Plan, and the outcomes of such requests, and retain the records for a period of three years, ~~from the EOP date~~, or for a period of time as specified in program regulations [24 CFR §5.2002(e)(12)].

#### PHA Policy

~~During the term of each public housing tenancy, and for at least three years thereafter, the PHA will keep all documents related to a family's eligibility, tenancy, and termination.~~

The PHA will keep the last three years of Form HUD-50058 and supporting documentation, and for at least ~~three~~<sup>five</sup> years after end of participation, all documents related to a family's eligibility, tenancy, and termination.

The PHA will keep Enterprise Income Verification (EIV) system Income Reports in the tenant file for the duration of the tenancy and for three years from the end of participation date.

In addition, the PHA will keep the following records for at least three years:

An application from each ineligible family and notice that the applicant is not eligible

Lead-based paint records as required by 24 CFR 35, Subpart B

Documentation supporting the establishment of flat rents and the public housing maximum rent

Documentation supporting the establishment of utility allowances and surcharges

Documentation related to PHAS

Accounts and other records supporting PHA budget and financial statements for the program

Complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act, ~~or~~ the equal access final rule, or VAWA

Confidential records of all emergency transfers related to VAWA requested under the PHA's Emergency Transfer Plan and the outcomes of such requests

Other records as determined by the PHA or as required by HUD

If a hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 14-II.A.

~~For applicants that are removed from the waiting list for non-response to a request for updates or information, all returned mail, unopened, will be kept in the file along with documentation regarding the drop, for a period of three years or until the next audit [NEW PH OCC GB 2.4; 2.4.2]~~

#### **~~16-V.C. RECORDS MANAGEMENT AND SAFEGUARDING SENSITIVE PERSONALLY IDENTIFIABLE INFORMATION [PHI 2014-10]~~**

PHAs must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

##### PHA Policy

All applicant and participant information will be kept in a secure location and access will be limited to authorized PHA staff.

PHA staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

~~PHAs are responsible for safeguarding personally identifiable information required by HUD and preventing potential breaches of this sensitive data. Personally Identifiable Information (PII) is defined in OMB M-07-16 as "... information which can be used to distinguish or trace an individual's identity, such as their name, social security number, biometric records, etc. alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as a date and place of birth, mother's maiden name, etc." Examples of sensitive personal identifiable information includes social security or driver's license numbers, medical records, and financial account numbers such as credit or debit card numbers.~~

PHA Policy

~~All applicant and participant information will be kept in a secure location and access will be limited to authorized PHA staff.~~

~~PHA staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.~~

When discussing sensitive PII on the telephone, PHA staff will confirm that they are speaking to the right person before discussing the information and inform him/her that the discussion will include sensitive information. PHA staff will not leave messages containing sensitive PII on voicemail.

PHA staff will avoid discussing sensitive PII if there are unauthorized personnel, contractors, or guests in the adjacent cubicles, rooms, or hallways who may overhear their conversation.

When faxing sensitive PII, PHA staff will use the date stamp function, confirm the fax number, verify that the intended recipient is available, and confirm that he/she has received the fax. Before faxing sensitive PII information, PHA staff will coordinate with the recipient so that the information is not left unattended on the receiving end.

PHA staff will request a written statement from the receiving PHA documenting that the intended recipient is available to receive the fax and they understand the information will not be left unattended on the receiving end.

PHA Policy

PHA staff will not transmit sensitive PII via an unsecured information system (e.g., electronic mail, internet, or electronic bulletin board) without first encrypting the information.

The City of Chandler does not have encrypting capabilities for information systems; therefore, PHA staff will not use information systems (e.g., electronic mail, internet, or electronic bulletin board) to transmit sensitive PII.

#### ***Privacy Act Requirements [24 CFR 5.212 and Form-9886]***

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or the PHA may release the information collected.

#### ***Upfront Income Verification (UIV) Records***

PHAs that access UIV data through HUD's Enterprise Income Verification (EIV) system are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with federal laws, regardless of the media on which the data is recorded (e.g., electronic, paper). These requirements are contained in the HUD issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification (UIV) Data*.

#### **PHA Policy**

Prior to utilizing HUD's EIV system, the PHA will adopt and implement EIV security procedures required by HUD.

The City of Chandler Housing and Redevelopment Division will adopt and implement HUD's Enterprise Income Verification (EIV) system security procedures required by HUD as set forth in Version 1.4, November 2005.

### ***Criminal Records***

The PHA may only disclose the criminal conviction records which the PHA receives from a law enforcement agency to officers or employees of the PHA, or to authorized representatives of the PHA who have a job-related need to have access to the information [24 CFR §5.903(e)].

The PHA must establish and implement a system of records management that ensures that any criminal record received by the PHA from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation [24 CFR §5.903(g)].

The PHA must establish and implement a system of records management that ensures that any sex offender registration information received by the PHA from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation. However, a record of the screening, including the type of screening and the date performed must be retained [Notice PIH 2012-28]. This requirement does not apply to information that is public information or is obtained by a PHA other than under 24 CFR §5.905.

### ***Medical/Disability Records***

PHAs are not permitted to inquire about the nature or extent of a person's disability. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA should not place this information in the tenant file. The PHA should destroy the document.

### ***Domestic Violence, Dating Violence, Sexual Assault, ~~or Stalking~~, or Human Trafficking Records***

For requirements and PHA policies related to management of documentation obtained from victims of domestic violence, dating violence, sexual assault, ~~or stalking~~, or human trafficking, -see section 16-VII.E.

**PART VI: REPORTING REQUIREMENTS FOR CHILDREN WITH ELEVATED  
~~ENVIRONMENTAL INTERVENTION~~ BLOOD LEAD LEVEL**

**16-VI.A. REPORTING REQUIREMENTS [24 CFR §35.1130(E), NOTICE PIH  
~~NOTICE~~ 2017-13]**

The PHA has certain responsibilities relative to children with elevated blood lead levels that are living in public housing.

The PHA must report the name and address of a child identified as having an elevated blood lead level (EBLL) to the public health department within 5 business days of being so notified by any other medical health care professional. The PHA must also report each known case of a child with an EBLL to the HUD field office.

PHA Policy

The PHA will provide the public health department written notice of the name and address of any child identified as having an elevated blood lead level~~EBLL~~.

The PHA will provide written notice of each known case of a child with an EBLL to the HUD field office, and to HUD's Office of Lead Hazard Control (OLHCHH), within 5 business days of receiving the information.

## PART VII: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, AND CONFIDENTIALITY

### 16-VII.A. OVERVIEW

The Violence against Women Act ~~of 2013~~ (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault, ~~and~~ stalking, and human trafficking who are applying for or receiving assistance under the public housing program. If your state or local laws provide greater protection for such victims, those apply in conjunction with laws that take precedence over VAWA.

- Although the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror HUD's recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.

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In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and PHA policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and PHA policies are located in Chapter 3, "Eligibility" (Sections 3-I.C and 3-III.F); Chapter 5, "Occupancy Standards and Unit Offers" (Section 5-II.D); Chapter 8, "Leasing and Inspections" (Section 8-I.B); Chapter 12, "Transfer Policy" (Sections 12-III.C, 12-III.F, and 12-IV.D); and Chapter 13, "Lease Terminations" (Sections 13-III.F and 13-IV.D).

### 16-VII.B. DEFINITIONS [24 CFR §5.2003, FR NOTICE 8/6/13]

#### PHA Policy

As used in VAWA:

- The term *affiliated individual* means, with respect to a person:
  - A spouse, parent, brother or sister, or child of that individual, or an individual to whom that person individual stands in the position or place of a parent; or
  - Any individual, tenant, or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking, that individual.
- The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.



- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - The length of the relationship
  - The type of relationship
  - The frequency of interaction between the persons involved in the relationship
- The term *domestic violence* includes felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding, and in the case of victim services, includes the user or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who is:
  - The current or former spouse or intimate partner of the victim, or person similarly situated to a spouse or intimate partner of the victim
  - A person who is cohabitating or has cohabitated with the victim as a spouse or intimate partner
  - A person with whom the victim shares a child in common
  - A person who commits acts against an youth or adult victim who is protected from those acts under the domestic or family violence laws of the jurisdiction
- The term *economic abuse* means behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, and manipulation to:
  - Restrict a person's access to money, assets, credit, or financial information
  - Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage
  - Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or to whom one has a fiduciary duty
- The term *sexual assault* means:
  - Any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks the capacity to consent

- The term *stalking* means:
  - To engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.
- The term *technological abuse* means an act or pattern of behavior that occurs within domestic violence, dating violence, sexual assault, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor another person, except as otherwise permitted by law, that occurs using any form of technology, including but not limited to:
  - Internet enabled devices
  - Online spaces and platforms
  - Computers
  - Mobile devices
  - Cameras and imaging programs
  - Apps
  - Location tracking devices
  - Communication technologies
  - Any other emergency technologies
- ~~The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.~~
- ~~The term sexual assault means:~~
  - ~~— Any noneconsensual sexual act prescribed by the Federal, Tribal, or State law, including when the victim lacks the capacity to consent~~
- ~~The term *stalking* means:~~
  - ~~— To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or~~
  - ~~— To place under surveillance with the intent to kill, injure, harass, or intimidate another person; and~~

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~~—In the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the affiliated member of that person, or (3) the spouse or intimate partner of that person.~~

#### **16-VII.C. NOTIFICATION [24 CFR 5.2005(A)]**

The PHA adopts the following policy to help ensure that all actual and potential beneficiaries of its public housing program are aware of their rights under VAWA.

##### PHA Policy

The PHA will post the following information regarding VAWA on its web site. It will also make the information readily available to anyone who requests it:

- A notice of occupancy rights under VAWA to public housing program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (Form HUD-5380, see Exhibit 16-1)
- A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation (see Exhibit 16-2)
- A copy of the PHA's emergency transfer plan (Exhibit 16-3)
- A copy of HUD's Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5383 (Exhibit 16-4)
- The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in Exhibit 16-1)
- Contact information for local victim advocacy groups or service providers

##### ***Notification to Applicants and Tenants [24 CFR §5.2005(a)(1)]***

PHAs are required to inform public housing applicants and tenants of their rights under VAWA, including their right to confidentiality and the limits thereof when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing benefits.

The PHA must distribute a notice of VAWA rights, along with the VAWA self-certification form (HUD-5382) at each of these three junctures.

##### PHA Policy

The VAWA information provided to applicants and participants will consist of the notices in Exhibit 16-1, Notice of Occupancy Rights under the Violence Against Women Act, and 16-2, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation.

The PHA will provide all applicants with information about VAWA at the time they request an application for housing assistance. The PHA will also include such information in all notices of denial of assistance (see section 3-III.F).

The PHA will provide all tenants with information about VAWA at the time of admission (see Section 8-I.B) and at annual reexamination. The PHA will also include such information in all lease termination notices (see Section 13-IV.D).

The PHA is not limited to providing VAWA information at the times specified in the above policy. If the PHA decides to provide VAWA information to a tenant following an incident of domestic violence, Notice PIH 201706-0842 cautions against sending the information by mail, since the abuser may be monitoring the mail. The notice recommends that in such cases the PHA make alternative delivery arrangements that will not put the victim at risk.

#### PHA Policy

Whenever the PHA has reason to suspect that providing information about VAWA to a public housing tenant might place a victim of domestic violence at risk, it will attempt to deliver the information by hand directly to the victim or by having the victim come to an office or other space that may be safer for the individual, making reasonable accommodations as necessary. For example, the PHA may decide not to send mail regarding VAWA protections to the victim's unit if the PHA believes the perpetrator may have access to the victim's mail, unless requested by the victim.

When discussing VAWA with the victim, the PHA will take reasonable precautions to ensure that no one can overhear the conversation such as having conversations in a private room.

The victim may, but is not required to, designate an attorney, advocate, or other secure contact for communications regarding VAWA protections.

#### **16-VI.D. DOCUMENTATION [24 CFR §5.2007]**

A PHA presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, sexual assault, stalking, human trafficking, or criminal activity related to any of these forms of abuse may—but is not required to—request that the individual making the claim document the abuse. Any request for documentation must be in writing, and the individual must be allowed at least 14 business days after receipt of the request to submit the documentation. The PHA may extend this time period at its discretion. [24 CFR §5.2007(a)]

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The individual may satisfy the PHA's request by providing any one of the following three forms of documentation [24 CFR §5.2007(b)]:

- 1) A completed and signed HUD-approved certification form (HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), which must include the name of the perpetrator only if the name of the perpetrator is safe to provide and is known to the victim. The form may be filled out and submitted on behalf of the victim.
- 2) A federal, state, tribal, territorial, or local police report or court record, or an administrative record
- 3) Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault, ~~or stalking~~, or human trafficking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; a mental health professional; or a medical professional. ~~Acceptable documentation also includes a record of an administrative agency, and documentation from a mental health professional.~~ The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

The PHA may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under "Conflicting Documentation," nor may it require certification in addition to third-party documentation [~~FR Notice 11/16/16~~VAWA final rule].

#### PHA Policy

Any request for documentation of domestic violence, dating violence, sexual assault, ~~or stalking~~, or human trafficking will be in writing, will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing, by the deadline.

The PHA may, in its discretion, extend the deadline for 10 business days. ~~Any extension granted by the PHA will be in writing.~~ In determining whether to extend the deadline, the PHA will consider factors that may contribute to the victim's inability to provide documentation in a timely manner, including cognitive limitations, disabilities, Limited English Proficiency (LEP), absence from the unit, administrative delays, the danger of further violence, and the victim's need to address health or safety issues. Any extension granted by the PHA will be in writing.

Once the victim provides documentation, the PHA will acknowledge receipt of the documentation within 10 business days.

### ***Conflicting Documentation [24 CFR §5.2007(e)]***

In cases where the PHA receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, the PHA may determine which is the true victim, by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3). The PHA may also request third-party documentation when submitted documentation contains information that conflicts with existing information already available to the PHA. The PHA must honor any court orders issued to protect the victim or to address the distribution of property. Individuals have 30 calendar days to return third-party verification to the PHA. If the PHA does not receive third-party documentation, and the PHA will deny or terminate assistance as a result, the PHA must hold separate hearings for the tenants [Notice PIH 2017-18]

#### **PHA Policy**

If presented with conflicting certification documents (two or more forms HUD-5382) from members of the same household, the PHA will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(~~eb~~)(2) ~~or (3)~~ and by following any HUD guidance on how such determinations should be made. When requesting third-party documents, the PHA will provide contact information for local domestic violence and legal aid offices. In such cases, applicants or tenants will be given 30 calendar days from the date of the request to provide such documentation.

If the PHA does not receive third-party documentation within the required timeframe (and any extensions), the PHA will deny VAWA protections and will notify the applicant or tenant in writing of the denial. If, as a result, the applicant or tenant is denied or terminated from the program, ~~upon request from the applicant or tenant,~~ the PHA will hold separate hearings for the applicants or tenants.

### ***Discretion to Require No Formal Documentation [24 CFR §5.2007(d)]***

The PHA has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence—i.e., without requiring formal documentation of abuse in accordance with 24 CFR §5.2007(b). HUD recommends documentation in a confidential manner when a verbal statement or other evidence is accepted.

#### **PHA Policy**

If the PHA accepts an individual's statement or other corroborating evidence (as determined by the victim) of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking, the PHA will document acceptance of the statement or evidence in the individual's file.

***Failure to Provide Documentation [24 CFR §5.2007(c)]***

In order to deny relief for protection under VAWA, a PHA must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within 14 business days from the date of receipt, or such longer time as the PHA may allow, the PHA may deny relief for protection under VAWA.

***Immigration Status/Self-Petitioner (PIH Notice 2017-02)***

A “Self-Petitioner” is a category of battered noncitizens seeking legal permanent resident status without the cooperation or knowledge of their abusive relative. A “VAWA Self-Petitioner” is a category of battered noncitizens seeking VAWA-related relief and other VAWA-related petitions or applications for lawful permanent resident status.

PIH Notice 2017-02 explains the procedures that COCHRD must follow when an applicant or resident/tenant requests admission or continued residency, as a result of being a VAWA self-petitioner.

In accordance with Section 214 of the Housing and Community Development Act of 1980, HUD may not allow financial assistance to ineligible non-citizens, but assistance must not be denied while verifying immigration status or appeal of a determination as to satisfactory immigration status is pending.

HUD has determined that self-petitioners can indicate that they are in “satisfactory immigration status” when applying for assistance or continued assistance from Section 214 covered housing providers. “Satisfactory immigration status” means an immigration status, which does not make the individual ineligible for financial assistance. After verifying such immigration status in the Department of Homeland Security (DHS) Systematic Alien Verification for Entitlements (SAVE) System, the COCHRD will make a final determination as to the self-petitioner’s eligibility for assistance.

COCHRD will not deny, reduce, or terminate the assistance of a VAWA Self-Petitioner who claims “satisfactory immigration status.” COCHRD will verify that the applicant or participant is a self-petitioner by utilizing the SAVE system to verify immigration status.

All protections afforded under VAWA apply to the self-petitioner throughout the verification process.

Not every noncitizen victim who has been subjected to battery or extreme cruelty will qualify under these procedures. In order to qualify, the noncitizen victim must have been battered or subjected to extreme cruelty by their spouse or parent, who is a U.S. citizen or LPR. COCHRD may receive a petition at any time, but submissions will most likely be related to a request for VAWA protections pursuant to 24 CFR Part 5 Subpart L (e.g., with a request for an emergency transfer or family breakup resulting from domestic violence, dating violence, sexual assault, or stalking.

COCHRD will follow the steps outlined in PIH Notice 2017-02 to complete verification.

#### 16-VII.E. CONFIDENTIALITY [24 CFR §5.2007(B)(4)]

All information provided to the PHA regarding domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, ~~such violence or stalking~~, must be retained in confidence. This means that the PHA (1) may not enter the information into any shared database; (2) may not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work; and (3) may not provide the information to any other entity or individual, except to the extent that the disclosure is (a) requested or consented to by the individual in writing, (b) required for use in an eviction proceeding, or (c) otherwise required by applicable law.

##### PHA Policy

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the PHA will inform the victim before disclosure occurs so that safety risks can be identified and addressed.



**EXHIBIT 16-1: SAMPLE NOTICE OF OCCUPANCY RIGHTS UNDER THE  
VIOLENCE AGAINST WOMEN ACT, FORM HUD-5380**

***EXHIBIT 16-1: Notice of Occupancy Rights under the Violence Against Women Act***

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***City of Chandler Housing and Redevelopment Division  
Notice of Occupancy Rights under the Violence Against Women Act***

**To all Tenants and Applicants**

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women but are available equally to all individuals regardless of sex, gender identity, or sexual orientation. The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees that public housing and housing choice voucher is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA.”

**Protections for Applicants**

If you otherwise qualify for assistance under public housing or housing choice voucher, you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

**Protections for Tenants**

If you are receiving assistance under public housing or housing choice voucher, you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights under public housing or housing choice voucher solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

**Removing the Abuser or Perpetrator from the Household**

The City of Chandler Housing and Redevelopment Division (COCHRD) may divide (bifurcate) your ~~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 domestic violence, dating violence, sexual assault, or stalking.

If the COCHRD chooses to remove the abuser or perpetrator, COCHRD may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, COCHRD must allow the tenant who is or has been a victim and other household members to remain in the unit for a period of time, in order to establish eligibility under the program or under another HUD housing program covered by VAWA or find alternative housing.

In removing the abuser or perpetrator from the household, COCHRD must follow Federal, State, and local eviction procedures. In order to divide a lease, COCHRD may, but is not required to, ask you for documentation or certification of the incidences of domestic violence, dating violence, sexual assault, or stalking.

### **Moving to Another Unit**

Upon your request, COCHRD may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, COCHRD may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking. If the request is a request for emergency transfer, the COCHRD housing provider may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA. The criteria are:

- 1) **You are a victim of domestic violence, dating violence, sexual assault, or stalking.** If COCHRD does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, COCHRD may ask you for such documentation, as described in the documentation section below.
- 2) **You expressly request the emergency transfer.** COCHRD may choose to require that you submit a form or may accept another written or oral request.
- 3) **You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer, you would suffer violence in the very near future.

**OR**

**You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer, if the sexual assault occurred on the premises of the property from which you are seeking

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your transfer, and that assault happened within the 90-calendar-day period before you expressly request the transfer.

The COCHRD will keep confidential requests for emergency transfers by victims of domestic violence, dating violence, sexual assault, or stalking, and the location of any move by such victims and their families.

The COCHRD's emergency transfer plan provides further information on emergency transfers, and COCHRD must make a copy of its emergency transfer plan available to you if you ask to see it.

### **Documenting You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking**

The COCHRD can, but is not required to, ask you to provide documentation to "certify" that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Such request from COCHRD must be in writing, and COCHRD must give you at least 14 business days (Saturdays, Sundays, and Federal holidays do not count) from the day you receive the request to provide the documentation. The COCHRD may, but does not have to, extend the deadline for the submission of documentation upon your request.

You can provide one of the following to COCHRD as documentation. It is your choice which of the following to submit if the COCHRD asks you to provide documentation that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

- A complete HUD-approved certification form given to you by COCHRD with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. The form will ask for your name, the date, time, and location of the incident of domestic violence, dating violence, sexual assault, or stalking, and a description of the incident. The certification form provides for including the name of the abuser or perpetrator if the name of the abuser or perpetrator is known and is safe to provide.
- A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others.
- A statement, which you must sign, along with the signature of an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional (collectively, "professional") from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you, attesting under penalty of perjury that they believe that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.
- Any other statement or evidence that the COCHRD has agreed to accept.

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If you fail or refuse to provide one of these documents within the 14 business days, the COCHRD does not have to provide you with the protections contained in this notice.

If the COCHRD receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser or perpetrator), the COCHRD has the right to request that you provide third-party documentation, within thirty 30 calendar days in order to resolve the conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, the COCHRD does not have to provide you with the protections contained in this notice.

~~If you fail or refuse to provide third party documentation where there is conflicting evidence, COCHRD does not have to provide you with the protections contained in this notice.~~

### **Confidentiality**

The COCHRD must keep confidential any information you provide related to the exercise of your rights under VAWA, including the fact that you are exercising your rights under VAWA.

The COCHRD must not allow any individual administering assistance or other services on behalf of COCHRD (for example, employees and contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.

The COCHRD must not enter your information into any shared database or disclose your information to any other entity or individual. The COCHRD, however, may disclose the information provided if:

- You give written permission to COCHRD to release the information on a time limited basis.
- The COCHRD needs to use the information in an eviction or termination proceeding, such as to evict your abuser or perpetrator or terminate your abuser or perpetrator from assistance under this program.
- A law requires COCHRD or your landlord to release the information.

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VAWA does not limit COCHRD's duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

~~household members in cases where a family breaks up.~~

### **Reasons a Tenant Eligible for Occupancy Rights under VAWA May Be Evicted or Assistance May Be Terminated**

You can be evicted, and your assistance can be terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking

committed against you. However, COCHRD cannot hold tenants who have been victims of domestic violence, dating violence, sexual assault, or stalking to a more demanding set of rules than it applies to tenants who have not been victims of domestic violence, dating violence, sexual assault, or stalking.

The protections described in this notice might not apply, and you could be evicted, and your assistance terminated, if COCHRD can demonstrate that not evicting you or terminating your assistance would present a real physical danger that:

- 1) Would occur within an immediate time frame, and
- 2) Could result in death or serious bodily harm to other tenants or those who work on the property.

If COCHRD can demonstrate the above, COCHRD should only terminate your assistance or evict you if there are no other actions that could be taken to reduce or eliminate the threat.

#### **Other Laws**

VAWA does not replace any Federal, State, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

#### **Non-Compliance with the Requirements of This Notice**

You may report ~~a covered~~ COCHRD ~~for~~ <sup>2s</sup> violations of these rights and seek ~~additional~~ assistance, if needed, by contacting or filing a complaint with Amy Jacobson, Housing and Redevelopment Manager or HUD's Phoenix field office.

#### **For Additional Information**

You may view a copy of HUD's final VAWA rule at <https://www.gpo.gov/fdsys/pkg/FR-2016-11-16/pdf/2016-25888.pdf>. Additionally, COCHRD must make a copy of HUD's VAWA regulations available to you if you ask to see them. For questions regarding VAWA, please contact your housing specialist.

For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY). You may also contact 2-1-1 within Arizona or at <https://211arizona.org/domestic-violence/>

For tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

For help regarding sexual assault, you may contact 2-1-1 within Arizona or at <https://211arizona.org/domestic-violence/>.

Victims of stalking seeking help may contact 2-1-1 within Arizona or at <https://211arizona.org/domestic-violence/>.

**EXHIBIT 16-2: CERTIFICATION OF DOMESTIC VIOLENCE, DATING  
VIOLENCE, SEXUAL ASSAULT, OR STALKING AND ALTERNATE  
DOCUMENTATION,  
FORM HUD-5382**

**CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, AND ALTERNATE DOCUMENTATION**  
**U.S. Department of Housing and Urban Development**  
OMB Approval No. 2577-0286  
Exp. 06/30/2017

**Purpose of Form:** The Violence Against Women Act (“VAWA”) protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

**Use of This Optional Form:** If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:

- (1) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, “professional”) from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of “domestic violence,” “dating violence,” “sexual assault,” or “stalking” in HUD’s regulations at 24 CFR 5.2003.
- (2) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
- (3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

**Submission of Documentation:** The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation, if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

**Confidentiality:** All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.



**TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE,  
DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

**1. Date the written request is received by victim:** \_\_\_\_\_

**2. Name of victim:** \_\_\_\_\_

**3. Your name (if different from victim's):** \_\_\_\_\_

**4. Name(s) of other family member(s) listed on the lease:** \_\_\_\_\_

\_\_\_\_\_

**5. Residence of victim:** \_\_\_\_\_

**6. Name of the accused perpetrator (if known and can be safely disclosed):** \_\_\_\_\_

\_\_\_\_\_

**7. Relationship of the accused perpetrator to the victim:** \_\_\_\_\_

**8. Date(s) and times(s) of incident(s) (if known):** \_\_\_\_\_

\_\_\_\_\_

**10. Location of incident(s):** \_\_\_\_\_

In your own words, briefly describe the incident(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature \_\_\_\_\_

Signed on (Date) \_\_\_\_\_

**Public Reporting Burden:** The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

**EXHIBIT 16-2: Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation, Form HUD-5382**

**CERTIFICATION OF U.S. Department of Housing OMB Approval No. 2577-0286**  
**DOMESTIC VIOLENCE, —and Urban Development —Exp. 06/30/2017**  
**DATING VIOLENCE,**  
**SEXUAL ASSAULT, OR**  
**STALKING,**  
**AND ALTERNATE**  
**DOCUMENTATION**

*Purpose of Form: The Violence Against Women Act (“VAWA”) protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.*

*Use of This Optional Form: If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.*

*In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:*

- 1) —A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, “professional”) from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of “domestic violence,” “dating violence,” “sexual assault,” or “stalking” in HUD’s regulations at 24 CFR §5.2003.*
- 2) —A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency; or*
- 3) —At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.*

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~~Submission of Documentation: The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation, if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.~~

~~Confidentiality: All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.~~

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**TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

1. **Date the written request is received by victim:** \_\_\_\_\_

2. **Name of victim:** \_\_\_\_\_

3. **Your Name (if different from the victim):** \_\_\_\_\_

4. **Name(s) of other family member(s) listed on the lease:** \_\_\_\_\_

\_\_\_\_\_

5. **Residence of victim:** \_\_\_\_\_

6. **Name of the accused perpetrator (if known and can be safely disclosed):** \_\_\_\_\_

\_\_\_\_\_

7. **Relationship of the accused perpetrator to the victim:** \_\_\_\_\_

8. **Date(s) and times(s) of incident(s) (if known):** \_\_\_\_\_

\_\_\_\_\_

9. **Location of incident(s):** \_\_\_\_\_

In your own words, briefly describe the incident(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.*

**Signature** \_\_\_\_\_ **Signed on (Date)** \_\_\_\_\_

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*Public Reporting Burden: The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.*

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**EXHIBIT 16-3: EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

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***EXHIBIT 16-3: Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking***

***Attachment: Certification form HUD-5382***

**City of Chandler Housing and Redevelopment Division**

***EMERGENCY TRANSFER PLAN***

**FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE,  
SEXUAL ASSAULT, OR STALKING**

**Public Housing Program**

**Emergency Transfers**

The City of Chandler Housing and Redevelopment Division (COCHRD) is concerned about the safety of its tenants, and such concern extends to tenants who are victims of domestic violence, dating violence, sexual assault, or stalking. In accordance with the Violence Against Women Act (VAWA), COCHRD allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's current unit to another unit. The ability to request a transfer is available regardless of sex, gender identity, or sexual orientation. The ability of COCHRD to honor such request for tenants currently receiving assistance, however, may depend upon a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether COCHRD has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

This plan identifies tenants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance to tenants on safety and security. This plan is based on a model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD), the federal agency that oversees that the **public housing and housing choice voucher (HCV) programs** are in compliance with VAWA.

**Eligibility for Emergency Transfers**

A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD's regulations at 24 CFR Part 5, subpart L, is eligible for an emergency transfer if the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit. If the tenant is a victim of sexual assault, the tenant may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar- day period preceding a request for an emergency transfer.

A tenant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan.

Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

#### **Emergency Transfer Request Documentation**

To request an emergency transfer, the tenant shall notify the PHA's management office and submit a written request for a transfer to **any PHA office**. The PHA will provide reasonable accommodations to this policy for individuals with disabilities. The tenant's written request for an emergency transfer should include either:

1. A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under the PHA's program; OR
2. A statement that the tenant was a sexual assault victim, and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant's request for an emergency transfer.

#### **Confidentiality**

The PHA will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives the PHA written permission to release the information on a time-limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person or persons that committed an act of domestic violence, dating violence, sexual assault, or stalking against the tenant. See the Notice of Occupancy Rights under the Violence against Women Act for All Tenants for more information about the PHA's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

#### **Emergency Transfer Timing and Availability**

The PHA cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. The PHA will, however, act as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit. If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred. The PHA may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.



If the PHA has no safe and available units for which a tenant who needs an emergency transfer is eligible, the PHA will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move. At the tenant's request, the PHA will also assist tenants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

### **Emergency Transfers: Public Housing (PH) Program**

If you are a public housing resident and request an emergency transfer as described in this plan, the PHA will attempt to assist you in moving to a safe unit quickly. The PHA will make exceptions as required to policies restricting moves.

Emergency transfers for which you are not required to apply for assistance include the following:

- Public housing unit in a different development
- Public housing unit in the same development, if you determine that the unit is safe

At your request, the PHA will refer you to organizations that may be able to further assist you.

You may also request an emergency transfer to the following programs for which you are required to apply for assistance:

- HCV tenant-based program
- HCV project-based assistance
- Other programs administered by the PHA (such as state housing programs)

Emergency transfers will not take priority over waiting list admissions for these types of assistance. At your request, the PHA will refer you to organizations that may be able to further assist you.

### **Safety and Security of Tenants**

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe.

Tenants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

Tenants who have been victims of sexual assault may call the Rape, Abuse, and Incest National Network's National Sexual Assault Hotline at 1-800-656-HOPE, or visit the online hotline at <https://ohl.rainn.org/online/>.

Tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

**EXHIBIT 16-4: EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF  
DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR  
STALKING, FORM HUD-5383**

**EMERGENCY TRANSFER**      **U.S. Department of Housing**      OMB Approval No. 2577-0286  
**REQUEST FOR CERTAIN**      **and Urban Development**      Exp. 06/30/2017  
**VICTIMS OF DOMESTIC  
VIOLENCE, DATING VIOLENCE,  
SEXUAL ASSAULT, OR STALKING**

**Purpose of Form:** If you are a victim of domestic violence, dating violence, sexual assault, or stalking, and you are seeking an emergency transfer, you may use this form to request an emergency transfer and certify that you meet the requirements of eligibility for an emergency transfer under the Violence Against Women Act (VAWA). Although the statutory name references women, VAWA rights and protections apply to all victims of domestic violence, dating violence, sexual assault or stalking. Using this form does not necessarily mean that you will receive an emergency transfer. See your housing provider's emergency transfer plan for more information about the availability of emergency transfers.

**The requirements you must meet are:**

**(1) You are a victim of domestic violence, dating violence, sexual assault, or stalking.** If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation. In response, you may submit Form HUD-5382, or any one of the other types of documentation listed on that Form.

**(2) You expressly request the emergency transfer.** Submission of this form confirms that you have expressly requested a transfer. Your housing provider may choose to require that you submit this form, or may accept another written or oral request. Please see your housing provider's emergency transfer plan for more details.

**(3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

**OR**

**You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you submit this form or otherwise expressly request the transfer.

**Submission of Documentation:** If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you should submit that documentation to your housing provider if it is safe for you to do so. Examples of third party documentation include, but are not limited to: a letter or other documentation from a victim service provider, social worker, legal assistance provider,

pastoral counselor, mental health provider, or other professional from whom you have sought assistance; a current restraining order; a recent court order or other court records; a law enforcement report or records; communication records from the perpetrator of the violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts.

**Confidentiality:** All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking, and concerning your request for an emergency transfer shall be kept confidential. Such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections or an emergency transfer to you. Such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

**TO BE COMPLETED BY OR ON BEHALF OF THE PERSON REQUESTING A TRANSFER**

**1. Name of victim requesting an emergency transfer:** \_\_\_\_\_

**2. Your name (if different from victim's)** \_\_\_\_\_

**3. Name(s) of other family member(s) listed on the lease:** \_\_\_\_\_

\_\_\_\_\_

**4. Name(s) of other family member(s) who would transfer with the victim:** \_\_\_\_\_

\_\_\_\_\_

**5. Address of location from which the victim seeks to transfer:** \_\_\_\_\_

**6. Address or phone number for contacting the victim:** \_\_\_\_\_

**7. Name of the accused perpetrator (if known and can be safely disclosed):** \_\_\_\_\_

**8. Relationship of the accused perpetrator to the victim:** \_\_\_\_\_

**9. Date(s), Time(s) and location(s) of incident(s):** \_\_\_\_\_

\_\_\_\_\_

**10. Is the person requesting the transfer a victim of a sexual assault that occurred in the past 90 days on the premises of the property from which the victim is seeking a transfer? If yes, skip question 11. If no, fill out question 11.** \_\_\_\_\_

**11. Describe why the victim believes they are threatened with imminent harm from further violence if they remain in their current unit.**

\_\_\_\_\_

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**12. If voluntarily provided, list any third-party documentation you are providing along with this notice:**

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This is to certify that the information provided on this form is true and correct to the best of my knowledge, and that the individual named above in Item 1 meets the requirement laid out on this form for an emergency transfer. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature \_\_\_\_\_ Signed on (Date) \_\_\_\_\_

**~~EXHIBIT 16-4: Emergency Transfer Request for Certain Victims of Domestic Violence,  
Dating Violence, Sexual Assault, or Stalking, FORM HUD-5383~~**

**~~EMERGENCY TRANSFER~~**

**~~U.S. Department of  
Housing~~**

**~~OMB Approval~~**

**~~No. 2577-0286~~**

**~~and Urban Development~~**

**~~Exp.  
06/30/2017~~**

**~~REQUEST FOR CERTAIN~~**

**~~VICTIMS OF DOMESTIC~~**

**~~VIOLENCE, DATING VIOLENCE,~~**

**~~SEXUAL ASSAULT, OR STALKING~~**

**~~Purpose of Form: If you are a victim of domestic violence, dating violence, sexual assault, or stalking, and you are seeking an emergency transfer, you may use this form to request an emergency transfer and certify that you meet the requirements of eligibility for an emergency transfer under the Violence Against Women Act (VAWA). Although the statutory name references women, VAWA rights and protections apply to all victims of domestic violence, dating violence, sexual assault, or stalking. Using this form does not necessarily mean that you will receive an emergency transfer. See your housing provider's emergency transfer plan for more information about the availability of emergency transfers.~~**

**~~The requirements you must meet are:~~**

- ~~(1) You are a victim of domestic violence, dating violence, sexual assault, or stalking. If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation. In response, you may submit Form HUD-5382, or any one of the other types of documentation listed on that Form.~~**
- ~~(2) You expressly request the emergency transfer. Submission of this form confirms that you have expressly requested a transfer. Your housing provider may choose to require that you submit this form or may accept another written or oral request. Please see your housing provider's emergency transfer plan for more details.~~**
- ~~(3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit. This means you have a reason to fear that if you do not receive a transfer, you would suffer violence in the very near future.~~**

**~~OR~~**

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~~You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer. If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you submit this form or otherwise expressly request the transfer.~~

~~**Submission of Documentation:** If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you should submit that documentation to your housing provider if it is safe for you to do so. Examples of third party documentation include, but are not limited to: a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom you have sought assistance; a current restraining order; a recent court order or other court records; a law enforcement report or records; communication records from the perpetrator of the violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts.~~

~~**Confidentiality:** All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking, and concerning your request for an emergency transfer shall be kept confidential. Such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections or an emergency transfer to you. Such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.~~

## ~~TO BE COMPLETED BY OR ON BEHALF OF THE PERSON REQUESTING A TRANSFER~~

- ~~1. Name of victim requesting an emergency transfer: \_\_\_\_\_~~
- ~~2. Your Name (if different from the victim): \_\_\_\_\_~~
- ~~3. Name(s) of other family member(s) listed on the lease: \_\_\_\_\_~~
- ~~4. Name(s) of other family member(s) who would transfer with the victim: \_\_\_\_\_~~
- ~~5. Address of location from which the victim seeks to transfer: \_\_\_\_\_~~
- ~~6. Address or phone number for contacting the victim: \_\_\_\_\_~~
- ~~7. Name of the accused perpetrator (if known and can be safely disclosed): \_\_\_\_\_~~

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8. Relationship of the accused perpetrator to the victim: \_\_\_\_\_

9. Date(s) and times(s) of incident(s) (if known): \_\_\_\_\_

10. Is the person requesting the transfer a victim of a sexual assault that occurred in the past 90 days on the premises of the property from which the victim is seeking a transfer?

If yes, skip question 11. If no, fill out question 11: \_\_\_\_\_

11. Describe why the victim believes they are threatened with imminent harm from further violence if they remain in their current unit.: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

12. If voluntarily provided, list any third-party documentation you are providing along with this notice: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

This is to certify that the information provided on this form is true and correct to the best of my knowledge, and that the individual named above in Item 1 meets the requirement laid out on this form for an emergency transfer. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature \_\_\_\_\_ Signed on (Date) \_\_\_\_\_

Form HUD-5383 (12/2016)

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## GLOSSARY

### A. ACRONYMS USED IN PUBLIC HOUSING

<b>ACC</b>	Annual contributions contract
<b>ACOP</b>	Admissions and Continued Occupancy
<b>ADA</b>	Americans with Disabilities Act of 1990
<b>AIDS</b>	Acquired immune deficiency syndrome
<b>AMI</b>	Area median income
<b>AMP</b>	Asset management project
<b>BR</b>	Bedroom
<b>CDBG</b>	Community Development Block Grant (Program)
<b>CFP</b>	Capital fund program
<b>CFR</b>	Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as “the regulations”)
<b>COCC</b>	Central office cost center
<b>CPI</b>	Consumer price index (published monthly by the Department of Labor as an inflation indicator)
<del><b>EID</b></del>	<del>Earned income disallowance</del>
<b>EIV</b>	Enterprise Income Verification
<b>FDIC</b>	Federal Deposit Insurance Corporation
<b>FHA</b>	Federal Housing Administration
<b>FHEO</b>	Fair Housing and Equal Opportunity
<b>FICA</b>	Federal Insurance Contributions Act (established Social Security taxes)
<b>FMR</b>	Fair market rent
<b>FR</b>	Federal Register
<b>FSS</b>	Family Self-Sufficiency (Program)

<b>FY</b>	Fiscal year
<b>FYE</b>	Fiscal year end
<b>GAO</b>	Government Accountability Office
<b>HA</b>	Housing authority or housing agency
<b>HCV</b>	Housing choice voucher
<del><b>HQS</b></del>	<del>Housing quality standards</del>
<del><b>HERA</b></del>	<del>Housing and Economic Recovery Act of 2008</del>
<u><b>HIP</b></u>	<u>Housing Information Portal</u>
<b>HOPE VI</b>	Revitalization of Severely Distressed Public Housing Program
<u><b>HOTMA</b></u>	<u>Housing Opportunity through Modernization Act of 2016</u>
<b>HUD</b>	Department of Housing and Urban Development
<b>HUDCLIPS</b>	HUD Client Information and Policy System
<del><b>IMS</b></del>	<del>Inventory Management System</del>
<b>IPA</b>	Independent public accountant
<b>IRA</b>	Individual retirement account
<b>IRS</b>	Internal Revenue Service
<b>IVT</b>	<b>Income Verification Tool</b>
<b>JTPA</b>	Job Training Partnership Act
<b>LBP</b>	Lead-based paint
<b>LEP</b>	Limited English Proficiency
<b>LIHTC</b>	Low-income housing tax credit
<b>MTW</b>	Moving to Work
<b>NOFA</b>	Notice of funding availability
<u><b>NSPIRE</b></u>	<u>National Standards for the Physical Inspection of Real Estate</u>
<b>OGC</b>	HUD's Office of General Counsel

<b>OIG</b>	HUD's Office of Inspector General
<b>OMB</b>	Office of Management and Budget
<b>PASS</b>	Plan to Achieve Self-Support
<b>PHA</b>	Public housing agency
<b>PHAS</b>	Public Housing Assessment System
<del><b>PIC</b></del>	<del>PIH Information Center</del>
<b>PIH</b>	(HUD Office of) Public and Indian Housing
<b>QC</b>	Quality control
<b>QHWRA</b>	Quality Housing and Work Responsibility Act of 1998 (also known as the Public Housing Reform Act)
<b>RAD</b>	Rental Assistance Demonstration Program
<b>REAC</b>	(HUD) Real Estate Assessment Center
<b>RFP</b>	Request for proposals
<b>RIGI</b>	Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level)
<b>ROSS</b>	Resident Opportunity and Supportive Services
<b>SSA</b>	Social Security Administration
<b>SSI</b>	Supplemental security income
<b>SWICA</b>	State wage information collection agency
<b>TANF</b>	Temporary assistance for needy families
<b>TR</b>	Tenant rent
<b>TTP</b>	Total tenant payment
<b>UA</b>	Utility allowance
<b>UFAS</b>	Uniform Federal Accessibility Standards
<b>UIV</b>	Upfront income verification
<b>URP</b>	Utility reimbursement payment

**VAWA**      Violence Against Women Reauthorization Act of 2013  
**VCA**        Voluntary Compliance Agreement

## B. GLOSSARY OF PUBLIC HOUSING TERMS

**Accessible.** The facility or portion of the facility can be approached, entered, and used by persons with disabilities.

**Adjusted income.** Annual income (~~as determined under 24 CFR 5.609), of the members of the family residing or intending to reside in the dwelling unit~~ less allowable HUD deductions and allowances.

**Affiliated individual.** With respect to an individual, a spouse, parent, brother, sister, or child of that individual, ~~or a person to whom that individual stands in loco parentis (in the position or place of a parent), or an individual, tenant, or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking. to whom that individual stands in loco parentis (in the place of a parent), or any individual, tenant, or lawful occupant living in the household of that individual.~~

**Alternative non-public housing rent.** A monthly rent equal to the greater of:

- The applicable fair market rent, as defined in 24 CFR part 888, subpart A, for the unit; or
- The amount of the monthly subsidy provided for the unit, which will be determined by adding the per unit assistance provided to a public housing property as calculated through the applicable formulas for the Public Housing Capital Fund and Public Housing Operating Fund.

**Annual contributions contract (ACC).** The written contract between HUD and a PHA under which HUD agrees to provide funding for a program under the 1937 Act, and the PHA agrees to comply with HUD requirements for the program.

~~**Annual income.** The anticipated total income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.~~

**Applicant (applicant family).** A family that has applied for admission to a program but is not yet a participant in the program.

**As-paid states.** States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

**Assets.** (See *net family assets*.)

**Auxiliary aids.** Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving federal financial assistance.

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***Bifurcate.*** With respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed, while the remaining family members' lease and occupancy rights are allowed to remain intact.

***Ceiling Rent.*** The highest rent amount the PHA will require a family to pay, for a particular unit size, when the family is paying an income-based rent.

***Child.*** A member of the family other than the family head or spouse who is under 18 years of age.

***Childcare expenses.*** Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further their education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for childcare. In the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

***Citizen.*** A citizen or national of the United States.

***Cohead.*** An individual in the household who is equally responsible for the lease with the head of household. A family may have a cohead or spouse but not both. A cohead never qualifies as a dependent. The cohead must have legal capacity to enter into a lease.

~~***Confirmatory review.*** An on-site review performed by HUD to verify the management performance of a PHA.~~

***Consent form.*** Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

***Covered families.*** Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which federal, state, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

***Dating violence.*** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship



- The type of relationship
- The frequency of interaction between the persons involved in the relationship

**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.

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***Dependent.*** A member of the family (~~which exclude~~~~except~~ foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

***Dependent child.*** In the context of the student eligibility restrictions, a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the definition of *dependent* as specified above.

***Disability assistance expenses.*** Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member, and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

***Disabled family.*** A family whose head, cohead, spouse, or sole member is a person with disabilities; two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

***Disabled person.*** See *person with disabilities*.

***Disallowance.*** Exclusion from annual income.

***Displaced family.*** A family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to federal disaster relief laws.

***Domestic violence.*** Felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding, and in the case of victim services, includes the user or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, ~~by a person who is with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.~~

- The current or former spouse or intimate partner of the victim, or person similarly situated to a spouse or intimate partner of the victim
- A person who is cohabitating or has cohabitated with the victim as a spouse or intimate partner
- A person with whom the victim shares a child in common
- A person who commits acts against a youth or adult victim who is protected from those acts under the domestic or family violence laws of the jurisdiction

**Domicile.** The legal residence of the household head or spouse as determined in accordance with state and local law.

**Drug-related criminal activity.** The illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute, or use the drug.

**Earned income.** 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.

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**Economic abuse** Behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitle, including using coercion, fraud, and manipulation to:

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- Restrict a person's access to money, assets, credit, or financial information
- Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage
- Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or to whom one has a fiduciary duty

**Economic self-sufficiency program.** Any program designed to encourage, assist, train, or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see 24 CFR §5.603(c).

**Effective date.** The “effective date” of an examination or reexamination refers to: (i) in the case of an examination for admission, the date of initial occupancy and (ii) in the case of reexamination of an existing tenant, the date the redetermined rent becomes effective.

**Elderly family.** A family whose head, cohead, spouse, or sole member is a person who is at least 62 years of age; two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

**Elderly person.** An individual who is at least 62 years of age.

**Eligible family (Family).** A family that is income eligible and meets the other requirements of the 1937 Act and Part 5 of 24 CFR.

**Employer identification number (EIN).** The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.

**Evidence of citizenship or eligible status.** The documents that must be submitted as evidence of citizenship or eligible immigration status. (See 24 CFR §5.508(b).)

**Extremely low-income family.** A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area, as determined by HUD, whichever number is higher, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30 percent of median income if HUD finds such variations are necessary due to unusually high or low family incomes. (See 24 CFR §5.603.)

**Facility.** All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock, or other real or personal property or interest in the property.

**Fair Housing Act.** Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

**Fair market rent (FMR).** The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe, and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the *Federal Register* in accordance with 24 CFR Part 888.

**Family.** Includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, and can be further defined in PHA policy:

- A single person, who may be:

- o An elderly person, displaced person, disabled person, near-elderly person, or any other single person;
- o 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:
  - o 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);
  - o An elderly family;
  - o A near-elderly family;
  - o A disabled family;
  - o A displaced family; and
  - o The remaining member of a tenant family.

~~—A family with or without children (the temporary absence of a child from the home due to placement in foster care is not considered in determining family composition and family size)~~

~~—An elderly family or a near-elderly family~~

~~—A displaced family~~

~~—The remaining member of a tenant family~~

~~—A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.~~

**Family self-sufficiency program** (FSS program). The program established by a PHA within its jurisdiction, ~~in accordance with 24 CFR part 984,~~ to promote self-sufficiency among participating families, including the coordination of supportive services to these families (24 CFR 984.103). ~~of assisted families, including the coordination of supportive services (42 U.S.C. 1437u; 24 CFR §984.103).~~

**Federal agency.** A department of the executive branch of the federal government.

**Flat rent.** Rent that is based on the market rent charged for comparable units in the private unassisted rental market, set at no less than 80 percent of the current fair market rent (FMR) 80 percent of the small area fair market rent (SAFMR), or 80 percent of the unadjusted rent, with utility allowances applied as necessary. The unadjusted rent is the FMR estimated directly from source data that HUD uses to calculate FMRs in nonmetropolitan areas. Established by the PHA for each public housing unit; a rent based on the market rent charged for comparable units in the unassisted rental market, set at no less than 80 percent of the

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~~applicable Fair Market Rent (FMR), and adjusted by the amount of the utility allowance, if any.~~

**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.

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**Foster childcare payment.** A payment to eligible households by state, local, or private agencies appointed by the state to administer payments for the care of foster children.

**Full-time student.** A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended). (See 24 CFR §5.603)

**Gender Identity.** Actual or perceived gender-related characteristics.

**Handicap.** Any condition or characteristic that renders a person an individual with handicaps. (See *person with disabilities*)

**Head of household.** The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

**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.

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**Household.** A household includes additional people other than the family who, with the PHA's permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.

**Housing agency (HA).** See *public housing agency*.

**HUD.** The U.S. Department of Housing and Urban Development.

**Human trafficking.** A crime involving the exploitation of a person for labor, services, or commercial sex. The Trafficking Victims Protection Act of 2000 and its subsequent reauthorizations recognize and define two primary forms of human trafficking:

- Sex trafficking is the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act in which a

commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age. See 22 U.S.C. § 7102(11)(A).

- Forced labor is the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. See 22 U.S.C. § 7102(11)(B).

**Imputed asset.** An asset disposed of for less than fair market value during the two years preceding examination or reexamination.

**Imputed asset income.** When the value of net family assets exceeds \$50,000 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. The PHA established passbook rate multiplied by the total cash value of assets. The calculation is used when net family assets exceed \$5,000.

~~**HOTMA: Imputed asset income.** HUD passbook rate multiplied by the total cash value of assets. Effective Jan. 1, 2024, the calculation used when net family assets exceed \$50,000.~~

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**Imputed welfare income.** An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction but is included in the family's annual income and therefore reflected in the family's rental contribution.

~~**Income.** Income from all sources of each member of the household, as determined in accordance with criteria established by HUD.~~

**Income-based rent.** A tenant rent that is based on the family's income and the PHA's rent policies for determination of such rents.

**Income information** means information relating to an individual's income, including:

- All employment income information known to current or previous employers or other income sources
- All information about wages, as defined in the state's unemployment compensation law, including any social security number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, employer identification number of an employer reporting wages under a state unemployment compensation law
- Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received

- Unearned IRS income and self-employment wages and retirement income
- Wage, social security, and supplemental security income data obtained from the Social Security Administration.

**Income Validation Tool (IVT)** Accessible through HUD's EIV system, provides validation of tenant reported wages, unemployment compensation, and Social Security benefits by comparing the income reported in IMS-PIC via form HUD-50058 to information received from the Department of Health and Human Services' (HHS) National Directory of New Hires (NDNH), and the Social Security Administration (SSA) data sharing agreements.

**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 with handicaps.** See *person with disabilities*.

**Jurisdiction.** The area in which the PHA has authority under state and local law to administer the program.

**Lease.** A written agreement between the PHA and a tenant family for the leasing a public housing unit. The lease establishes the legal relationship between the PHA and the tenant family.

**Live-in aide.** A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

- Is determined to be essential to the care and well-being of the persons;
- Is not obligated for the support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services.

**Local preference.** A preference used by the PHA to select among applicant families.

**Low-income family.** A family whose income does not exceed 80 percent of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80 percent for areas with unusually high or low incomes.

~~**Medical expenses.** Medical expenses, including medical insurance premiums that are anticipated during the period for which annual income is computed, and that are not covered by insurance (a deduction for elderly or disabled families only). These allowances are given~~

~~when calculating adjusted income for medical expenses in excess of 3 percent of annual income:~~

~~-HOTMA: Effective Jan. 1, 2024, a two-year phase-in will begin for a total 10 percent, instead of 3 percent of annual income to be used in the calculation of eligible medical expenses. (Effective Jan. 1, 2024, the threshold is 6.5 percent; effective Jan. 1, 2025)~~

~~by the PHA of zero to \$50.~~

**Minimum rent.** An amount established by the PHA of zero to \$50.

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**Minor.** A member of the family household other than the family head or spouse, who is under 18 years of age.

**Mixed family.** A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

**Monthly adjusted income.** One twelfth of adjusted income.

**Monthly income.** One twelfth of annual income.

**National.** A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

**Near-elderly family.** A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

**Net family assets.** (1) Net 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. (2) In determining net family assets, PHAs or owners, as applicable, must include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets. (3) Excluded from the calculation of net family assets are: (i) The value of necessary items of personal property; (ii) The combined value of all non-necessary items of personal property if the combined total value does not exceed \$50,000 (which amount will be adjusted by HUD in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers); (iii) The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans



for self-employed individuals; (iv) 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; (v) 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 family member being a person with a disability; (vi) The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986, the value of any qualified tuition program under section 529 of such Code, the value of any Achieving a Better Life Experience (ABLE) account authorized under Section 529A of such Code, and the value of any “baby bond” account created, authorized, or funded by Federal, State, or local government. (vii) Interests in Indian trust land; (viii) Equity in a manufactured home where the family receives assistance under 24 CFR part 982; (ix) Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982; (x) Family Self-Sufficiency Accounts; and (xi) Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family. (4) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the trust fund is not a family asset and the value of the trust is not included in the calculation of net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household.

~~***Net family assets.*** (1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land, and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.~~

- ~~— In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under §5-§609.~~
- ~~— In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.~~

***Noncitizen.*** A person who is neither a citizen nor national of the United States.

***Non-public housing over-income family.*** A family whose income exceeds the over-income limit for 24 consecutive months and is paying the alternative non-public housing rent.

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**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 very low-income family, as defined in 24 CFR 5.603(b), by a factor of 2.4.

**PHA Plan.** The annual plan and the 5-year plan as adopted by the PHA and approved by HUD.

**Participant (participant family).** A family that has been admitted to the PHA program and is currently assisted in the program.

~~**Payment standard.** The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).~~

**Person with disabilities.** For the purposes of program eligibility. A person who has a disability as defined under the Social Security Act or Developmental Disabilities Care Act, or a person who has a physical or mental impairment expected to be of long and indefinite duration and whose ability to live independently is substantially impeded by that impairment but could be improved by more suitable housing conditions. This includes persons with AIDS or conditions arising from AIDS but excludes persons whose disability is based solely on drug or alcohol dependence. For the purposes of reasonable accommodation. A person with a physical or mental impairment that substantially limits one or more major life activities, a person regarded as having such an impairment, or a person with a record of such an impairment.

**Premises.** The building or complex in which the dwelling unit is located, including common areas and grounds.

**Previously unemployed.** With regard to the earned income disallowance, a person who has earned, in the 12 months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

**Public assistance.** Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by federal, state, or local governments.

**Public housing agency (PHA).** Any state, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

~~**Qualified family** A family residing in public housing.~~

- ~~— Whose annual income increases as a result of employment of a family member who was unemployed for one or more years previous to employment;~~
- ~~— Whose annual income increases as a result of increased earnings by a family member during participation in any economic self-sufficiency or other job training program; or~~
- ~~— Whose annual income increases, as a result of new employment or increased earnings of a family member, during or within six months after receiving assistance, benefits, or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the PHA in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare to Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies, and transportation assistance, provided that the total amount over a six-month period is at least \$500.~~

**Real property:** *Has the same meaning as that provided under the law of the State in which the property is located.*

**Reasonable accommodation.** A change, exception, or adjustment to a rule, policy, practice, or service to allow a person with disabilities to fully access the PHA's programs or services.

**Recertification.** Sometimes called *reexamination*. The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.

**Remaining member of the tenant family.** The person left in assisted housing who may or may not normally qualify for assistance on their own circumstances (i.e., an elderly spouse dies, leaving widow age 47 who is not disabled).

**Residency preference.** A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area (See *residency preference area*).

**Residency preference area.** The specified area where families must reside to qualify for a residency preference.

**Responsible entity.** For the public housing the PHA administering the program under an ACC with HUD. **Secretary.** The Secretary of Housing and Urban Development.

**Secretary.** *The secretary of Housing and Urban Development.*

**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.** Section 8 of the United States Housing Act of 1937. Refers to the housing choice voucher program.

**Security deposit.** A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the PHA upon termination of the lease.

**Sexual Assault.** Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent (42 U.S.C. 13925(a)).

**Sexual orientation.** Homosexuality, heterosexuality, or bisexuality.

**Single person.** A person living alone or intending to live alone.

**Social security number (SSN).** The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person's earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

**Specified welfare benefit reduction.** Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

**Spouse.** The marriage partner of the head of household.

**Stalking.** To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the affiliated individual of that person, or (3) the spouse or intimate partner of that person.

**State wage information collection agency (SWICA).** The state agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the state, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

**Technological abuse.** An act or pattern of behavior that occurs within domestic violence, dating violence, sexual assault, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor another person, except as otherwise permitted by law, that occurs using any form of technology, including but not limited to:

- Internet enabled devices
- Online spaces and platforms
- Computers
- Mobile devices
- Cameras and imaging programs
- Apps
- Location tracking devices
- Communication technologies
- Any other emergency technologies

**Tenant.** The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

**Tenant rent.** The amount payable monthly by the family as rent to the PHA.

**Total tenant payment (TTP).** The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

**Unearned income.** Any annual income, as calculated under § 5.609, that is not earned income.

**Utilities.** Water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection, and sewage services. Telephone service is not included.

**Utility allowance.** (UA) If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

**Utility reimbursement.** The amount, if any, by which the utility allowance for the unit, if applicable, exceeds the total tenant payment (TTP) for the family occupying the unit.

**Veteran.** A person who has served in the active military or naval service of the United States at any time and who shall have been discharged or released therefrom under conditions other than dishonorable.

**Violence Against Women Reauthorization Act (VAWA) of 2013.** Prohibits denying admission to the project to an otherwise qualified applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking.

**Violent criminal activity.** Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

**Waiting list.** A list of families organized according to HUD regulations and PHA policy who are waiting for a unit to become available.

***Welfare assistance.***

Income assistance from federal or state welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families. For the FSS program (24 CFR 984.103), welfare assistance includes only cash maintenance payments designed to meet a family's ongoing basic needs. Does not include nonrecurring short term benefits designed to address individual crisis situations, work subsidies, supportive services such as child care and transportation provided to families who are employed, refundable earned income tax credits, contributions to and distributions from Individual Development Accounts under TANF, services such as counseling, case management, peer support, child care information and referral, financial empowerment, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support, amounts solely directed to meeting housing expenses, amounts for health care, Supplemental Nutrition Assistance Program (SNAP) and emergency rental and utilities assistance, SSI, SSDI, or social security, and child-only or non-needy TANF grants made to or on behalf of a dependent child solely on the basis of the child's need and not the need of the child's current non-parental caretaker.

~~Income assistance from federal or state welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, childcare, or other services for working families.~~

~~For the FSS program (984.103(b)), welfare assistance includes only cash maintenance payments from federal or state programs designed to meet a family's ongoing basic needs, but does not include food stamps, emergency rental and utilities assistance, SSI, SSDI, or social security.~~



**Public Housing Authority Commission Memorandum    City Clerk's Office**  
**Memo No. N/A**

**Date:** April 01, 2024  
**To:** Public Housing Authority Commission  
**From:** City Clerk's Office  
**Subject:** Approval of Minutes

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**Proposed Motion:**

Move the Public Housing Authority Commission approve the Public Housing Authority Commission regular meeting minutes of January 22, 2024.

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**Attachments**

Minutes of the January 22, 2024 PHAC Meeting

# Meeting Minutes

## Public Housing Authority Commission

### Regular Meeting

January 22, 2024, | 6:00 p.m.  
Chandler City Council Chambers  
88 E. Chicago St., Chandler, AZ



### Call to Order

The meeting was called to order by Chairman Hartke at 6:00 p.m.

### Roll Call

#### Commissioner Attendance

Chairman Kevin Hartke  
Vice Chairman OD Harris  
Commissioner Angel Encinas  
Commissioner Christine Ellis  
Commissioner Mark Stewart  
Commissioner Matt Orlando  
Commissioner Jane Poston  
Commissioner Lisa Loring

#### Appointee Attendance

Joshua Wright, City Manager  
Kelly Schwab, City Attorney  
Dana DeLong, City Clerk

### Scheduled/Unscheduled Public Appearances

None.

### Consent Agenda and Discussion

1. Approval of Minutes  
Move the Public Housing Authority Commission approve the Public Housing Authority Commission regular meeting minutes of November 6, 2023.
2. Agreement No. HO1-914-4268, Amendment No. 3, with PM Plumbing & Mechanical, Inc., for Public Housing Plumbing Services  
Move the Public Housing Authority Commission approve Agreement No. HO1-914-4268, Amendment No. 3, with PM Plumbing & Mechanical, Inc., for public housing plumbing



services, in an amount not to exceed \$125,000, for a one-year term, February 1, 2024, through January 31, 2025.

## **Consent Agenda Motion and Vote**

Commissioner Encinas moved to approve the Consent Agenda of the January 22, 2024, Regular Public Housing Authority Commission Meeting; Seconded by Commissioner Ellis.

Motion carried unanimously (8-0).

## **Adjourn**

The meeting was adjourned at 6:02 p.m.

ATTEST: \_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor