HOUSING AUTHORITY OF THE CITY OF HOBOKEN

ADMISSIONS AND CONTINUED OCCUPANCY POLICY

ADOPTED JUNE 10, 2021

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Chapter 1 OVERIEW

1.1 INTRODUCTION

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

1.2 ORGANIZATION AND STRUCTURE OF THE AUTHORITY

Public housing is funded by the federal government and administered by the Authority for the jurisdiction of the City of Hoboken, County of Hudson, State of New Jersey.

The Authority is governed by a Board of Commissioners. Commissioners are appointed in accordance with New Jersey Law for a term of five years and until their respective successors have been appointed and qualified. Five Commissioners are appointed by the City Council of the City of Hoboken, one Commissioner is appointed by the Mayor of the City of Hoboken, and one Commissioner is appointed by the Commissioner of the New Jersey Department of Community Affairs. The Board of Commissioners establishes policies under which the Authority conducts business. 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 Authority are taken through written resolutions, adopted by the Board of Commissioners, and entered into the official record of the Authority.

The principal staff member of the Authority is the Executive Director, who is selected and hired by the Board of Commissioners. The Executive Director oversees the day to day operations of the Authority and is directly responsible for carrying out the policies established by the Board of Commissioners. The duties of the Executive Director include hiring, training, and supervising Authority staff, as well as budgeting and financial planning for the Authority. Additionally, the Executive Director is charged with ensuring compliance with federal and state laws and program mandates.

1.3 THE AUTHORITY'S MISSION

The mission of the Authority is to provide safe, sanitary, affordable quality housing for individuals and families and to improve residents' quality of life by providing services, resources, programs, and activities that foster self-sufficiency.

1.4 THE AUTHORITY'S COMMITMENT TO ETHICS AND SERVICE

Members of the Board of Commissioners shall comply with the applicable ethics requirements enacted by the State of New Jersey and by HUD.

1.5 THE PUBLIC HOUSING PROGRAM

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 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, 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 a public housing agency ("PHA") more remedies to replace or revitalize severely distressed public housing developments. Highlights of the Reform Act include the establishment of flat rents; the requirement for PHAs to develop five-year and annual plans; income targeting, a requirement that 40% of all new admissions in public housing during any given fiscal year be reserved for extremely low-income families; and resident self-sufficiency incentives

1.6 THE ADMISSIONS AND CONTINUED OCCUPANCY POLICY

The Admissions and Continued Occupancy ("ACOP") is the Authority'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 Authority'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 Authority 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.

Chapter 2 FAIR HOUSING AND EQUAL OPPORTUNITY

2.1 INTRODUCTION

It is the policy of the Authority to fully comply with all applicable federal, state, and local fair housing and nondiscrimination laws.

Federal laws require the Authority to treat all persons and 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. Also, HUD regulations provide for additional protections regarding sexual orientation, gender identity, and marital status. The Authority shall 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, but not limited to:

- 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
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the *Federal Register* February 3, 2012, and further clarified in Notice PIH 2014-20
- The Violence against Women Act of 2013 ("VAWA")
- The New Jersey Law Against Discrimination ("LAD")
- Any applicable state laws or local ordinances and any legislation protecting individual rights of residents, 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.

2.2 NONDISCRIMINATION

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

The Authority 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 Authority will not discriminate based on marital status, gender identity, or sexual orientation [FR Notice 02/03/12].

The Authority 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 resident 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

2.2.1 PROVIDING INFORMATION TO FAMILIES

The Authority 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 Authority will provide information to public housing applicant families about civil rights requirements.

2.2.2 DISCRIMINATION COMPLAINTS

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

Within ten business days of receiving the complaint, the Authority will provide a written notice to those alleged to have violated the rule. The Authority will also send a written notice to the complainant informing them that notification 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 Authority will attempt to remedy discrimination complaints made against the Authority and will conduct an investigation into all allegations of discrimination.

Within ten business days following the conclusion of the Authority's investigation, the Authority 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 Authority will keep a record of all complaints, investigations, notices, and corrective actions. (See Chapter 16.)

In all cases, the Authority may advise the applicant to file a fair housing complaint if the applicant feels he or she has been discriminated against under the Fair Housing Act.

Upon receipt of a housing discrimination complaint, the Authority will:

- 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]

2.3 REASONABLE ACCOMMODATION

The Fair Housing Act prohibits 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 Authority will ensure that persons with disabilities have full access to the Authority'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 Authority will provide a notice to each resident that the resident may, at any time during the tenancy, request a reasonable accommodation of a handicap of a household member, including reasonable accommodation so that the resident can meet lease requirements or other requirements of tenancy [24 CFR 966.7(b)].

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

The contact person for requests for accommodation for persons with disabilities shall be the Authority's Director of Management, who can be reached at (201) 239-2145 or at hha@myhhanj.com.

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]

2.3.1 REQUEST FOR REASONABLE ACCOMMODATIONS

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.

When it is reasonable, the Authority shall accommodate the needs of a person with disabilities. 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.

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

2.3.2 VERIFICATION OF REASONABLE ACCOMMODATION

The regulatory, civil rights definition for persons with disabilities is provided in Section 3.3.2 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 Authority will 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 Authority's programs and services.

If a person's disability is obvious or otherwise known to the Authority, 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 Authority, the Authority will 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 Authority 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 may be obtained from 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 [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

- The Authority will request only information that is necessary to evaluate the disability-related need for the accommodation. The Authority 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 Authority does receive confidential information about a person's specific diagnosis, treatment, or the nature or severity of the disability, the Authority will dispose of it. In place of the information, the Authority 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].

2.3.3 DEFINITION OF PERSONS WITH A DISABILITY UNDER FEDERAL LAW

A person with a disability, as defined under federal civil rights laws, is any person who has (i) a physical or mental impairment that substantially limits one or more of the major life activities of an individual, (ii) a record of such impairment, or (iii) is regarded as having such an impairment

The phrase “physical or mental impairment” includes:

- Any physiological disorder or condition, cosmetic or disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or

- Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term “physical or mental impairment” includes, but is not limited to: such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction, and alcoholism.

"Major life activities" include, but are not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, breathing, learning, 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 Authority) as constituting such a limitation; has none of the impairments defined in this section but is treated by a public entity as having such an impairment; or has a physical or mental impairment that substantially limits one or more major life activities, only as a result of the attitudes of others toward that impairment.

The definition of a person with disabilities does not include:

- Current illegal drug users

- People whose alcohol use interferes with the rights of others

- Persons who objectively pose a direct threat or substantial risk of harm to others that cannot be controlled with a reasonable accommodation under the public housing program

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

The HUD definition of a person with a disability is much narrower than the civil rights definition of disability. The HUD definition of a person with a disability is used for purposes of receiving the disabled family preference, the $400 elderly/disabled household deduction, the allowance for medical expenses, or the allowance for disability assistance expenses.

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

2.3.4 APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION

The Authority will 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 will 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 the budget, type of operation including composition and structure of the 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 Authority 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 Authority may verify the need for the requested accommodation.

If the Authority 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 Authority'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 Authority believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, the Authority will notify the family, in writing, of its determination within ten 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).

2.4 PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS

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

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

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 meetings with Authority 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.

2.5 PHYSICAL ACCESSIBILITY

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

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

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

Newly constructed facilities must be designed to be readily accessible to and usable by persons with disabilities. Alterations to existing facilities must be accessible to the maximum extent

feasible, defined as not imposing an undue financial and administrative burden on the operations of the public housing program.

2.6 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, if applicable [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)].

2.7 IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY (LEP)

2.7.1 OVERVIEW

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

The Authority 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. **Oral**

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2.7.2 INTERPRETATION

The Authority will endeavor to have a bilingual staff or access to persons who speak languages other than English to assist LEP persons to obtain meaningful access to Authority services and programs.

2.7.3 WRITTEN TRANSLATION

[Federal Register/Vol. 72. No. 13/January 22, 2017, p. 2748]

The Authority is required to make a reasonable effort to provide language assistance to ensure meaningful access for LEP persons to Authority programs and activities. The Authority will attempt to determine the reasonableness of language assistance by obtaining demographic data and applicants and residents through census information, surveys, or other methods. The Authority uses the following factors in determining the reasonableness of language assistance:

1. Number or proportion of LEP persons in the population to be served
2. The frequency with which LEP persons come into connection with program activity or service
3. Important of the service, information, program, or activity
4. Resources, financial and human, available to the Authority

When reasonable and appropriate, the Authority will translate vital and generic widely used written documents into the languages of targeted LEP groups.

The Authority will outreach to organizations having significant contact with LEP persons, such as schools, grassroots, and faith-based organizations, community groups, and groups working with new immigrants to help ensure meaningful access to its programs and activities to LEP persons.

Chapter 3 ELIGIBILITY

3.1 INTRODUCTION

There are five eligibility requirements for applicant's admission to public housing: (i) qualify as a family, (ii) have income within the income limits, (iii) meet citizenship/immigrant criteria, (iv) provides documentation of Social Security numbers, and (v) sign consent authorization documents. In addition to eligibility criteria, applicants must also meet the Authority's screening criteria in order to be admitted to public housing.

The Authority must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or the Authority.

3.1.1 AFFIRMATIVE MARKETING

The Authority will conduct affirmative marketing as needed so the waiting list includes a mix of applicants with races, ethnic backgrounds, ages and disabilities proportionate to the mix of those groups in the eligible population of the area. The marketing plan will take into consideration the number and distribution of vacant units, units that can be expected to become vacant because of move-outs, and characteristics of families on the waiting list. The Authority will review these factors regularly to determine the need for and scope of marketing efforts. All marketing efforts will include outreach to those least likely to apply.

- Marketing and informational materials will:
    - Comply with Fair Housing Act requirements on wording, logo, size of type, etc.;
    - Describe the housing units, application process, waiting list and preference structure accurately;
    - Use clear and easy to understand terms and more than strictly English-language print media;
    - Contact agencies that serve potentially qualified applicants least likely to apply (e.g. the disabled) to ensure that accessible/adaptable units are offered to applicants who need their features;
    - Make clear who is eligible: low income individuals and families; working and non- working people; and people with both physical and mental disabilities; and
    - Be clear about PHA's responsibility to provide reasonable accommodations to people with disabilities.

3.2 FAMILY STATUS [FAMILY AND HOUSEHOLD [24 CFR 5.105(A)(2), 24 CFR 5.403, FR NOTICE 02/03/12, AND NOTICE PIH 2014-20]

3.2.1 OVERVIEW

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

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

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

The equal access final rule prohibits administrators of HUD-assisted housing from requiring family members to be related by blood, marriage, adoption, or any other operation of law in order to be considered a family.

3.2.2 HOUSEHOLD

A household consisting exclusively of one or more full-time college students does not qualify as a family unless each individual in the household satisfies the following conditions:

- The individual either must have established a household separate from his/her parents or legal guardians for at least one year prior to application for admission or must meet the U.S. Department of Education's definition of independent student as follows:
    - To be classified as an independent student according to the Department of Education, a student must meet at least one of the following criteria:
        - Be at least 24 years old by December 31 of the award year for which aid is sought
        - Be married
        - Have a child or other dependents who receive more than half their support from the student and who also live with the student
        - Be enrolled as a graduate or professional student (e.g. medicine, dentistry, law)
        - Be a veteran of the U.S. military
        - Be an orphan or a ward of the court through age 18

- Have special and unusual circumstances that can be documented to his or her college financial aid administrators. Only an experienced financial aid administrator can make this "dependency override."

The individual must not be claimed as a dependent by his/her parents or legal guardians pursuant to Internal Revenue Service (IRS) regulations

FAMILY BREAKUP

Except under the following conditions, the Authority 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, the Authority must ensure that the victim retains assistance. (For documentation requirements and policies related to domestic violence, dating violence, sexual assault, and stalking, see section 16.8.4 of this ACOP.)
- If a court determines the disposition of property between members of the assisted family, the Authority is bound by the court's determination of which family members continue to receive assistance.

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 an applicant or resident family, the Authority will abide by the court's determination.

In the absence of a judicial decision or an agreement among the original family members, the Authority will determine which family will retain their placement on the waiting list or continue in occupancy. In making its determination, the Authority will take into consideration the following factors: (1) the interest of any minor children, including custody arrangements; (2) the interest of any ill, elderly, or disabled family members; (3) the interest of any family member who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, 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 16.8.4 of this ACOP; (4) any possible risks to family members as a result of criminal activity, and (5) the recommendations of social service professionals.

REMAINING MEMBER OF A RESIDENT FAMILY [24 CFR 5.403]

The HUD definition of family includes the *remaining member of a resident 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 resident family” and there is no family member able to assume the responsibilities of the head of household, see Chapter 6, Section 6.2.8 for the policy on “Caretakers for a Child.”

3.2.3 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. 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.

3.2.4 SPOUSE, COHEAD, AND OTHER ADULT

A family may have a spouse or cohead, but not both [HUD-50058 IB, p. 13]. See Glossary for definition of “Spouse,” or “Cohead.”

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.

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].

3.2.5 DEPENDENTS [24 CFR 5.603]

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

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 Authority will make the determination based on available documents, such as court orders, an IRS income tax return showing which family has claimed the child for income tax purposes, school records, or other credible documentation.

3.2.6 PERSONS WITH DISABILITIES AND DISABLED PERSON [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 Chapter 2 of this Policy. 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 Authority must make all aspects of the public housing program accessible to persons with disabilities and must consider requests for reasonable accommodations when a person's disability limits their full access to the unit, the program, or the Authority'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 Authority from denying admission or taking action under the lease for reasons related to alcohol and drug abuse in accordance with the policies found in Section 13.4.

GUEST [24 CFR 5.100]

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

The lease must provide that the resident 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 Authority premises [24 CFR 966.4(f)].

A resident family must notify the Authority when overnight guests will be staying in the unit for more than 5 days. A guest can remain in the unit no longer than 14 consecutive days or a total of 28 cumulative calendar days during any 12-month period.

A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure expected to last more than 14 consecutive days or more than 28 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 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.

Individuals banned from Authority property subject to the Defiant Trespass and Ban Policy of the Authority are not permitted as guests, overnight or otherwise, and are not permitted on Authority property at any time.

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 violation of the lease.

3.2.7 FOSTER CHILDREN AND FOSTER ADULTS

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

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.

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

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

Children that are temporarily absent from the home as a result of placement in foster care are discussed in Section 3.2.8.

3.2.8 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. This section shall apply only to situations where one or more family members is absent from the unit. It shall not apply when the entire family is absent from the unit for more than 14 consecutive days.

DEFINITIONS OF TEMPORARILY AND PERMANENTLY ABSENT

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

ABSENT STUDENTS

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 Authority 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. If a child has been placed in foster care, the Authority 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

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

INDIVIDUALS CONFINED FOR MEDICAL REASONS

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

If there is a question about the status of a family member, the Authority 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

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

3.2.9 LIVE-IN AIDE

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

A live-in aide is considered a household member but not a family member. The income of the live-in aide is not counted in determining the annual income of the family [24 CFR 5.609(c)(5)]. Relatives may be approved as live-in aides if they meet all 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 resident family.

A family's request for a live-in aide may be made either orally or in writing. The Authority will verify the need for a live-in aide, if necessary, with a reliable, knowledgeable professional as provided by the family, such as a doctor, social worker, or case worker. For continued approval, the family may be required to submit a new, written request—subject to Authority 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 Authority has the discretion not to approve a particular person as a live-in aide, and may withdraw such approval, if [24 CFR 966.4(d)(3)(i)]:

- The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The person has a history of drug-related criminal activity or violent criminal activity; or
- The person currently owes rent or other amounts to the Authority or to another Authority 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 Authority will notify the family of its decision in writing

3.3 INCOME ELIGIBILITY AND TARGETING

3.3.1 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.

3.3.2 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.

3.3.3 USING INCOME LIMITS FOR TARGETING [24 CFR 960.202(B)]

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

If admissions of extremely low-income families to the Authority's housing choice voucher program during the Authority fiscal year exceed the 75 percent minimum targeting requirement for that program, such excess shall be credited against the Authority'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 Authority fiscal year
- Ten percent of waiting list admission to the Authority's housing choice voucher program during the Authority 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 resident selection, see Chapter 4.

3.4 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 Authority'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.

3.4.1 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.

3.4.2 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 Authority to request additional documentation of their status, such as a passport.

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

3.4.3 ELIGIBLE NONCITIZENS

In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a verification consent form and cooperate with Authority 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].

3.4.4 INELIGIBLE NONCITIZENS

Those noncitizens who do not wish to contend their immigration status are required to have their names listed on a noncontending family members listing, signed by the head, spouse, or cohead (regardless of citizenship status), indicating their ineligible immigration status. The Authority 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.

3.4.5 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.

3.4.6 INELIGIBLE FAMILIES [24 CFR 5.514(D), (E), AND (F)]

The Authority 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 Authority that the individual or at least one family member is eligible [24 CFR 5.512(a)].

The Authority 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 Authority 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 15 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 Authority. The grievance hearing with the Authority 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.

3.4.7 TIME FRAME FOR DETERMINATION OF CITIZENSHIP STATUS [24 CFR 5.508(G)]

For new occupants joining the resident family the Authority 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 Authority 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.

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

3.5 SOCIAL SECURITY NUMBERS [24 CFR 5.216 AND 5.218, NOTICE PIH 2018-24]

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

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

In addition, each participant who has not previously disclosed a SSN, has previously disclosed a 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 Authority must deny assistance to an applicant family if they do not meet the SSN disclosure and documentation requirements contained in 24 CFR 5.216.

3.6 FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.230]

HUD requires each adult family member, and the head of household, spouse, or cohead, regardless of age, to sign form HUD-9886, Authorization for the Release of Information Privacy Act Notice, 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 Authority will deny admission to the program if any member of the applicant family fails to sign and submit consent forms which allow the Authority to obtain information that the Authority has determined is necessary in administration of the public housing program [24 CFR 960.259(a) and (b)].

3.7 DENIAL OF ADMISSION

3.7.1. OVERVIEW

A family that does not meet the eligibility criteria discussed in this chapter will be denied admission.

In addition, HUD requires or permits the Authority to deny admission based on certain types of current or past behaviors of family members as discussed in this part. The Authority's authority in this area is limited by the Violence Against Women 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 [24 CFR 5.2005(b)].

This section covers the following topics:

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

3.7.2 REQUIRED DENIAL OF ADMISSION [24 CFR 960.204]

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

- The Authority must prohibit admission of an applicant if any household member has been evicted from federally-assisted housing within the past three years for drug-related criminal activity. However, the Authority may admit the household if the Authority determines that (1) the evicted household member who engaged in the drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by the Authority; and (2) the circumstances leading to the eviction no longer exist.
- The Authority 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)].

  Currently engaged in is defined as any use of illegal drugs during the previous six months.
- The Authority 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.

  In determining reasonable cause, the Authority 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. The Authority 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. The Authority will carry out sex offender registration checks in the State of New Jersey and any state in which the applicant household are known to have resided.

3.7.3 OTHER PERMITTED REASONS FOR DENIAL OF ADMISSION

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

CRIMINAL ACTIVITY [24 CFR 960.203(C)]

The Authority is responsible for screening family behavior and suitability for tenancy. In doing so, the Authority 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 residents.

The Authority **will** prohibit admission if any household member is currently engaged in certain other criminal activities, including but not limited to:

- Other *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 residents [24 CFR 960.203(c)(3)]; Criminal activity that may threaten the health or safety of Authority staff, contractors, subcontractors, or agents; or 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 5 years. A conviction for such activity will be given more weight than an arrest or an eviction. A record of arrest(s) will not be used as the basis for the denial or proof that the applicant engaged in disqualifying criminal activity.

  In making its decision to deny assistance, the Authority will consider the factors discussed in Sections 3.9 and 3.10. Upon consideration of such factors, the Authority may, on a case-by-case basis, decide not to deny assistance.

PREVIOUS BEHAVIOR [960.203(C) AND (D) AND PH OCC GB, P. 48]

HUD authorizes the Authority 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 Authority must consider the time, nature, and extent of the applicant's conduct (including the seriousness of

the offense). As discussed in Section 3.10 the Authority 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.

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

- Has a pattern of unsuitable past performance in meeting financial obligations, including rent within the past five years
- Has a pattern of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences within the past five years which may adversely affect the health, safety, or welfare of other residents
- Has a pattern of eviction from housing or termination from residential programs within the past five years (considering relevant circumstances)
- Owes rent or other amounts to this or any other Authority or owner in connection with any assisted housing program
- Misrepresented or does not provide complete information related to eligibility, including income, award of preferences for admission, expenses, family composition or rent
- Has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program
- Has engaged in or threatened violent or abusive behavior toward Authority personnel
    - *Abusive or violent behavior towards Authority 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 Authority will consider the factors discussed in Sections 3.10 and 3.10. Upon consideration of such factors, the Authority may, on a case-by-case basis, decide not to deny admission.

  The Authority 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.

3.8 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 Authority in complying with HUD requirements and Authority 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 Authority must require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903].

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

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

HAs 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)].

If the Authority proposes to deny admission based on a criminal record or on lifetime sex offender registration information, the Authority 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)].

3.8.1 OBTAINING INFORMATION FROM DRUG TREATMENT FACILITIES [24 CFR 960.205]

The Authority may request, before any family is admitted, information from drug abuse treatment facilities to determine whether certain household members are currently engaging in illegal drug activity.

The Authority will only request such information for household members whose criminal record indicates prior arrests or conviction for any criminal activity that may be a 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. Such household members may be required to sign one or more consent forms that request any drug abuse treatment facility to inform the Authority of such information.

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 Authority has made a final decision to either approve or deny the admission of such person.

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

If the Authority 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).

The Authority may only obtain information from drug abuse treatment facilities to determine whether any applicant family's household members are currently engaging in illegal drug activity when the Authority 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.

3.8.2 SCREENING FOR SUITABILITY AS A RESIDENT [24 CFR 960.203(C)]

The Authority is responsible for the screening and selection of families to occupy public housing units. The Authority 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.

The Authority may 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 3.7.2 and 3.7.3
- Compliance with any other essential conditions of tenancy

RESOURCES USED TO CHECK APPLICANT SUITABILITY [PH OCC GB, PP. 47-56]

The Authority has a variety of resources available to it for determination of the suitability of applicants. Generally, the Authority will reject applicants who have recent behavior that would warrant lease termination for a public housing resident.

In order to determine the suitability of applicants the Authority may examine applicant history for the past five years. Such background checks may include:

Past Performance in Meeting Financial Obligations, Especially Rent

- Authority and landlord references, including gathering information about past performance meeting rental obligations, such as rent payment record, late payment record, whether the landlord ever began or completed lease termination for non-payment, and whether utilities were ever disconnected in the unit. 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 his/her name. (Use of this inquiry will be reserved for applicants applying for units where there are resident-paid utilities.)
- If an applicant has no rental payment history, the Authority may 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 may also be asked to provide the Authority 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 may 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 Authority, 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 Residents, or Cause Damage to the Unit or the Development

- Authority and landlord reference, including 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 five years may be used to check for any evidence of disturbance of neighbors or destruction of property that might have resulted in arrest or conviction.
- A personal reference may 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 may 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.

3.9 CRITERIA FOR DECIDING TO DENY ADMISSION

3.9.1 EVIDENCE

The Authority 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.

3.9.2 CONSIDERATION OF CIRCUMSTANCES [24 CFR 960.203(C)(3) AND (D)]

HUD authorizes the Authority 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 3-7.2).

In the event the Authority 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, the Authority may give consideration to factors which might indicate a reasonable probability of favorable future conduct.

The Authority may 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 3.10) 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 of arrest(s) will not be used as the basis for denial, an arrest may, however, trigger an investigation to determine whether the applicant actually engaged in disqualifying criminal activity. As part of its investigation, the Authority may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The Authority 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 Authority may require the applicant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

3.9.3 REMOVAL OF A FAMILY MEMBER'S NAME FROM THE APPLICATION

Should the Authority's screening process reveal that an applicant's household includes an individual subject to state lifetime registered sex offender registration, the Authority 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 Authority must deny admission to the family [Notice PIH 2012-28].

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

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 Authority request.

3.9.4 REASONABLE ACCOMMODATION [PH OCC GB, PP. 58-60]

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

If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of admission, the Authority will determine whether the behavior is related to the disability. If so, upon the family's request, the Authority will determine whether alternative measures are appropriate as a reasonable accommodation. The Authority 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.

3.10 PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

The Violence against Women Act of 2013 (VAWA) and the HUD regulation at 24 CFR 5.2005(b) prohibit HAs 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.

Definitions of key terms used in VAWA are provided in section 16.8.2 this ACOP, where general VAWA requirements and policies pertaining to notification, documentation, and confidentiality are also located.

3.10.1 NOTIFICATION

VAWA 2013 expanded notification requirements to include the obligation for HAs 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.

The Authority 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 Authority's policies.

While the Authority 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 Authority that their status as a victim is directly related to the grounds for the denial. The Authority will request that the applicant provide enough information to the Authority to allow the Authority 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 Authority will include in its notice of denial information about the protection against denial provided by VAWA in accordance with section 16.8.3 of this ACOP, a notice of VAWA rights, and a copy of the form HUD-5382. The Authority will request in writing that an applicant wishing to claim this protection notify the Authority within 10 business days.

VICTIM DOCUMENTATION [24 CFR 5.2007]

If an applicant claims the protection against denial of admission that VAWA provides to victims of domestic violence, dating violence, sexual assault, or stalking, the Authority will request in writing that the applicant provide documentation supporting the claim in accordance with section 16.8.4 of this ACOP.

PERPETRATOR DOCUMENTATION

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 his or her belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.

3.10.2 NOTICE OF ELIGIBILITY OR DENIAL

The Authority will notify an applicant family of its final determination of eligibility in accordance with the policies in Section 4.9 of this Policy.

If a Authority 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 Authority 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)].

If, based on a criminal record or sex offender registration information an applicant family appears to be ineligible, the Authority 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 Authority to dispute the information within that 10-day period, the Authority 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 3.4.6.

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 3.10.

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 his or her ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

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

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

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

Individual with Handicaps [24 CFR 8.3]

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

(1) Physical or mental impairment includes:

   (a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine

   (b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

(2) Major life activities mean functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(3) Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) Is regarded as having an impairment means:

   (a) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation

   (b) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment

   (c) Has none of the impairments defined in paragraph (a) of this section but is treated by a recipient as having such an impairment

Chapter 4 APPLICATIONS, WAITING LIST AND RESIDENT SELECTION

4.1 INTRODUCTION

When a family wishes to reside in public housing, the family must submit an application that provides the Authority with the information needed to determine the family's eligibility. HUD requires the Authority to place all eligible families that apply for public housing on a waiting list. When a unit becomes available, the Authority must select families from the waiting list in accordance with HUD requirements and Authority policies as stated in this policy and the Authority's Annual Plan.

The Authority 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 Authority to receive preferential treatment.

HUD regulations require that the Authority 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 Authority will be in compliance with all relevant fair housing requirements, as described in Chapter 2.

This chapter describes HUD and Authority policies for accepting applications, managing the waiting list and selecting families from the waiting list. The Authority's policies for assigning unit size and making unit offers are contained in Chapter 5. Together, Chapters 4 and 5 of this policy comprise the Authority's Resident Selection and Assignment Plan.

4.2 MANAGING THE WAITING LIST

4.2.1 HOUSEHOLD

The Authority 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 Authority may structure its waiting list and how families must be treated if they apply for public housing at an Authority that administers more than one assisted housing program.

4.2.2 ORGANIZATION OF THE WAITING LIST

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

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

- Name and social security number of head of household
- Unit size required to accommodate all family members
- Amount and source of annual income
- Accessibility requirement, if any
- Date and time of application or application number
- Household type (family, elderly, disabled)
- Admission preference, if any
- Race and ethnicity of the head of household
- The specific site(s) selected (only if Authority offers site-based waiting lists)

All contacts between the Authority and the applicant will be documented in the applicant files. HUD requires that public housing applicants must be offered the opportunity to be placed on the waiting list for any resident-based or project-based voucher or moderate rehabilitation program that the Authority 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)].

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

When a family appears to be within three (3) months of being offered a unit, the family will be invited to an interview and the verification process will begin. It is at this point in time that the family's waiting list preference will be verified. If the family no longer qualifies to be near the top of the list, the family's name will be returned to the appropriate spot on the waiting list. The Authority must notify the family in writing of this determination and give the family an opportunity for an informal review.

Once the preference has been verified, the family will complete a full application, present Social Security number, citizenship/eligible immigrant information, and sign the Consent for Release of Information forms.

4.3 OPENING AND CLOSING THE WAITING LIST

4.3.1 CLOSING THE WAITING LIST

The Authority may close the waiting list when the estimated waiting period for housing applicants on the list reaches 24 months for the most current applicants. Where the Authority has particular preferences or other criteria that require a specific category of family, the Authority may elect to continue to accept applications from these applicants while closing the waiting list to others.

4.3.2 REOPENING THE WAITING LIST

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

The Authority 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 Authority will give public notice by publishing the relevant information in suitable media outlets including, but not limited to:

Jersey Journal

Star Ledger

FAMILY OUTREACH [24 CFR 903.2(d); 24 CFR 903.7(a) and (b)]

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

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

Authority 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

Authority outreach efforts will 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

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

REPORTING CHANGES IN FAMILY CIRCUMSTANCES

While a family is on the waiting list, the family must inform the Authority 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.

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

4.4 UPDATING THE WAITING LIST

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

4.4.1 PURGING THE WAITING LIST

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

The waiting list will be updated at least annually to ensure that all applicant information is current and timely.

To update the waiting list, the Authority 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 Authority 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.

The family's response must be in writing and may be delivered in person, by mail, by email, or by fax. Responses should be postmarked or received by the Authority not later than 10 business days from the date of the Authority letter.

If the family fails to respond within 10 business days, the family will be removed from the waiting list without further notice.

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

If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated. The family will have 10 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.

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

If a family is removed from the waiting list for failure to respond, the Authority may reinstate the family if the lack of response was due to Authority error, or to circumstances beyond the family's control.

4.4.2 REMOVAL FROM THE WAITING LIST

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

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

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

4.5 THE APPLICATION PROCESS

4.5.1 OVERVIEW

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

4.5.2 APPLYING FOR ASSISTANCE

However, the Authority must include Form HUD-92006, Supplement to Application for Federally Assisted Housing, as part of the Authority's application [Notice PIH 2009-36].

The Authority will use a two-step application. Under the two-step application process, the Authority will require families to provide only the information needed to make an initial assessment of the family's eligibility, and to determine the family's placement on the waiting list. The family will be required to provide all of the information necessary to establish family eligibility and the amount of rent the family will pay when selected from the waiting list.

Families may obtain application forms from the Authority's office during normal business hours. Families may also request – by telephone or by mail – that an application form be sent to the family via first class mail.

Completed applications must be returned to the Authority by mail or submitted in person during normal business hours. Applications must be filled out completely in order to be accepted by the Authority for processing. If an application is incomplete, the Authority will notify the family of the additional information required.

4.5.3 ACCESSIBILITY OF THE APPLICATION PROCESS

The Authority will take a variety of steps to ensure that the application process is accessible to those people who might have difficulty complying with the standard Authority application process.

4.5.4 DISABLED POPULATIONS [24 CFR 8; PH OCC GB, P. 68]

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

4.5.5 LIMITED ENGLISH PROFICIENCY

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

4.5.6 PLACEMENT ON THE WAITING LIST

The Authority will review each completed application received and make a preliminary assessment of the family's eligibility. Applicants for whom the waiting list is open will be placed on the waiting list unless the Authority determines the family to be ineligible. Where the family is determined to be ineligible, the Authority will 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.

4.5.7 INELIGIBLITY FOR PLACEMENT ON THE WAITING LIST

If the Authority determines from the information provided that a family is ineligible, the family will not be placed on the waiting list. When a family is determined to be ineligible, the Authority will send written notification of the ineligibility determination within 20 business days of receipt of the completed application. The notice will specify the reasons for ineligibility and will inform the family of its right to request an informal hearing and explain the process for doing so (see Chapter 14).

4.5.8 ELIGIBLITY FOR PLACEMENT ON THE WAITING LIST

The Authority will send written notification of the preliminary eligibility determination within 20 business days of receiving a completed application. If applicable, the notice will also indicate the waiting list preference(s) for which the family appears to qualify. In accordance with HUD Notice PIH-2012-34, applicants will be placed on the waiting list first according to Authority preference(s) and then by one of the following methods:

- The date and time the complete application is received by the Authority, or
- Through the use of a random choice technique or "lottery". Under this approach, the waiting list will not be established based on date and time of application. Instead, the Authority will randomly order applications to form its waiting list. If the Authority anticipates receiving far more applications than it can assist in a reasonable period of time, the lottery rules may be established in advance with a limit to the number of applications that will be placed on the waiting list. When the application deadline has passed, the Authority will randomly select the number of applications from a pool of all applications submitted. Those selected will be randomly ordered on the waiting list. Applications not selected for the waiting list will be discarded.

The choice of method to be utilized will be determined by the Board of Commissioners of the Authority in advance of the reopening of the waiting list and will be clearly stated in the notice announcing the opening of the waiting list required by Chapter 4, Section 3.2.

The Authority 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 4, Section 6.2). Families may request to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines (as long as the unit is not overcrowded according to Authority standards and local codes). However, in these cases, the family must agree not to request a transfer for two years after admission, unless they have a change in family size or composition.

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

4.6 RESIDENT SELECTION

4.6.1 LOCAL PREFERENCES [24 CFR 960.206]

The Authority will select families from its' waiting list based on the following local preferences within each bedroom category.

PREFERENCE NO. 1 - VETERANS AND SURVIVING SPOUSES

In accordance with N. J. P.L. 2016 c. 19, N.J. P.L. 2017 c. 19A, and N.J.A.C. 5:40-2.2, a preference shall be given to veterans and surviving spouses.

"Veteran" means any resident of the State of New Jersey who has been honorably discharged or released under honorable circumstances from active service in any branch of the Armed Forces of the United States, or any honorably discharged member of the American Merchant Marine who

served during World War II and is declared by the United States Department of Defense to be eligible for Federal veterans' benefits.

"Disabled veteran" means any resident of the State who has been honorably discharged or released under honorable circumstances from active service in any branch of the Armed Forces of the United States, and who has been or shall be declared by the United States Veterans Administration, or its successor, to have a service-connected disability.

"Resident" means a person legally domiciled within the State of New Jersey. Mere seasonal or temporary residence within the State, of whatever duration, shall not constitute domicile within the State for the purposes of this preference. Absence from this State for a period of 12 months shall be prima facie evidence of abandonment of domicile in this State. The burden of establishing legal domicile within the State shall be upon the applicant.

"Surviving spouse" means the surviving wife or husband of any of the following, while he or she is a resident of this State, during widowhood or widowerhood:

A. A citizen and resident of the State of New Jersey who has died or shall die while on active duty in time of war, as defined in N.J.A.C. 5:40-1.2, in any branch of the Armed Forces of the United States;
B. A citizen and resident of this State who has had or shall hereafter have active service in time of war, as defined in N.J.A.C. 5:40-1.2, in any branch of the Armed Forces of the United States and who died or shall die while on active duty in a branch of the Armed Forces of the United States; or
C. A citizen and resident of this State who has been or may hereafter be honorably discharged or released under honorable circumstances from active service in time of war, war, as defined in N.J.A.C. 5:40-1.2, in any branch of the Armed Forces of the United States.

As required by New Jersey law, this preference shall take priority over all other preferences.

Within this preference, priority shall be provided in the following order:

A. Veterans who are both homeless and disabled veterans;
B. Homeless veterans; and
C. Disabled veterans. This category shall include family members who are the primary residential caregivers to such veterans who are residing with them.

In order to qualify for this preference and for admission, veterans and surviving spouses must meet all other eligibility criteria.

PREFERENCE NO. 2 - INVOLUNTARILY DISPLACED PERSONS

A preference shall be given to individuals or families residing within the jurisdiction of the Authority involuntarily displaced by governmental action or whose dwelling has been extensively damaged or destroyed and is uninhabitable as a result of fire, flood, or natural disaster, and for which the action was not the result of neglect or intentional act of the applicant or a member of the applicant’s household.

In order to receive the displacement preference, applicants who have been displaced must not be living in "standard, permanent replacement housing."

Standard replacement housing is defined as housing that is decent, safe and sanitary according to the Housing Quality Standards/local housing code/other code, such as State or BOCA code that is adequate for the family size according to the Housing Quality Standards/local housing code/other code, and that the family is occupying pursuant to a written or oral lease or occupancy agreement .

Standard replacement housing does not include transient facilities, hotels, motels, temporary shelters, and in the case of Victims of Domestic Violence housing occupied by the individual who engages in such violence. It does not include any individual imprisoned or detained pursuant to State Law or an Act of Congress. Shared housing with family or friends is not considered standard replacement housing.

PREFERENCE NO. 3 - DISPLACED PERSONS WHO ARE VICTIMS OF DOMESTIC VIOLENCE

A preference shall be given to individuals or families residing within the jurisdiction of the Authority who have been/are involuntarily displaced as a result of their having been subject to or victimized by violent acts of a member of their household within the past 6 months. The Authority will require evidence that the family has been displaced as a result of fleeing violence in the home. Families are also eligible for this preference if there is proof that the family is currently living in a situation where they are being subjected to or victimized by violence in the home. The following criteria are to establish a family's eligibility for this preference:

- Actual or threatened physical violence directed against the applicant or the applicant's family by a spouse or other household member who lives in the units with the family.
- The actual or threatened violence must have occurred within the past six (6) months or be of a continuing nature.

To qualify for this preference, the abuser must still reside in the unit with applicant.

The applicant must certify that the abuser will not reside with the applicant in the public housing unit. If the abuser returns to the family household the Authority will terminate the public housing assistance for breach of this certification.

All families that qualify for one or more of the preferences enumerated above will be offered housing before any family that does not qualify for a preference. All families qualifying for Preference No. 1 shall take precedence over all other preferences. Within Preference No. 1, priority will be determined as stated therein. The method utilized to determine the sequence within the group of families qualifying for the same priority within Preference No. 1 will be consistent with the method stated in the notice announcing the opening of the waiting list, as set forth in Chapter 4, Section 5.8. Following the placement of all families within Preference No. 1, the sequence of placement within the group of families qualifying for one or more of the remaining preferences will be consistent with the method stated in the notice announcing the opening of the waiting list, as set forth in Chapter 4, Section 5.8.

In the case of buildings designated for the elderly or disabled, preference will be given to elderly and disabled families. If there are no elderly or disabled families on the waiting list, preference will then be given to near-elderly families. If there are no near-elderly families on the waiting list, units that are ready for re-rental and have been vacant for more than 60 consecutive days will be offered to families who qualify for the appropriate bedroom size using these priorities. All such families will be selected from the waiting list using the preferences as outlined above. [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)].

Accessible Units: Accessible units will be first offered to families who may benefit from the accessible features. Applicants for these units will be selected utilizing the same preference system as outlined above. If there are no applicants who would benefit from the accessible features, the units will be offered to other applicants in the order that their names come to the top of the waiting list. Such applicants, however, must sign a release form stating they will accept a transfer (at their own expense) if, at a future time, a family requiring an accessible applies. Any family required to transfer will be given a 30-day notice.

4.6.2 ASSIGNMENT OF BEDROOM SIZES

The following guidelines will be used to determine each family's unit size without overcrowding housing:

NUMBER OF BEDROOMS	**NUMBER OF PERSONS**	
	MINIMUM	**MAXIMUM**
0	1	1
1	1	2
2	2	4
3	3	6
4	4	8
5	5	10

These standards are based on the assumption that each bedroom will accommodate no more than two (2) persons. Zero-bedroom units will only be assigned to one-person families. Two adults may be required to share a bedroom, unless related by blood.

In determining bedroom size, the Authority will include the presence of children to be born to a pregnant woman, children who are in the process of being adopted, children whose custody in being obtained, children who are temporarily away at school, or children who are temporarily in foster care.

In addition, the following consideration may be taken into account when determining bedroom size.

A. Children of the same sex may share a bedroom.

B. Children of the opposite sex, both under the age of ten (10) may share a bedroom.

C. Adults and children will not be required to share a bedroom.

D. Foster-adults or foster-children will not be required to share a bedroom with other family members.

E. Live-in aides will get a separate bedroom, subject to availability.

Exceptions to normal bedroom size standards include the following:

A. Units smaller than assigned through the above guidelines – A family may request a smaller unit than the guidelines show. The Authority will allow the smaller size unit so long as generally no more than two (2) people per bedroom are assigned. In such situations, the family will be required sign a certification stating they understand they will be ineligible for a larger unit for three (3) years or until the family size changes, whichever may occur first.

B. Units larger then assigned through the above guidelines – A family may request a larger unit than the guidelines allow. The Authority may allow the larger size unit if the family provides a verified medical need that the family needs to be housed in a larger unit.

C. If there are no families on the waiting list for a larger size unit, smaller families may be housed if they sign a release form stating they will transfer (at the family's own expense) to an appropriately size unit when an eligible family needing the larger unit applies. The family transferring will be given a 30-day notice before being required to move.

D. Larger units may be offered to improve the marketing of a development suffering a high vacancy rate and to promote deconcentration.

4.6.3 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 Authority'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 Authority may skip non-ELI families on the waiting list in order to select an ELI family.

If there are not enough ELI on the waiting list the Authority will conduct outreach on non-discriminatory basis to attract ELI families to reach the statutory requirement

Admission of ELI families to the Authority's HCV program during the Authority fiscal year that exceed the 75 percent minimum target requirement for the HCV program, shall be credited against the Authority'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 Authority fiscal year; (2) ten percent of waiting list admissions to the Authority's housing choice voucher program during the Authority fiscal year; or (3) the number of qualifying low-income families who commence occupancy during the fiscal year of Authority 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.

The Authority will quarterly 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.

4.6.4 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 Authority at some point after its inception obtained HUD approval to give preference in resident 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 Authority must give elderly and disabled families equal preference in selecting these families for admission to mixed population developments. The Authority 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 Authority 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 Authority may not discriminate against elderly or disabled families that include children (Fair Housing Amendments Act of 1988).

4.6.5 UNITS DESIGNATED FOR ELDERLY OR DISABLED FAMILIES [24 CFR 945]

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

Among the designated developments, the Authority 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 Authority may allow near-elderly housing 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 Authority 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)].

4.6.6 *DECONCENTRATION OF POVERTY AND INCOME-MIXING [24 CFR 903.1 AND 903.2]*

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

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

The Authority may offer one or more incentive to encourage applicant families whose income classification would help to meet the deconcentration goal of a particular development. Various incentive such as the ones outlined below may be used at different times or under different conditions, but will always be provided in a consistent and non-discriminatory manner.

- 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 established income range (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 Authority in consultation with the residents and the community through the annual plan process to be responsive to local needs and Authority strategic objectives

4.7 NOTIFICATION OF SELECTION

When the family has been selected from the waiting list, the Authority must notify the family [24 CFR 960.208]. The Authority 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 scheduled application interview, including any procedures for rescheduling the interview
- Who is required to attend the interview?
- Documents that must be provided at the interview to document the legal identity of household members, including information about what constitutes acceptable documentation
- Documents that must be provided at the interview to document eligibility for a preference, if applicable
- Other documents and information that should be brought to the interview. If a notification letter is returned to the Authority with no forwarding address, the family will be removed from the waiting list without further notice. Such failure to act on the part of the applicant prevents the Authority from making an eligibility determination; therefore, no informal hearing will be offered.

4.8 THE APPLICATION INTERVIEW

When a family appears within three (3) months of being offered a unit, the family will be invited to an interview and the verification process will begin. It is at this point in time that the family's waiting list preference will be verified. If the family no longer qualifies to be near the top of the list, the family's name will be returned to the appropriate spot on the waiting list. The Authority must notify the family in writing of this determination and give the family the opportunity for an informal review. The head of household and the spouse/cohead will be strongly encouraged to attend the interview together. However, either the head of household or the spouse/cohead may attend the interview on behalf of the family. Verification of information pertaining to adult members of the household not present at the interview will not begin until signed release forms are returned to the Authority.

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

Assistance cannot be provided to the family until all SSN documentation requirements are met. However, if the Authority 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 Authority [Notice PIH 2018-24].

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

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

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

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

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

If the family is unable to attend a scheduled interview, the family should contact the Authority in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend a scheduled interview, the Authority will send another notification letter with a new interview appointment time. Authority will allow the family to reschedule for good cause. When good cause exists for missing an appointment, the Authority will work closely with the family to find a more suitable time. Applicants will be offered the right to an informal review before being removed from the waiting list.

4.9 FINAL ELIGIBILITY DETERMINATION [24 CFR 960.208]

The Authority must verify all information provided by the family (see Chapter 7). Based on verified information related to the eligibility requirements, including Authority suitability standards, the Authority 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 resident 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)].

The Authority 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 [24 CFR 960.208 (b)].

The Authority 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 Authority program.

The Authority will promptly notify any family determined to be ineligible for admission of the basis for such determination, and will 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)].

If the Authority determines that the family is ineligible, the Authority 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 Authority 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 Authority can move to deny the application. See Section 3.10.3 of this ACOP for the Authority's policy regarding such circumstances.

The Authority 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 16.8.3 of this ACOP, at the time the applicant is provided assistance or at the time the applicant is denied assistance. This notice must be provided in both of the following instances: (1) when a family actually begins receiving assistance lease execution); or (2) when a family is notified of its ineligibility.

4.10 REMOVAL FROM THE WAITING LIST

The Authority will not remove an applicant's name from the waiting list unless:

A. The applicant requests in writing that the name be removed.

B. The applicant fails to respond to a written request for information or a request to declare their continued interest in the program; or

C. The applicant does not meet the eligibility or suitability criteria for the program.

4.11 NOTIFICATION OF NEGATIVE ACTION

An applicant whose name is removed from the waiting list will be notified by the Authority in writing that they have ten days from the date of the written correspondence to present mitigating circumstances or request an informal review. The letter will also indicate that their name will be removed from the waiting list if they fail to respond within the timeframe specified. The Authority system of removing applicants from the waiting list will not violate the rights of persons with disabilities. If an applicant claims that their failure to respond to a request for information or updates was caused by a disability, the Authority will verify that there is in fact a disability and the disability caused the failure to respond, and provide a reasonable accommodation. An example

of a reasonable accommodation would be to reinstate the applicant on the waiting list consistent with the placement at the time of the original application.

Chapter 5 UNIT OFFERS

5.1 OVERVIEW

The Authority 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. The Authority has adopted a "one offer plan" for offering units to applicants. Under this plan, the first qualified applicant in sequence on the waiting list will be made no more than two offers of a unit of the appropriate size with good cause for refusal of an offer, as defined below.

5.2 TIME LIMIT FOR UNIT OFFER ACCEPTANCE OR REFUSAL

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.

5.3 REFUSALS OF UNIT OFFERS

5.3.1 GOOD CAUSE FOR UNIT REFUSAL

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 Authority'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 Authority'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 in accordance with section 16.8.4 of this policy. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption.
- A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final application) or live-in aide necessary to the care of the principal household member.
- The unit is inappropriate for the applicant's disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to a 30-day notice to move.
- The unit has lead-based paint and the family includes children under the age of six.

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

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

5.3.2 UNIT REFUSAL WITHOUT GOOD CAUSE

When an applicant rejects the final unit offer without good cause, the Authority 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 until the Authority opens the waiting list.

Chapter 6 INCOME AND RENT DETERMINATION

6.1. INTRODUCTION

To determine a household's annual income, the Authority counts the income of all family members, excluding the types and sources that are specifically excluded. Once the annual income is determined, the Authority subtracts all allowable deductions (allowances) to determine Total Resident Payment (TTP).

6.2 HOUSEHOLD COMPOSITION AND INCOME

6.2.1 TEMPORARILY ABSENT FAMILY MEMBERS

HUD rules require the Authority to count family members approved to live in a unit, even if a family member is temporarily absent from the unit [HCV GB, p. 5-18]. 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.

6.2.3 ABSENT STUDENTS

HUD does not specifically address students who are absent from a household. Although this issue would also apply to students under 18 years who are living away from the family, the major focus of this policy is to deal with students 18 and above who may or may not still be family members. 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 Authority, indicating that the student has established a separate household, or the family declares that the student has established a separate household.

6.2.4 ABSENCES DUE TO PLACEMENT IN FOSTER CARE

Children temporarily absent from the home as a result of placement in foster care are considered members of the family [24 CFR 5.403]. If a child has been placed in foster care, the Authority 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.

6.2.5 ABSENT HEAD, SPOUSE, OR COHEAD

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

6.2.6 INDIVIDUALS CONFINED FOR MEDICAL REASONS

An individual confined to a nursing home or hospital on a permanent basis is not considered a family member. If there is a question about the status of a family member, the Authority 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 permanently and request that the person not be considered a family member.

6.2.7 JOINT CUSTODY OF CHILDREN

When a joint custody agreement causes a child to live in more than one location, the Authority must determine whether the child is a member of a resident family. 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 assisted family (regardless of program) 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 Authority 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.

6.2.8 CARETAKERS FOR A CHILD

The approval of a caretaker is at the Authority's discretion and subject to the Authority's screening criteria. If neither a parent nor a designated guardian remains in a household, the Authority 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 be considered a family member only for the purposes of rent determination, but will not be considered a remaining member of a resident family.

- 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 Authority may extend the caretaker's status as an eligible visitor. The designated caretaker will be considered a family member only for the purposes of rent determination, but will not be considered a remaining member of a resident family.

6.3 ANTICIPATING ANNUAL INCOME

The Authority is required to count all income "anticipated to be received from a source outside the family during the 12 months following admission or annual reexamination effective date" [24 CFR 5.609(a)(2)]. The Authority generally will use current circumstances to determine anticipated income for the coming 12-month period. However, under certain conditions, HUD authorizes the Authority to use other than current circumstances to anticipate income.

When Enterprise Income Verification ("EIV") is obtained, and the family does not dispute the EIV employer data, the Authority will use current resident-provided documents to project annual income. When the resident-provided documents are pay stubs, the Authority will make every effort to obtain current and consecutive pay stubs dated within the last 60 days.

The Authority will obtain written or oral third-party verification in accordance with the verification requirements and policy in Chapter 7 in the following cases:

- If EIV or other Upfront Income Verification (UIV) data is not available,

- If the family disputes the accuracy of the EIV employer data, or
- If the Authority determines, additional information is needed.

In such cases, the Authority 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 trail will be left as to how the Authority annualized projected income.

When the Authority cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the Authority 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 Authority to show why the historic pattern does not represent the family's anticipated income.

6.3.1 KNOWN CHANGES IN INCOME

If the Authority verifies an upcoming increase or decrease in income, annual income will be calculated by applying each income amount to the appropriate part of the 12 months. 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 Authority will calculate annual income using current circumstances and then require an interim reexamination when the change occurs. This requirement will be imposed even if the Authority's policy on reexaminations does not require interim reexaminations for other types of changes. When resident-provided third-party documents are used to anticipate annual income, they will be dated within the last 60 days of the reexamination interview date.

6.3.2 PROJECTING INCOME

EARNED INCOME [24 CFR 5.609(b) and (c)].

Types of Earned Income Included in Annual Income (EXHIBIT 6-1)

Wages and Related Compensation **[24 CFR 5.609(b)(1)]**

For persons who regularly receive bonuses or commissions, the Authority will verify, and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, the Authority will use the prior year amounts. In either case, the family may provide, and the Authority 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 Authority will count only the amount estimated by the employer.

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)] <u>except</u> for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(c)(7)]

Types of Earned Income Not Counted in Annual Income (EXHIBIT 6-2)

Temporary, Nonrecurring, or Sporadic Income [24 CFR 5.609(c)(9)]

This type of income (including gifts) is not included in annual income.

Sporadic income is income that is not received periodically and cannot be reliably predicted. For example, the income of an individual who occasionally works as a handyperson would be considered sporadic if future work could not be anticipated, and no historic, stable pattern of income existed.

Children's Earnings [24 CFR 5.609(c)(1)]

Employment income earned by 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*.)

Certain Earned Income of Full-Time Students

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(c)(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].

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(c)(5)]. (See Eligibility chapter for a full discussion of live-in aides.)

Income Earned under Certain Federal Programs [24 CFR 5.609(c)(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(c)(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 Authority, 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

Authority's governing board. No resident may receive more than one such stipend during the same period of time.

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(c)(8)(v)].

The Authority 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 Authority 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 Authority 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 Authority's interim reporting requirements (see the chapter on reexaminations).

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.

To qualify as a training program, the program must meet the definition of *a 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 is discussed in the section below.

EARNED INCOME DISALLOWANCE [24 CFR 960.255; Streamlining Final Rule (SFR) Federal Register 3/8/16]

Eligibility

This disallowance applies only to individuals in 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 months must be at least $500.

Calculation of 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 his or her "baseline income." The family member's baseline income is his or her income immediately prior to qualifying for the EID. The family member's baseline income remains constant throughout the period that he or she is participating in the EID.

While qualification for the disallowance is the same for all families, calculation of the disallowance will differ depending on when the family member qualified for the EID. Residents qualifying prior to May 9, 2016, will have the disallowance calculated under the "Original Calculation Method" described below, which requires a maximum lifetime disallowance period of up to 48 consecutive months. Residents qualifying on or after May 9, 2016, will be subject to the "Revised Calculation Method," which shortens the lifetime disallowance period to 24 consecutive months.

Under both the original and new methods, the EID eligibility criteria, the benefit amount, the single lifetime eligibility requirement, and the ability of the applicable family member to stop and restart employment during the eligibility period are the same.

Original Calculation Method

Initial 12-Month Exclusion

During the initial 12-month exclusion period, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings are excluded. The 12 months are cumulative and need not be consecutive.

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 and Phase-Inn

During the second 12-month exclusion period, the exclusion is reduced to half (50 percent) of any increase in income attributable to employment or increased earnings. The 12 months are cumulative and need not be consecutive.

Lifetime Limitation

The EID has a four-year (48-month) lifetime maximum. The four-year eligibility period begins at the same time that the initial exclusion period begins and ends 48 months later. The one-time eligibility for the EID applies even if the eligible individual begins to receive assistance from another housing agency if the individual moves between public housing and Section 8 assistance, or if there are breaks in assistance.

During the 48-month eligibility period, the Authority will conduct an interim reexamination each time there is a change in the family member's annual income that affects or is affected by the EID (e.g., when the family member's income falls to a level at or below his/her prequalifying income when one of the exclusion periods ends, and at the end of the lifetime maximum eligibility period).

Revised 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 are excluded.

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 Authority will exclude 50 percent of any increase in income attributable to 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 months, an individual remains eligible for EID even if they receive assistance from a different housing agency, move between public housing and Section 8 assistance, or have breaks in assistance.

Individual Savings Accounts [24 CFR 960.255(d)]

The Authority chooses not to establish a system of individual savings accounts (ISAs) for families who qualify for the EID.

BUSINESS INCOME [24 CFR 5.609(b)(2)]

Annual income includes "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" [24 CFR 5.609(b)(2)].

BUSINESS EXPENSES

Net income is "gross income less business expense" [HCV GB, p. 5-19].

To determine business expenses that may be deducted from gross income, the Authority 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 Authority to deduct from gross income expenses for business expansion.

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, the 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 haircare business to open at a second location would be considered a business expansion.

CAPITAL INDEBTEDNESS

HUD regulations do not permit the Authority to deduct from gross income the amortization of capital indebtedness.

Capital indebtedness is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means the Authority 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 Authority 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. Acceptable investments in business include cash loans and contributions of assets or equipment. For example, if a member of a resident family provided an up-front loan of $2,000 to help a business get started, the Authority 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

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 [24 CFR 5.609(b)(3) and 24 CFR 5.603(b)]

Overview

There is no asset limitation for participation in the public housing program. However, HUD requires that the Authority 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 income from various types of assets is determined. For most types of assets, the Authority must determine the value of the asset 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 Authority 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 Authority 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 Authority 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 Authority believes that past income is the best indicator of anticipated income.

Valuing Assets

The calculation of asset income sometimes requires the Authority 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.

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 the 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). (For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see Periodic Payment section of this chapter).

Imputing Income from Assets [24 CFR 5.609(b)(3), Notice PIH 2012-29]

When net family assets are $5,000 or less, the Authority 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 Authority 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 Authority.

The Authority will initially set the imputed asset passbook rate at the national rate established by the Federal Deposit Insurance Corporation (FDIC).

The Authority will review the passbook rate annually, in December of each year. The rate will not be adjusted unless the current Authority 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. Changes to the passbook rate will take effect on February 1 following the December review.

Determining Actual Anticipated Income from Assets

It may or may not be necessary for the Authority 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 months) from assets to which any member of the family has access."

If an asset is owned by more than one person and any family member has unrestricted access to the asset, the Authority will count the full value of the asset. A family member has unrestricted access to an asset when he or she 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 Authority will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, the Authority 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 Authority to count as a current asset any business or family asset that was disposed of for less than the fair market value during the two years prior to the effective date of the examination/reexamination, except as noted below.

Minimum Threshold

The Authority may set a threshold below which assets disposed of for less than fair market value will not be counted [HCV GB, p. 5-27].

The Authority 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 interim recertification to eliminate consideration of the asset(s).

Assets placed by the family in nonrevocable 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

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. 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

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 Authority may verify the value

of the assets disposed of if other information available to the Authority 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.

In determining the value of a checking account, the Authority will use the average monthly balance for the last six months.

In determining the value of a savings account, the Authority will use the current balance.

In determining the anticipated income from an interest-bearing checking or savings account, the Authority 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. In determining the market value of an investment account, the Authority 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 the rate of earnings). When the anticipated rate of return is not known (e.g., stocks), the Authority 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].In determining the equity, the Authority 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 Authority 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 Authority 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)]

- 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 the Business Income section of this chapter.
- 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 Authority 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 the real property is the market value of the loan (mortgage) minus the expenses to convert to cash [Notice PIH 2012-3].

For the purposes of calculating expenses to convert to cash for real property, the Authority 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, the 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.

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 Authority 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 an investment of trust funds is counted as actual asset income, whether the income is paid to the family or deposited in the trust.

Nonrevocable 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 the Periodic Payment section of this chapter. 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 Authority 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].

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].

In determining the value of personal property held as an investment, the Authority will use the family's estimate of the value. The Authority 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)].

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.

PERIODIC PAYMENTS

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

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 prospective monthly amounts from the Department of Veterans Affairs are to be excluded from annual income [24 CFR 5.609(c)(14)].

When a delayed-start payment is received and reported during the period in which the Authority is processing an annual reexamination, the Authority will adjust the resident 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 Authority.

Treatment of Overpayment Deductions from Social Security Benefits

The Authority must make a special calculation of annual income when the Social Security Administration (SSA) overpays an individual, resulting in a withholding or deduction from his or her 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 Authority must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount [Notice PIH 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 resident family, who are unable to live alone) [24 CFR 5.609(c)(2)]. Kinship care payments are considered equivalent to foster care payments and are also excluded from annual income [Notice PIH 2012-1]. The Authority 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(c)(16)]

- Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. 1626(c)) [24 CFR 5.609(c)(17)]

- Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q) [24 CFR 5.609(c)(17)]

- Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR 5.609(c)(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(c)(14)].

- Lump-sums or prospective monthly amounts received as deferred disability benefits from the Department of Veterans Affairs (VA) [24 CFR 5.609(c)(14)].

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)].

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 a need that is 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 Authority must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. 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 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 Authority must include in annual income "imputed" welfare income. The Authority will 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 Authority'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)].

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 persons not residing with a resident family.

Alimony and Child Support

The Authority will count court-awarded amounts for alimony and child support unless the Authority 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 Authority will count as income regular monetary and nonmonetary contributions or gifts from persons not residing with a resident family [24 CFR 5.609(b)(7)]. Temporary, nonrecurring, or sporadic income and gifts are not counted [24 CFR 5.609(c)(9)].

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 Authority. For contributions that may vary from month to month (e.g., utility payments), the Authority will include an average amount based upon past history.

ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME

Other exclusions contained in 24 CFR 5.609(c) and updated by FR Notice 5/20/14 that has not been discussed earlier in this chapter include the following:

- Reimbursement of medical expenses [24 CFR 5.609(c)(4)]
- The full amount of student financial assistance paid directly to the student or the educational institution [24 CFR 5.609(c)(6)].
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(8)(iii)]
- Amounts received by a person with a disability that is 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(c)(8)(ii)]
- 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(c)(10)]
- Adoption assistance payments in excess of $480 per adopted child [24 CFR 5.609(c)(12)]
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(c)(15)]
- 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(c)(16)]
- Amounts specifically excluded by any other federal statute [24 CFR 5.609(c)(17), FR Notice 5/20/14]. HUD publishes an updated list of these exclusions periodically. 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 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 scholarships 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. 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 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)

(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

6.3.3 ADJUSTED INCOME

INTRODUCTION

Overview

HUD regulations require the Authority 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.

5.611(a) Mandatory deductions. In determining adjusted income, the responsible entity (Authority) must deduct the following amounts from annual income:

(1) $480 for each dependent;

(2) $400 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) Any reasonable childcare expenses necessary to enable a member of the family to be employed or to further his or her education.

Anticipating Expenses

Generally, the Authority 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 Authority 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 Authority 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 Authority may require the family to provide documentation of payments made in the preceding year.

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)].

ELDERLY OR DISABLED FAMILY DEDUCTION

A single deduction of $400 is taken for any elderly or disabled family [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].

MEDICAL EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i)]

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."

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	
Services of medical professionals	Substance abuse treatment programs
Surgery and medical procedures that are necessary, legal, noncosmetic	Psychiatric treatment

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 wheelchair, handrails)	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)
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.	

Families That Qualify for Both Medical and Disability Assistance Expenses

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 Authority will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(b) and 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.

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 Authority 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 Authority 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 [PH Occ GB, p. 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].

Eligible Auxiliary Apparatus

Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost of service animals 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.

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 Authority 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 resident family [23 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the resident family may be deducted if they are reimbursed by an outside source.

Necessary and Reasonable Expenses

The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.

The Authority determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, the Authority will collect information from organizations that provide services and support to persons with disabilities. A family may present, and the Authority 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

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 Authority will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

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 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.

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

The family must identify the family member(s) enabled to pursue an eligible activity. The term *eligible activity* in this section means any of the activities that may make the family eligible for a childcare deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family's request, the Authority will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

If the childcare expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each

reexamination. The deduction may be reduced or denied if the family member's job search efforts are not commensurate with the childcare expense being allowed by the Authority.

Furthering Education

If the childcare expense being claimed is to enable a family member to further his or her education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the childcare claimed.

Being Gainfully Employed

If the childcare expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that childcare is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

Earned Income Limit on Child Care Expense Deduction

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 Authority 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 resident family. The Authority 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

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 Authority 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 his or her education, and (2) the family certifies, and the child care provider verifies, that the expenses are not paid or reimbursed by any other source.

Childcare expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For childcare that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

To establish the reasonableness of childcare costs, the Authority will use the schedule of childcare costs from the local welfare agency. Families may present, and the Authority will consider, a justification for costs that exceed typical costs in the area.

6.4 CALCULATING RENT

6.4.1 FAMILY CHOICE IN RENTS [24 CFR 960.253(A) AND (E)]

At admission and each year in preparation for their annual examination, the Authority 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 Authority will document that flat rents were offered to families under the methods used to determine flat rents for the Authority.

The Authority will require families to submit their choice of flat or income-based rent in writing and will maintain such requests in the resident file as part of the admission or annual reexamination process.

The Authority will provide sufficient information for families to make an informed choice. This information must include the Authority'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 Authority 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.

SWITCHING FROM FLAT RENT TO INCOME-BASED RENT DUE TO HARDSHIP [24 CFR 960.253(F)]

A family can opt to switch from flat rent to income-based rent at any time if they are unable to pay the flat rent due to financial hardship. If the Authority determines that a financial hardship exists, the Authority will immediately allow the family to switch from flat rent to the income-based rent.

Upon determination by the Authority that a financial hardship exists, the Authority will allow a family to switch from flat rent to income-based rent effective the first of the month following the family's request.

Reasons for financial hardship include:

- The family has experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings or other assistance

- The family has experienced an increase in expenses, because of changed circumstances, for medical costs, childcare, transportation, education, or similar items

- Such other situations determined by the Authority to be appropriate

PHASING IN FLAT RENTS [NOTICE PIH 2017-23; 24 CFR 960.253(B)]

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 resident 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, the Authority must 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 Authority will multiply the family's current rent amount by 1.35 and compare the result to the flat rent under the Authority's policies. Families who have subsequently been admitted to the program or have subsequently selected flat rent will not experience a phase-in.

Notice PIH 2017-23 requires that flat rents must be phased in at the full 35 percent per year. PHAs do not have the option of phasing in flat rent increases at less than 35 percent per year.

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.

6.4.2 OVERVIEW OF INCOME-BASED RENT CALCULATION

The first step in calculating income-based rent is to determine each family's total resident payment (TTP). Then, if the family is occupying a unit that has resident-paid utilities, the utility allowance is subtracted from the TTP. The result of this calculation, if a positive number, is the resident 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 Authority.

TTP FORMULA [24 CFR 5.628]

HUD regulations specify the formula for calculating the total resident payment (TTP) for a resident family. TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income

- 10 percent of the family's monthly gross income
- A minimum rent of $50

MINIMUM RENT [24 CFR 5.630]

The minimum rent for the Authority is $50.00. However, if the family requests a hardship exemption, the Authority will immediately suspend the minimum rent for the family until the Authority can determine whether the hardship exists and either the hardship is of a temporary or long-term nature.

UTILITY REIMBURSEMENT [24 CFR 960.253(C)(4)]

Utility reimbursement occurs when any applicable utility allowance for resident-paid utilities exceeds the TTP. The Authority will make utility reimbursements to the family.

The Authority may make all utility reimbursement payments to qualifying families on a monthly basis.

Reasonable Accommodation [24 CFR 8]

On request from a family, HAs must approve a utility allowance that is higher than the applicable amount for the dwelling unit if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family with a disability [PH Occ GB, p. 172].

Residents with disabilities may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability [PH Occ GB, p. 172].

See Chapter 2 for policies related to reasonable accommodations.

Utility Allowance Revisions [24 CFR 965.507]

The Authority will review its schedule of utility allowances each year. Between annual reviews, the Authority must revise the utility allowance schedule if there is a rate change that by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rate on which such allowances were based. Adjustments to resident payments 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 is taken into account in such revision became effective [PH Occ GB, p. 171].

The resident rent calculations must reflect any changes in the Authority's utility allowance schedule [24 CFR 960.253(c)(3)].

Unless the Authority 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.

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. The Authority will prorate the assistance provided to a mixed family. The Authority will first determine TTP as if all family members were eligible and then prorate the rent based upon the number of family members that are eligible. To do this, the Authority will:

(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 maximum family 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.

(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.

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.

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.

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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 months) 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 of such payments:

(A) Qualify as assistance under the TANF program definition at 45 CFR 260.31[1]; and

(B) Are not otherwise excluded under paragraph (c) of this section.

(ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that are 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) Nonrecurrent, short-term benefits that:

[1] Text of 45 CFR 260.31 follows (next page).

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(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 6-2: ANNUAL INCOME EXCLUSIONS

24 CFR 5.60

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 resident 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 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 Authority 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 Authority'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 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(c) apply. A notice will be published in the Federal Register and distributed to HAs 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 6-3: TREATMENT OF FAMILY ASSETS

(1) 24 CFR 5.603(b) Net Family Assets. Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD 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.

Chapter 7 VERIFICATION [24 CFR 960.259, 24 CFR 5.230, NOTICE PIH 2018-18]

7.1 INTRODUCTION

The Authority will verify information related to waiting list preferences, eligibility, admission, and level of benefits prior to admission. Periodically during occupancy, items related to eligibility and rent determination shall also be reviewed and verified. Income, assets, and expenses will be verified, as well as disability status, need for a live-in aide and other reasonable accommodations, full-time student status of family members 18 years of age or older, Social Security numbers, and citizenship/eligible noncitizen status. Age and relationship will only be verified in those instances where needed to make a determination of the level of assistance.

7.2 GENERAL VERIFICATION REQUIREMENTS

7.2.1 FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 960.259, 24 CFR 5.230]

The family must supply any information that the Authority or HUD determines is necessary to the administration of the program and must consent to Authority verification of that information [24 CFR 960.259(a)(1)].

CONSENT FORMS

It is required that all adult applicants and residents 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 Authority 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.

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 Authority will deny admission to applicants and terminate the lease of residents. The family may request a hearing in accordance with the Authority's grievance procedures

7.2.2 OVERVIEW OF VERIFICATION REQUIREMENTS

HUD'S VERIFICATION HIERARCHY [NOTICE PIH 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 Authority to use the most reliable form of verification that is available and to document the reasons when the Authority uses a lesser form of verification.

In order of priority, the forms of verification that the Authority will use are:

- Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system
- Up-front Income Verification (UIV) using a non-HUD system
- Written Third Party Verification (may be provided by applicant or resident)
- Written Third-party Verification Form
- Oral Third-party Verification
- Self-Certification

Each of the verification methods is discussed in subsequent sections below.

Requirements for Acceptable Documents

Any documents used for verification must be the original (not photocopies) and generally must be dated within 60 days of the Authority request. The documents must not be damaged, altered, or in any way illegible.

The Authority staff member who views the original document will 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 Authority and must be signed in the presence of a Authority representative or Authority notary public.

File Documentation

The Authority will document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that the Authority 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.

The Authority 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 Authority is unable to obtain third-party verification, the Authority 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].

UP-FRONT INCOME VERIFICATION (UIV)

Up-front income verification (UIV) refers to the Authority'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 Authority.

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 Authority has independently verified the UIV information, and the family has been granted the opportunity to contest any adverse findings through the Authority's informal review/hearing processes. (For more on UIV and income projection, see section 6.3.)

Upfront Income Verification Using HUD's Enterprise Income Verification (EIV) System (Mandatory)

HAs must use HUD's EIV system in its entirety as a third-party source to verify resident employment and income information during mandatory reexaminations or recertifications 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.

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.

The Authority 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 6.3. 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 6.3. and 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 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.

When the Authority 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 the Social Security Administration (SSA) records. These records are compared to Public and Indian Housing Information Center (PIC) data for a match on social security number, name, and date of birth.

The Authority will identify residents whose identity verification has failed by reviewing EIV's *Identity Verification Report* on a monthly basis. The Authority will attempt to resolve PIC/SSA discrepancies by obtaining appropriate documentation from the resident. When the Authority determines that discrepancies exist as a result of Authority errors, such as spelling errors or incorrect birth dates, it will correct the errors promptly.

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 Authority by the family. If written third-party verification is not available, the Authority will 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 resident-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 or printouts, and unemployment monetary benefit notices.

The Authority 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. Third-

party documents provided by the family must be dated within 60 days of the Authority request date or reexamination effective date.

If the Authority determines that third-party documents provided by the family are not acceptable, the Authority will explain the reason to the family and request additional documentation.

As verification of earned income, the Authority will require the family to provide the two most current, consecutive pay stubs.

Written Third-Party Verification Form

When upfront verification is not available, and the family is unable to provide written third-party documents, the Authority will request a written third-party verification form.

The Authority will send third-party verification forms directly to the third party.

Oral Third-Party Verification [Notice PIH 2018-18]

For third-party oral verification, the Authority will 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., ten business days.

In collecting third-party oral verification, Authority 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 Authority 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 resident payment.

If the family cannot provide original documents, the Authority 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

The Authority will accept a self-certification from a 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 Authority 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 Authority 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.

SELF-CERTIFICATION

When HUD requires third-party verification, self-certification, or "resident declaration," it is used as a last resort when the Authority 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 Authority has adopted a policy to accept self-certification at annual recertification, when applicable
- The Authority has adopted a policy to implement streamlined annual recertifications for fixed sources of income (see Chapter 10)

When the Authority is required to obtain third-party verification but instead relies on a resident declaration for verification of income, assets, or expenses, the family's file must be documented to explain why third-party verification was not available.

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 Authority.

The Authority may require a family to certify that a family member does <u>not</u> receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to the Authority 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 Authority representative or Authority notary public.

7.2.3 VERIFYING FAMILY INFORMATION

VERIFICATION OF LEGAL IDENTITY

The Authority 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 Department of Motor Vehicle identification card	Custody agreement
U.S. military discharge (DD 214)	Health and Human Services ID
Current U.S. passport	Certified school records
Current employer identification card	

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 Authority'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 Authority and be signed in the presence of a Authority representative or Authority notary public.

The legal identity will be verified for all applicants at the time of eligibility determination and in cases where the Authority has reason to doubt the identity of a person representing him or herself to be a resident or a member of a resident family.

SOCIAL SECURITY NUMBERS [24 CFR 5.216 and Notice PIH 2018-24]

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 Authority must accept the following documentation as acceptable evidence of the social security number:

- An original SSN card issued by the Social Security Administration (SSA)

- An original SSA-issued document, which contains the name and SSN of the individual
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual

The Authority 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.

The Authority 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 Authority within 90 days.

If an applicant family includes a child under six years of age, who joined the household within the six 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 Authority determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control.

The Authority will grant one additional 90-day extension if needed for reasons beyond the applicant's control, such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

When a resident requests to add a new household member who is under the age of 6 and has 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 Authority 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 Authority is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

Social security numbers must be verified only once during continuously assisted occupancy.

The Authority 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 Authority 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.

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.

If an official record of birth or evidence of social security retirement benefits cannot be provided, the Authority 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 a birth year is recorded) and to provide a self-certification.

Age must be verified only once during continuously assisted occupancy.

FAMILY RELATIONSHIPS

Applicants and residents are required to identify the relationship of each household member to the head of the household. Definitions of the primary household relationships are provided in the Eligibility chapter.

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of the household normally is sufficient verification of family relationships.

Marriage

Certification by the head of the household is normally sufficient verification. If the Authority has reasonable doubts about a marital relationship, the Authority 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

Certification by the head of the household is normally sufficient verification. If the Authority has reasonable doubts about a divorce or separation, the Authority 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 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

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

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

VERIFICATION OF STUDENT STATUS

The Authority 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 his or her education.

DOCUMENTATION OF DISABILITY

The Authority will verify the existence of a disability to allow certain income disallowances and deductions from income. The Authority is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. The Authority will not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the Authority receives a verification document that provides such information, the Authority will not place this information in the resident file. Under no circumstances will the Authority request a resident's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' Web site at **www.os.dhhs.gov**.

The Authority 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

Family Members Receiving SSA Disability Benefits

Verification of receipt of disability benefits from the Social Security Administration (SSA) is sufficient for verification of disability for the purpose of qualification for waiting list preferences or certain income disallowances and deductions [VG, p. 23].

For family members claiming disability who receive disability payments from the SSA, the Authority 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 Authority 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 Authority 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**. Once the family receives the benefit verification letter, it will be required to provide the letter to the Authority.

Family Members Not Receiving SSA Disability Benefits

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.403, necessary to qualify for waiting list preferences or certain income disallowances and deductions.

For family members claiming disability who do not receive SSI or other disability payments from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

7.2.4 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 a detailed discussion of eligibility requirements. This chapter (7) discusses HUD and Authority 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 Authority may request verification of the declaration by requiring presentation of a birth certificate, United States passport, or other appropriate documentation.

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.

Authority 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 7.2.3 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 Authority must verify immigration status with the U.S. Citizenship and Immigration Services (USCIS).

The Authority will follow all USCIS protocols for verification of eligible immigration status.

7.2.5 VERIFICATION OF PREFERENCE STATUS

The Authority must verify any preferences claimed by an applicant that determined his or her placement on the waiting list.

7.2.6 VERIFYING INCOME AND ASSETS

Chapter 6, Sections 6.1 and 6.2 of this ACOP describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the family must be verified. This part provides Authority policies that supplement the general verification procedures specified in Sections 6.1 and 6.2 of this chapter.

EARNED INCOME

Tips

Unless tip income is included in a family member's W-2 by the employer, 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 tips anticipated to be received in the coming year.

Wages

For wages other than tips, the family must provide originals of the two most current, consecutive pay stubs.

BUSINESS AND SELF EMPLOYMENT INCOME

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.
- 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.

The Authority 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 Authority 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 Authority 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 Authority will require the family to provide documentation of income and expenses for this period and use that information to project income.

PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

Social Security/SSI Benefits

To verify the SS/SSI benefits of applicants, the Authority 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 Authority will help the applicant request a benefit verification letter from SSA's Web site at **www.socialsecurity.gov** or ask the family to request one by calling SSA at 1-800-772-1213. Once the family has received the original benefit verification letter, it will be required to provide the letter to the Authority.

To verify the SS/SSI benefits of residents, the Authority will obtain information about social security/SSI benefits through HUD's EIV system, and confirm with the resident(s) that the currently listed benefit amount is correct. If the resident disputes the EIV-reported benefit amount, or if benefit information is not available in HUD systems, the Authority will request a current SSA benefit verification letter from each family member that receives social security benefits. If a family member is unable to provide the document, the Authority will help the resident request a benefit verification letter from SSA's Web site at **www.socialsecurity.gov** or ask the family to request one by calling SSA at 1-800-772-1213. Once the family has received the benefit verification letter, it will be required to provide the letter to the Authority.

ALIMONY OR CHILD SUPPORT

The methods the Authority 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 or pay stubs for the 60 days prior to Authority request
- 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 the 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.

ASSETS AND INCOME FROM ASSETS

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 Authority needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

The Authority will verify the value of assets disposed of only if:

- The Authority does not already have a reasonable estimation of its value from the previously collected information, or
- The amount reported by the family in the certification appears obviously in error.

NET INCOME FROM RENTAL PROPERTY

The family must provide:

- A current executed lease for the property that shows the rental amount or certification from the current resident
- A self-certification from the family members engaged in the rental of the 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 Authority 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.

RETIREMENT ACCOUNTS

The Authority 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 Authority 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 six months from the effective date of the examination.

Upon retirement, the Authority 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 Authority 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.

INCOME FROM EXCLUDED SOURCES

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 Authority 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].

HAs 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 Authority **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 a full-time adult student or income excluded under the earned income disallowance).

The Authority will accept the family's self-certification as verification of fully excluded income. The Authority may request additional documentation if necessary, to document the income source.

The Authority will verify the source and amount of partially excluded income, as described in this chapter.

ZERO ANNUAL INCOME STATUS

The Authority will check UIV sources 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.

7.2.7 VERIFYING MANDATORY DEDUCTIONS

DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

The dependent and elderly/disabled family deductions require only that the Authority verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

Dependent Deduction

The Authority will verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse or co-head 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

The Authority will verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

MEDICAL EXPENSE DEDUCTIONS

Amount of Expense

Medical expenses will be verified through:

- Written third-party documents provided by the family, such as pharmacy printouts or receipts.
- The Authority will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The Authority 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 Authority will 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 Authority 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 of this ACOP.

Qualified Expenses

To be eligible for the medical expenses deduction, the costs must qualify as medical expenses.

Unreimbursed Expenses

To be eligible for the medical expenses deduction, the costs must not be reimbursed by another source.

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

When anticipated costs are related to on-going payment of medical bills incurred in past years, the Authority 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

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

The Authority will accept written third-party documents provided by the family.

If family-provided documents are not available, the Authority 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 canceled 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.

Auxiliary Apparatus

Expenses for auxiliary apparatus will be verified through:

- Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.
- 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 Authority must verify that:

- The family member for whom the expense is incurred is a person with disabilities.
- The expense permits a family member, or members, to work
- The expense is not reimbursed from another source

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 Authority will verify that the expense is incurred for a person with disabilities.

Family Member(s) Permitted to Work

The Authority must verify that the expenses claimed enable a family member, or members, (including the person with disabilities) to work.

The Authority 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. 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.

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.

CHILD CARE EXPENSES

Policies related to childcare expenses are found in Chapter 6, Section 6.3.3. The amount of the deduction will be verified following the standard verification procedures described in Sections 7.1 and 7.2 of this chapter. In addition, the Authority 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 Authority will verify that the child being cared for (including foster children) is under the age of 13 (See 7.2.3).

Unreimbursed Expense

To be eligible for the childcare deduction, the costs must not be reimbursed by another source.

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 Authority will verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are pursuing those activities.

Information to be Gathered

The Authority 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 Authority will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases, the Authority 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 Authority any reports provided to the other agency.

In the event third-party verification is not available, the Authority will provide the family with a form on which the family member must record job search efforts. The Authority will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

The Authority will request third-party documentation to verify that the person permitted to further his or her education by the childcare is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.

Gainful Employment

The Authority 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.

The Authority will verify that the type of childcare selected by the family is allowable.

The Authority 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 Authority will verify that the childcare provider is not an assisted family member. Verification will be made through the head of the household's declaration of family members who are expected to reside in the unit.

Reasonableness of Expenses

Only reasonable childcare costs can be deducted.

The actual costs the family incurs will be compared with the Authority'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 Authority 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)

- **All** noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the Authority.
- Except for persons 62 or older, all noncitizens must sign a verification consent form
- Additional documents are required based upon the person's status.

Elderly Noncitizens

- 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.

All other Noncitizens

- Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.

• Form I-551 Alien Registration Receipt Card (for permanent resident aliens)
• Form I-94 Arrival-Departure Record annotated with one of the following:
  • "Admitted as a Refugee Pursuant to Section 207"
  • "Section 208" or "Asylum"
  • "Section 243(h)" or "Deportation stayed by Attorney General"
  • "Paroled Pursuant to Section 221 (d)(5) of the USCIS"
	• Form I-94 Arrival-Departure Record with no annotation accompanied by:
	  • A final court decision granting asylum (but only if no appeal is taken);
	  • 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);
	  • A court decision granting withholding of deportation; or
	  • A letter from an asylum officer granting withholding of deportation (if application filed on or after 10/1/90).

• Form I-688 Temporary Resident Card annotated "Section 245A" or Section 210".	Form I-688B Employment Authorization Card annotated "Provision of Law 274a. 12(11)" or "Provision of Law 274a.12".

Chapter 8 LEASING AND INSPECTIONS [24 CFR 5, Subpart G; 24 CFR 966, Subpart A]

8.1 INTRODUCTION

Public housing leases are the contractual basis of the legal relationship between the Authority and the resident. All units must be occupied pursuant to a dwelling lease agreement that complies with HUD regulations.

HUD regulations require the Authority to inspect each dwelling unit prior to move-in, at move-out, and annually during the period of occupancy. In addition, the Authority may conduct additional inspections in accordance with Authority policy.

8.2 LEASING

8.2.1 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 Authority may not renew the lease if the family has violated the community service requirement [24 CFR 966.4(a)(2)].

The Authority has adopted a smoke-free policy, which had to be implemented no later than July 30, 2018. The policy is attached as Exhibit 8-1.

The residential minimum heating standards policies are included in this ACOP.[Notice PIH 2018-19].

8.2.2 LEASE ORIENTATION

After unit acceptance but prior to occupancy, a Authority representative will conduct a lease orientation with the family. The head of household or spouse is required to attend.

ORIENTATION AGENDA

When families attend the lease orientation, they will be provided with:

- A copy of the lease
- A copy of the Authority's grievance procedure
- A copy of the house rules
- A copy of the Authority's schedule of maintenance charges

- A copy of "Is Fraud Worth It?" (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse
- A copy of "What You Should Know about EIV," a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12
- A copy of the form HUD-5380, VAWA Notice of Occupancy Rights
- A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking
- A copy of the Authority's smoke free policy
- A notice that includes the procedures for requesting relief and the Authority's criteria for granting requests for relief for excess utility surcharges

Topics to be discussed and explained to all families include:

- Applicable deposits and all other charges
- Review and explanation of lease provisions
- Unit maintenance requests and work orders
- The Authority's interim reporting requirements
- Review and explanation of occupancy forms
- Community service requirements
- Family choice of rent
- VAWA protections
- Smoke-free policies

8.2.3 EXECUTION OF LEASE

The lease must be executed by the resident and the Authority, 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 Authority unit to another.

The lease must state the composition of the household as approved by the Authority (family members and any Authority-approved live-in aide) [24 CFR 966.4(a)(1)(v)]. See Section 8.2.4. for policies regarding changes in family composition during the lease term.

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 Authority 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 Authority 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.

8.2.4 MODIFICATION OF THE LEASE

The lease may be modified at any time by written agreement of the resident and the Authority [24 CFR 966.4(a)(3)].

MODIFICATIONS TO THE LEASE FORM

The Authority may modify its lease from time to time. However, the Authority must give residents at least thirty (30) days advance notice of the proposed changes and an opportunity to comment on the changes. The Authority must also consider any comments before formally adopting a new lease [24 CFR 966.3].

After proposed changes have been incorporated into the lease and approved by the Board, each family must be notified at least 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)].

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 will be provided at least thirty (30) 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 resident; 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 will be taken into consideration before any proposed modifications or revisions become effective [24 CFR 966.5].

After the proposed revisions become effective, they will be publicly posted in a conspicuous manner in the project office and must be furnished to applicants and residents on request [24 CFR 966.5].

When the Authority proposes to modify or revise schedules of special charges or rules and regulations, the Authority will post a copy of the notice in the central office, and will mail a copy of the notice to each resident family. Documentation of proper notice will be included in each resident file.

OTHER MODIFICATIONS

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 Authority will be required to initial and date the change.

If a new household member is approved by the Authority to reside in the unit, the person's name and birth date will be added to the lease. The head of household and Authority will be required to initial and date the change. If the new member of the household is an adult, s/he will also be required to sign and date the lease.

8.2.5 SECURITY DEPOSITS [24 CFR 966.4(b)(5)]

Residents must pay a security deposit to the Authority at the time of admission. The amount of the security deposit will be equal to the family's total resident payment at the time of move-in, and must be paid in full prior to occupancy.

The Authority will hold the security deposit for the period the family occupies the unit. The Authority 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 Authority will refund to the resident the amount of the security deposit (including interest earned on 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 Authority will provide the resident with a written list of any charges against the security deposit within 20 business days of the move-out inspection. If the resident disagrees with the amount charged, the Authority will provide a meeting to discuss the charges.

If the resident transfers to another unit, the Authority will transfer the security deposit to the new unit. The resident will be billed for any maintenance or other charges due for the "old" unit.

8.2.6 PAYMENTS UNDER THE LEASE

RENT PAYMENTS [24 CFR 966.4(B)(1)]

Families must pay the amount of the monthly resident rent determined by the Authority in accordance with HUD regulations and other requirements. The amount of the resident rent is subject to change in accordance with HUD requirements.

The lease must specify the initial amount of the resident rent at the beginning of the initial lease term, and the Authority will give written notice stating any change in the amount of resident rent and when the change is effective.

Rent and other charges are due on the first day of the month. All rents should be paid at Authority's Administrative Offices. Reasonable Accommodation for this requirement will be made for persons with disabilities. As a safety measure, no cash shall be accepted as a rent payment.

LATE FEES AND NONPAYMENT

At the option of the Authority, the lease may provide for payment of penalties when the family is late in paying resident 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 Authority 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 Authority grievance procedures. The Authority must not take the proposed action until the time for the resident 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)].

If the family fails to pay their rent by the fifth day of the month, and the Authority has not agreed to accept payment at a later date, a 14 day Notice to Vacate will be issued to the resident for failure to pay rent, demanding payment in full or the surrender of the premises.

In addition, if the resident fails to make payment by the end of office hours on the fifth day of the month, a late fee of $25.00 will be charged. Charges are due and payable 14 calendar days after billing. If the resident can document financial hardship, the late fee may be waived on a case-by-case basis.

When a check is returned for insufficient funds or is written on a closed account, the rent will be considered unpaid and a returned check fee of $50.00 will be charged to the family. The fee will be due and payable 14 days after billing.

EXCESS UTILITY CHARGES

If the Authority charges the resident 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 resident-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 residents 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 Authority 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 Authority grievance procedures. The Authority must not take the proposed action until the time for the resident 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)].

When applicable, families will be charged for excess utility usage according to the Authority's current posted schedule. Notices of excess utility charges will be mailed monthly and will be in accordance with requirements regarding notices of adverse actions. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, the Authority may not take action for nonpayment of the charges until the conclusion of the grievance process.

The Authority may grant requests for relief from surcharges from excess utility consumption of Authority-furnished utilities as a reasonable accommodation where the Authority deems an exception is appropriate to meet the needs of elderly, ill, or disabled residents. In determining whether to grant this request, the Authority will consider special factors affecting utility usage that are not within the control of the resident, such as the need for medical equipment. Residents may request relief in accordance with Section 2.3.1of this ACOP. The Authority will process such requests in accordance with Section 2.3.4 of this ACOP.

Notice of the availability of procedures for requesting relief (including the Authority representative with whom initial contact may be made by the resident) and the Authority'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 Authority charges the resident 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 residents 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 Authority 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 Authority grievance procedures. The Authority will not take the proposed action until the time for the resident 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)].

When applicable, families will be charged for maintenance and/or damages according to the Authority'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).

Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, the Authority 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.

8.3. MINIMUM HEATING STANDARDS [Notice PIH 2018-19]

The Authority is located in an area where state or local residential heating standards exist and will utilize these standards for public housing units. Therefore, the Authority's minimum heating standards are as follows:

The minimum temperature in each unit must be as follows:

Dates	**Times of Day**	**Minimum Temperature**
September 10 to June 10	6 a.m. to 11 p.m.	68° F
October 1 to May 1	11 p.m. to 6 a.m.	65° F
June 11 to September 9 (when the outside temperature falls below 55° F)	6 a.m. to 11 p.m.	68° F
May 2 to September 30	11 p.m. to 6 a.m.	No minimum temperature

8.4 INSPECTIONS

8.4.1 OVERVIEW

HUD regulations require the Authority to inspect each dwelling unit prior to move-in, at move-out, and annually during occupancy. In addition, the Authority may require additional inspections, in accordance with Authority Policy. This section contains the Authority's policies governing inspections, notification of unit entry, and inspection results.

8.4.2 TYPES OF INSPECTIONS

MOVE-IN INSPECTIONS [24 CFR 966.4(I)]

The lease must require the Authority 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 Authority and the resident, will be provided to the resident and retained in the resident file.

Any adult family member may attend the initial inspection and sign the inspection form for the head of household.

MOVE-OUT INSPECTIONS [24 CFR 966.4(I)]

The Authority will inspect the unit at the time the resident vacates the unit and will allow the resident to participate in the inspection if he or she wishes, unless the resident vacates without notice to the Authority. The Authority will provide the resident 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.

When applicable, the Authority will provide the resident with a statement of charges to be made for maintenance and damage beyond normal wear and tear, within 10 business days of conducting the move-out inspection.

ANNUAL INSPECTIONS [24 CFR 5.705]

Section 6(f)(3) of the United States Housing Act of 1937 requires that HAs inspect each public housing project annually to ensure that the project's units are maintained in decent, safe, and sanitary condition. The Authority 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.

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

Supervisory quality control inspections will be conducted in accordance with the Authority's maintenance plan.

SPECIAL INSPECTIONS

Authority 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

Building exteriors, grounds, common areas and systems will be inspected according to the Authority's maintenance plan.

8.5 NOTICE AND SCHEDULING OF INSPECTIONS

8.5.1 NON-EMERGENCY ENTRIES [24 CFR 966.4(J)(1)]

The Authority 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. Notice of at least 24 hours before such entry is considered reasonable advance notification.

Entry for repairs requested by the family will not require prior notice. Resident-requested repairs presume permission for the Authority to enter the unit.

8.5.2 EMERGENCY ENTRIES [24 CFR 966.4(J)(2)]

The Authority 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 Authority must leave a written statement showing the date, time and purpose of the entry prior to leaving the dwelling unit.

8.5.3 SCHEDULING OF INSPECTIONS

Inspections will be conducted during business hours. If a family needs to reschedule an inspection, they must notify the Authority at least 24 hours prior to the scheduled inspection. The Authority will reschedule the inspection no more than once unless the resident has a verifiable good cause to delay the inspection. The Authority may request verification of such cause.

8.5.4 ATTENDANCE AT INSPECTIONS

Except at move-in inspections, the resident is not required to be present for the inspection. The resident may attend the inspection if he or she wishes.

If no one is at home, the inspector will enter the unit, conduct the inspection and leave a copy of the inspection report in the unit.

8.6 INSPECTION RESULTS

The Authority 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)].

8.6.1 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 resident must immediately notify the Authority of the damage, and the Authority must make repairs within a reasonable time frame.

If the damage was caused by a household member or guest, the Authority must charge the family for the reasonable cost of repairs. The Authority may also take lease enforcement action against the family.

If the Authority cannot make repairs quickly, the Authority must offer the family standard alternative accommodations. If the Authority 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.

When conditions in the unit are hazardous to life, health, or safety, the Authority will make repairs or otherwise abate the situation within 24 hours.

Defects hazardous to life, health or safety include, but are not limited to, the following:

- Any condition that jeopardizes the security of the unit
- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling
- Natural or LP gas or fuel oil leaks
- Any electrical problem or condition that could result in shock or fire
- Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit
- Utilities not in service, including no running hot water
- Conditions that present the imminent possibility of injury
- Obstacles that prevent safe entrance or exit from the unit
- Absence of a functioning toilet in the unit
- Inoperable smoke detectors

8.6.2 NON-EMERGENCY REPAIRS

The Authority will endeavor to complete non-emergency repairs within 15 business days of the inspection date. If the Authority is unable to make repairs within that period due to circumstances

beyond the Authority's control (e.g. required parts or services are not available, weather conditions, etc.), the Authority will notify the family of an estimated date of completion. The family must allow the Authority access to the unit to make repairs.

8.6.3 RESIDENT-CAUSED DAMAGES

Damages to the unit beyond wear and tear will be billed to the resident in accordance with the policies in 8.2.6, 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.

8.6.4 HOUSEKEEPING

Residents whose housekeeping habits pose a non-emergency health or safety risk, encourage insect or rodent infestation, or cause damage to the unit are in violation of the lease. In these instances, the Authority will provide proper notice of a lease violation.

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.

Notices of lease violation will also be issued to residents who purposely disengage the unit's smoke detector. Only one warning will be given. A second incidence will result in lease termination.

Exhibit8-1: SMOKE-FREE POLICY

HOUSING AUTHORITY OF THE CITY OF HOBOKEN SMOKE FREE POLICY

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IMPLEMENTATION OF HUD'S RULE TO RESTRIC SMOKING IN PUBLIC HOUSING

Overview: HUD's final rule to restrict smoking in public housing was established in the Federal register on December 5, 2016 and went into effect on February 3, 2017. This rule requires each PHA to implement a smoke-free policy, no later than July 30, 2018. The Rule is intended to improve indoor air quality, benefit the health of Public Housing residents and PHA staff, reduce the risk of fires and lower overall maintenance cost. The PHA must incorporate the smoke-free policy into the residents dwelling leased by way of specific language incorporated into the lease or a lease amendment. Such policy must ban the use of tobacco products in all Public Housing units, indoor common areas and administrative offices. The policy must also extend to all outdoor areas up to 25 feet from the Public Housing and PHA administrative offices.

Purpose of Policy

In an effort to reduce the increased risk of fire from smoking, the increased cost of maintenance, improve indoor air quality; minimize health effects from secondhand smoke, all housing developments managed by the Hoboken Housing Authority have been designated Smoke-Free housing developments. The use of tobacco products in all Public Housing units, indoor common areas and administrative offices are hereby banned. This policy also extends to all outdoor areas up to 25 feet from the Public Housing and PHA administrative offices.

Prohibited Tobacco products

Tobacco products are defined as items that involve the ignition and burning of tobacco leaves, such as cigarettes, cigars, pipes and water pipes (also known as hookahs).

Resident Responsibility

All residents shall inform their guests and visitors of the terms and condition of this Smoke-Free policy.

Residents shall promptly give the Housing Authority a written statement of any incident where tobacco smoke is migrating into the resident's dwelling unit from sources out the unit.

HOUSING AUTHORITY OF THE CITY OF HOBOKEN SMOKE FREE POLICY

Page Two

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HHA Responsibilities

The Housing Authority shall post no-smoking signs at building entrances and exits, in common areas and in conspicuous places adjoining the grounds of each of the designated smoke-free buildings.

The Housing Authority shall maintain a list of smoking cessation classes and counseling at each manager office. Additionally, information for such alternatives shall be displayed on HHA bulletin boards and information centers.

It is not the intent of the Housing Authority smoke free policy to make the HHA or any of its management agents the guarantor of resident health or of the non-smoking condition of resident dwelling units and other designated smoke-free restricted areas.

Effect of Policy Violation/breach of Lease

Any members of their household, guest or visitors will be considered in violation of the Housing Authority's Public Housing smoke free policy and the applicable provisions of the specific language incorporated into the lease or a lease amendment. If determined by the Housing Authority to have acted in violation of this policy in any housing authority designated smoke-free restricted areas. Three (3) violations will be considered to be a material or continuing breach of the smoke free specific language incorporated into the lease or a lease amendment. and grounds for termination of the lease by the Housing Authority.

After the first warning a cleaning/refurbishing charge of $50 will be added to the resident's account for each violation of this policy that occurs in any Housing Authority designated smoke free restricted area.

Breach of the smoke specific language incorporated into the lease or a lease amendment. shall give each party to the lease all the rights contained in both the addendum and the dwelling lease.

Residents are required to sign the lease amendment or new lease in the presence of a Housing Authority management representative. Failure to sign the lease amendment or new lease may result in legal action.

Copies of the signed and dated lease or a lease amendment shall be retained in the resident's file.

Chapter 9 COMMUNITY SERVICE

9.1 INTRODUCTION

To be eligible for continued occupancy, each adult family member must either (1) contribute eight (8) hours per month community service (not including political activities) within the community in which the public housing development is located or, (2) participate in an economic self-sufficiency program unless they are exempt from this requirement. Regulations pertaining to the community service requirement are contained in 24 CFR 960 Subpart F (960.600 through 960.609). The Authority Plan must contain a statement of how the Authority will comply with the community service requirement, including any cooperative agreement that the Authority 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 serves 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 Authority must comply with all nondiscrimination and equal opportunity requirements [24 CFR 960.605(c)(5)].

9.2 COMMUNITY SERVICE REQUIREMENTS

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 daycare programs, homeless shelters, feeding programs, food banks (distributing either donated or commodity foods), or clothes closets (distributing donated clothing)
- Nonprofit organizations serving Authority 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

- Authority housing to improve grounds or provide gardens (so long as such work does not alter the Authority'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

HAs may form their policy in regard 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.

Each adult resident of the Authority, 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 maybe aggregated across a year. Any blocking of hours is acceptable as long as 96 hours are completed by each annual certification of compliance [Notice PIH 2015-12].

9.3. EXEMPT INDIVIDUAL [24 CFR 960.601(b), Notice PIH 2015-12]

The following adult family members of resident families are exempt from this requirement:

- Is age 62 years or older
- Is blind or disabled (as defined under section 216[i][l] 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
- 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 Authority is located, including a state-administered welfare-to-work program. This exemption applies to anyone whose characteristics or family situation meet the welfare agency exemption criteria and can be verified.
- Is a member of a family receiving assistance, benefits, or services under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the Authority 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.

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

9.4 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 US 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)

9.5 WORK ACTIVITIES [42 USC. 607(D)]

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

- 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 the 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

9.6 NOTIFICATION REQUIREMENTS [24 CFR 960.605(C)(2), NOTICE PIH 2015-12, NOTICE PIH 2016- 06]

The Authority 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 Authority verification of exempt status. The Authority 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, which 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.

On an annual basis, at the time of lease renewal, the Authority 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 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.

9.7 DETERMINATION OF EXEMPTION STATUS AND COMPLIANCE [24 CFR 960.605(c)(3)]

The Authority will review and verify family compliance with service requirements annually at least thirty (30) days before the end of the twelve-month lease term. The policy for documentation and verification of compliance with service requirements may be found in Section 9.10., Documentation, and Verification.

9.8 DETERMINATION OF COMPLIANCE

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

Approximately 60 days prior to the end of the lease term, the Authority 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 ten business days to submit the Authority required documentation form(s).

If the family fails to submit the required documentation within the required timeframe, or Authority 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 9.11., noncompliance.

9.9 CHANGE IN STATUS BETWEEN ANNUAL DETERMINATIONS

If an exempt individual becomes nonexempt during the twelve-month lease term, it is the family's responsibility to report this change to the Authority within ten business days.

Within ten business days of a family reporting such a change or the Authority determining such a change is necessary, the Authority will provide written notice of the effective date of the requirement, a list of agencies in the community that provide volunteer or training opportunities, as well as a documentation form on which the family member may record the activities performed and the number of hours contributed.

The effective date of the community service requirement will be the first of the month following the 30-day notice.

9.10 DOCUMENTATION AND VERIFICATION [24 CFR 960.605(c)(4), 960.607, Notice PIH 2016-08]

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 11-1. The Authority will provide a completed copy to the family and will keep a copy in the resident file.

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

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

At each regularly scheduled reexamination, each nonexempt family member must provide a signed standardized certification form developed by the Authority for 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 Authority, a family member who is required to fulfill a service requirement must provide documentation required by the Authority. The Authority may require a self-certification or certification from a third party [24 CFR 960.607].

If the Authority accepts self-certification of compliance with the community service requirement, it will provide a form that 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 Authority accepts self-certification, it will validate a sample of certifications through third-party documentation. The Authority will notify families that self-certification forms are available and that a sample of self-certifications will be validated.

The Authority will investigate community service compliance when there are questions of accuracy.

9.11 NONCOMPLIANCE

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)].

The Authority may not evict a family due to CSSR noncompliance. However, if Authority finds a resident is noncompliant with CSSR, the Authority will provide written notification to the resident of the noncompliance, which must include:

- A brief description of the finding of noncompliance with CSSR.
- A statement that the Authority will not renew the lease at the end of the current 12-month lease term unless the resident enters into a written work-out agreement with the Authority or the family provides written assurance that is satisfactory to the Authority explaining that the resident 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 resident may request a grievance hearing on the Authority's determination, in accordance with the Authority's grievance procedures, and that the resident may exercise any available judicial remedy to seek timely redress for the Authority's nonrenewal of the lease because of the Authority's determination.

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

The family will have ten 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 Authority 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 ten business day timeframe, the Authority will terminate the tenancy in accordance with the policies in Section 13.10.4.

Should a family member refuse to sign a written work-out agreement, or fail to comply with the terms of the work-out agreement, HAs 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 Authority will provide the following procedural safeguards:

- Adequate notice to the resident of the grounds for terminating the tenancy and for nonrenewal of the lease;
- Right of the resident to be represented by counsel;
- Opportunity for the resident to refute the evidence presented by the Authority, including the right to confront and cross-examine witnesses and present any affirmative legal or equitable defense which the resident may have; and,
- A decision on the merits. 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 13.10.4, Form, Delivery, and Content of the Notice.

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

If the family reports that a noncompliant family member is no longer residing in the unit, the family must provide documentation that the family member has vacated the unit before the Authority will agree to continued occupancy of the family. Documentation must consist of a certification signed by the head of the 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 ten business day timeframe, the family's lease and tenancy will automatically terminate at the end of the current lease term without further notice.

9.12 OPPORTUNITY FOR CURE

The Authority will offer the family member(s) the opportunity to enter into an agreement prior to the anniversary of the lease. The agreement shall state that the family member(s) agree to enter into an economic self-sufficiency program or to contribute to community service for as many hours as needed to comply with the requirement over the past 12-month period. The cure shall occur over the 12 months beginning with the date of the agreement, and the resident shall at the same time stay current with the year's community service requirement. The first hours a resident earns goes toward the current commitment until the current year's commitment is made.

The volunteer coordinator will assist the family member in identifying volunteer opportunities.]

EXHIBIT 9-1: HOUSING AUTHORITY OF HOBOKEN DETERMINATION OF EXEMPTION FOR COMMUNITY SERVICE

Family: _____

Adult family member: _____

This adult family member meets the requirements for being exempted from the Authority'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)*

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

_____ _____

Signature of Family Member Date

❒ Is the primary caretaker of such an individual in the above category *(Documentation in file)*

❒ Is engaged in work activities *(Verification in file)*

❒ Is able to meet requirements under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the Authority is located, including a state-administered welfare-to-work program (*Documentation in file*)

❒ Is a member of a family receiving assistance, benefits, or services under a state program funded under part A of title IV of the Social Security Act, or under any other welfare program of the state in which the PHA is located, including a state-administered welfare-to-work program and the supplemental nutrition assistance program (SNAP), and has not been found by the state or other administering entity to be in noncompliance with such program *(Documentation in file)*

Signature of Family Member	Date

Chapter 10 REEXAMINATIONS [24 CFR 960.257, 960.259, 966.4]

10.1 INTRODUCTION

For those families who choose to pay income-based rent, the Authority 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 Authority 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 all residents of public housing, whether those residents are paying income-based or flat rents, the Authority 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 lease enforcement or eviction.

The Authority 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 Authority. 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].

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 Authority may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or rate of interest. The Authority may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the Authority 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 Authority may streamline the verification of fixed income and may choose whether to verify non-fixed income amounts in years where no fixed-income review is required. If the family receives less than 90 percent of its income from fixed sources, the Authority may streamline the verification of fixed income and must verify non-fixed income annually.

The Authority will streamline the annual reexamination process by applying the verified COLA or interest rate to fixed-income sources. The Authority 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 Authority 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 Authority 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.

10.2 SCHEDULING ANNUAL REEXAMINATIONS

The Authority will schedule annual reexaminations to coincide with the family's anniversary date. The Authority will begin the annual reexamination process approximately 120 days in advance of the scheduled effective date.

10.2.1 NOTIFICATION OF AND PARTICIPATION IN THE ANNUAL REEXAMINATION PROCESS

The Authority will send a notice to the family letting them know that it is time for their annual reexamination, giving them the option of selecting either a flat rent or income-based rent, and scheduling an appointment if they are currently paying an income-based rent. If the family thinks they may want to switch to a flat rent from an income-based rent, they should request an appointment. At the appointment, the family can make their final decision regarding which rent method they want to select. The letter also includes, for those families paying in accord with the income-based rent, forms for the family to complete in preparation for the interview. The letter includes instructions permitting the family to reschedule the interview if necessary. The letter tells the family who may need to make alternative arrangements due to a disability that they may contract staff to request an accommodation for their needs.

The required information will include a Authority-designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documentation related to the family’s income, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within ten business days of the interview. 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 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.

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

The Authority will 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].

Notification of the annual reexamination interview 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.

10.2.2 MISSED APPOINTMENTS

If the family fails to respond to the letter and fails to attend the interview, a second letter will be mailed. The second letter will advise of a new time and date for the interview, allowing time for the same considerations for rescheduling and accommodations as outlined above. The letter will also advise that the failure by the family to attend the second scheduled interview will result in the Authority taking eviction actions against the family.

Change in Unit Size

Changes in the family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. The Authority 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.

10.2.3 CRIMINAL BACKGROUND CHECKS

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 13.10.2.

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.

At the annual reexamination, the Authority will ask whether the resident or any member of the resident's household, is subject to a lifetime sex offender registration requirement in any state. The Authority will verify the information provided by the resident.

If the Authority proposes to terminate assistance based on lifetime sex offender registration information, the Authority must notify the household of the proposed action and must provide the subject of the record and the resident 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.)

10.2.4 COMPLIANCE WITH COMMUNITY SERVICE

For families who include nonexempt individuals, the Authority must determine compliance with community service requirements once every 12 months [24 CFR 960.257(a)(3)].

10.3 EFFECTIVE DATES

In general, an *increase* in the resident 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 family causes a delay in processing the annual reexamination, *increases* in the resident 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 resident rent that results from an annual reexamination will take effect on the family's anniversary date.

If the Authority 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 Authority.

If the family causes a delay in processing the annual reexamination, d*ecreases* in the resident 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 the information requested by the Authority by the date specified, and this delay prevents the Authority from completing the reexamination as scheduled.

10.4 REEXAMINATIONS FOR FAMILIES PAYING FLAT RENTS[24 CFR 960.257(2)]

10.4.1 OVERVIEW

For families who choose flat rents, the Authority 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)]. The Authority is only required to provide the amount of income-based rent the family might pay in those years that the Authority 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)].

As it does for families that pay income-based rent, the Authority must also review compliance with the community service requirement for families with nonexempt individuals.

10.4.2 REEXAMINATION OF FAMILY COMPOSITION ("ANNUAL UPDATE")

As noted above, full reexaminations are conducted every three years for families paying flat rents. In the years between full reexaminations, regulations require the Authority to conduct a reexamination of family composition ("annual update") [24 CFR 960.257(a)(2)].

The annual update process is similar to the annual reexamination process, except that the Authority 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 Authority 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)].

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)].

Generally, the family will not be required to attend an interview for an annual update. However, if the Authority 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 Authority. The family will have ten business days to submit the required information to the Authority. If the family is unable to obtain the information or documents within the required time frame, the family may request an extension. The Authority 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 Authority will send a second written notice to the family. The family will have ten business days from the date of the second notice to provide the missing information or documentation to the Authority.

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 the family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. The Authority 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

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 13.10.2.

Each household member age 18 and over will be required to execute a consent form for the criminal background check as part of the annual update process.

COMPLIANCE WITH COMMUNITY SERVICE

For families who include nonexempt individuals, the Authority must determine compliance with community service requirements once every 12 months [24 CFR 960.257(a)(3)].

10.5 INTERIM REEXAMINATIONS [24 CFR 960.257; 24 CFR 966.4]

10.5.1 OVERVIEW

Family circumstances may change during the period between annual reexaminations. HUD and Authority policies define the types of information about changes in family circumstances that must be reported, and under what circumstances, the Authority must process interim reexaminations to reflect those changes. HUD regulations also permit the Authority to conduct interim reexaminations of income or family composition at any time.

10.5.2 CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

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).

The Authority will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require Authority approval. The family must inform the Authority of the birth, adoption, or court-awarded custody of a child within ten business days.

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request Authority 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)].

Families must request Authority 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 months and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by the Authority 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 Authority 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 Authority. Exceptions will be made on a case-by-case basis.

The Authority will not approve the addition of a new family or household member unless the individual meets the Authority's eligibility criteria (see Chapter 3) and documentation requirements (See Chapter 7, Sections, 7.2, 7.3, 7.4 and 7.5).

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If the Authority determines that an individual does not meet the Authority's eligibility criteria or documentation requirements, the Authority 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 Authority will make its determination within ten business days of receiving all information required to verify the individual's eligibility.

If a family member ceases to reside in the unit, the family must inform the Authority within ten business days. 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 Authority within ten business days.

10.5.3 CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because the Authority 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 Authority may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

AUTHORITY-INITIATED INTERIM REEXAMINATIONS

Authority-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by the Authority. They are not scheduled because of changes reported by the family.

The Authority will conduct interim reexaminations in each of the following instances:

- For families receiving the Earned Income Disallowance (EID), the Authority 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 Authority will conduct an interim reexamination every three months as long as the family continues to report that they have no income.
- 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 Authority 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, resident declarations were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, the Authority will conduct an interim reexamination.
- The Authority may conduct an interim reexamination at any time to correct an error in a previous reexamination, or to investigate a resident fraud complaint.

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FAMILY-INITIATED INTERIM REEXAMINATIONS

Families are required to report all increases in earned income, including new employment, within ten business days of the date the change takes effect.

The Authority will only conduct interim reexaminations for families that qualify for the earned income disallowance (EID), and only when the EID family's rent will change as a result of the increase. In all other cases, the Authority will note the information in the resident file, but will not conduct an interim reexamination.

Families are not required to report any other changes in income or expenses.

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 Authority 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.

f a family reports a change that it was not required to report and that would result in an increase in the resident rent, the Authority will note the information in the resident file, but will not conduct an interim reexamination.

If a family reports a change that it was not required to report, and that would result in a decrease in the resident rent, the Authority will conduct an interim reexamination. See Section 10.5.3 for effective dates.

Families may report changes in income or expenses at any time.

PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

The family may notify the Authority of changes either orally or in writing. If the family provides oral notice, the Authority 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 Authority determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, the Authority will determine the documentation the family will be required to submit. The family must submit any required information or documents within ten business days of receiving a request from the Authority. This time frame may be extended for

good cause with Authority approval. The Authority will accept required documentation by mail, by email, by fax, or in person.

Effective Dates

The Authority must make the interim reexamination within a reasonable time after the family request [24 CFR 960.257(b)].

If the resident 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 resident's 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. In cases where the change cannot be verified until after the date, the change would have become effective, the change will be made retroactively.

10.6 RECALCULATING RESIDENT RENT

10.6.1 OVERVIEW

For those families paying income-based rent, the Authority 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.

10.6.2 CHANGES IN UTILITY ALLOWANCES [24 CFR 965.507, 24 CFR 966.4]

The resident rent calculations must reflect any changes in the Authority's utility allowance schedule [24 CFR 960.253(c)(3)]. Chapter 16 discusses how utility allowance schedules are established.

Unless the Authority 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.

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10.6.3 NOTIFICATION OF NEW RESIDENT RENT

The public housing lease requires the Authority to give the resident written notice stating any change in the amount of resident rent, and when the change is effective [24 CFR 966.4(b)(1)(ii)].

When the Authority redetermines the amount of rent (Total Resident Payment or Resident Rent) payable by the resident, not including determination of the Authority's schedule of Utility Allowances for families in the Authority's Public Housing Program, or determines that the resident must transfer to another unit based on family composition, the Authority must notify the resident that the resident may ask for an explanation stating the specific grounds of the Authority determination and that if the resident does not agree with the determination, the resident shall have the right to request a hearing under the Authority's grievance procedure [24 CFR 966.4(c)(4)].

The notice to the family will include the annual and adjusted income amounts that were used to calculate the resident rent.

10.7 DISCREPANCIES

During an annual or interim reexamination, the Authority may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the Authority may discover errors made by the Authority. When errors resulting in the overpayment or underpayment of rent are discovered, corrections will be made in accordance with the policies in Chapter 15.

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Chapter 11 PET POLICY

11.1 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.

This chapter explains the Authority'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 Authority to provide a decent, safe and sanitary living environment for all residents, and to protect and preserve the physical condition of the property, as well as the financial interest of the Authority.

All pets owned by residents of the Authority prior to the adoption of the Authority's Pet Policy on July 7, 1999, were to have been issued a Pet Permit provided the pets met the requirements of the Pet Permit as outlined in the Authority Pet Policy and Municipal Code 93-2. After the death of the disposition of grandfathered pets, the quantity of pets allowed is controlled.

11.2 SERVICE ANIMALS AND ASSISTANCE ANIMAL [Section 504; Fair Housing Act (42 U.S.C.); 24 CFR 5.303; 24 CFR 960.705; Notice FHEO 2013-01]

11.2.1 OVERVIEW

This part discusses situations under which permission for a service animal or an assistance animal may be denied and also establishes standards for the care of service and assistance animals.

Notice FHEO 2013-01 was published on April 25, 2013. The notice explains the difference between service animals and assistance animals. While the ADA applies to the premises of public housing agencies and to "public accommodations," such as stores and movie theaters, it does not apply to private-market rental housing. Therefore, in public housing, the Authority must evaluate a request for a service animal under both the ADA and the Fair Housing Act. Service animals are limited to trained dogs.

Neither service animals nor assistance animals are pets, and thus, are not subject to the Authority's pet policies described in Parts II through IV of this chapter [24 CFR 5.303; 960.705; Notice FHEO 2013-01].

11.2.2 APPROVAL OF SERVICE ANIMALS AND ASSISTANCE ANIMALS

Notice FHEO 2013-01 states that the Authority should first evaluate the request as a service animal under the ADA. The Authority may only ask whether the dog is a service animal required due to a disability, and what tasks the animal has been trained to perform.

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The Authority cannot require proof of training or certification for a service animal, even if the disability or tasks performed are not readily apparent. If the disability or tasks performed are not readily apparent, no further inquiries may be made.

HAs may only deny a request for a service animal in limited circumstances:

- The animal is out of control, and the handler does not take effective action to control it
- The animal is not housebroken, or
- The animal poses a direct threat to health or safety that cannot be eliminated or reduced by a reasonable modification of other policies

A service animal must be permitted in all areas of the facility where members of the public are allowed.

If the animal does not qualify as a service animal under the ADA, the Authority must next determine whether the animal would qualify as an assistance animal under the reasonable accommodation provisions of the Fair Housing Act. Such assistance animals may include animals other than dogs.

A person with a disability is not automatically entitled to have an assistance animal. Reasonable accommodation requires that there is a relationship between the person's disability and his or her need for the animal [PH Occ GB, p. 179].

The Authority 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 specialized 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 Authority'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

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.

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For an animal to be excluded from the pet policy and be considered an assistance animal, there must be a person with disabilities in the household, and the family must request, and the Authority approve a reasonable accommodation in accordance with the policies contained in Chapter 2.

11.3 DESIGNATED PET/NO-PET AREAS [24 CFR 5.318(G), PH OCC GB, P. 182]

HAs 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 a building, or sections of building for residency by pet-owning residents.

HAs may direct initial resident moves as may be necessary to establish pet and no-pet areas. The Authority 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 Authority 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 residents.

11.4. PET APPLICATION REGISTRATION [24 CFR 960.707(B)(5)].

Pets must be registered with the Authority before they are brought onto the premise. Residents who apply for a Pet Permit must file an application for a Pet Permit with their Site Manager at the Authority. All pets must be photographed by the Authority. They will be weighed, their license checked and verified, their collar checked, and issued a Authority ID. The ID must be carried by the resident whenever the pet leaves the apartment. Applicants must present proof that they have met the State and Municipal ordinances related to pets.

11.4.1 PET PERMIT

A Pet Permit will be issued after all conditions of the pet policy are met, including the Pet Application and verification of compliance with the registration requirements of Municipal Code 93-2. If applicable, verification of continued compliance with the same may be required on an annual basis, at the time of recertification.

11.4.2 CONDITIONS FOR ISSUANCE OF A PET PERMIT

The following conditions must be met before the Authority will issue a Pet Permit:

1. Applicants for a Pet Permit must file a copy of license with the through their Site Manager evidencing their compliance with Municipal Code 93-2 (applies to dogs and cats).
2. Applicants for Pet Permit must sign a statement that said applicant assumes all personal financial responsibility for damage to any personal or project property caused by the pet and assumes personal responsibility for personal injury to any party caused by a said pet.
3. Prior to the issuance of a Pet Permit, the applicant agrees to post a pet security deposit of $100.00 for each cat or dog and $25.00 for each birdcage or fish tank. The Authority will permit the gradual accumulation of the pet deposit by the pet owner not to exceed six (6) months [24 CFR 5.318(d)(3)]. Said security deposit will be applied to damages caused by the pet upon the resident vacating the apartment together with an assessment to residents

for any deficiency in the amount of the deposit applied to the specific damages. If no damages are incurred due to the pets, the pet deposit will be fully refunded within two weeks. The Authority may not charge a pet security deposit if it exceeds one and one-half times one month's rent when combined with the regular security deposit.

4. Applicant must file, as part of the application process, a Pet Emergency Care Plan in case the applicant is unable to care for said pet in an emergency and which will empower the Site Manager to transfer pet care responsibility to a Responsible Party of the applicant off the premised of the development.
5. Applicants who have been approved to have a pet must enter into a pet agreement with the Authority, or the approval of the pet will be withdrawn.
6. The pet agreement is the resident's certification that he or she has received a copy of the Authority's pet policy and applicable house rules, that he or she has read the policies or rules, understands them, and agrees to comply with them.
7. The resident further certifies by signing the pet agreement that he or she understands that noncompliance with the Authority's pet policy and applicable house rules may result in the withdrawal of Authority approval of the pet or termination of tenancy.

Registration includes documentation signed by a licensed veterinarian or state/local authority that the pet has received all inoculations required by state or local law, and that the pet has no communicable disease(s) and is pest-free. This registration must be renewed annually and will be coordinated with the annual reexamination date.

Pets will not be approved to reside in a unit until completion of the Pet Permit requirements.

11.4.3 REFUSAL TO REGISTER PET

The Authority will refuse to register a pet if:

- The pet is not *a common household pet*, as defined in Section 11.3.3. below
- Keeping the pet would violate any pet restrictions listed in this policy
- The pet owner fails to provide complete pet registration information or fails to update the registration annually
- The applicant has previously been charged with animal cruelty under state or local law, or has been evicted, had to relinquish a pet or been prohibited from future pet ownership due to pet rule violations or a court order
- The Authority 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 Authority refuses to register a pet, a written notification will be sent to the pet owner within ten business days of the Authority'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 Authority's grievance procedures.

11.4.4 DEFINITION OF "COMMON HOUSEHOLD PET"

Common household pet means a domesticated animal, such as a dog, cat, bird, or fish that is traditionally recognized as a companion animal and is kept in the home for pleasure rather than commercial purposes.

The following animals are not considered common household pets:

- Reptiles
- Rodents
- Insects
- Arachnids
- Wild animals or feral animals
- Pot-bellied pigs
- Animals used for commercial breeding

11.4.5 PET MANAGEMENT PLAN

1. Limit one cat, dog, twenty (20) gallon fish tank, or birdcage per Pet Permit. Residents are limited to one dog or cat per household. The dog will not weigh more than thirty (30) pounds. Any dog for which a pet permit has been issued by the Authority prior to the effective date of this policy will be grandfathered and will be exempt from the thirty (30) pound weight limit, provided that the resident complies will all other requirements of this Pet Policy.

2. City ordinances 93-2, 93-20, 93-15, and 93-16 must be followed by all residents.

3. Pets shall not wonder unattended or without restraint (leash) in common areas of the building or on the grounds as specified (93-20).

4. Residents acknowledge responsibility for the cleanliness of and removal of pet waste (93-16) from the building daily by:

a) Placing cat litter into bags and into the chute.

b) The resident pet owner must prevent the pet from damaging property (within the apartment, common areas, grounds, or personal property of others), and assume all liability regardless of fault in cases where said pet contributes to or causes property damage or personal damage.

c) Residents agree to manage pets in such a way that it does not contribute to complaints from other residents regarding behavior and activities of said pet.

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11.4.6 INSPECTION OF APARTMENT

Residents agree as a condition of accepting the Pet Permit that resident apartment will be available for inspection of compliance of Pet Policy at any time during the working hours on thirty (30) minutes notice.

11.4.7 PETITION OF REMOVAL

Upon petition by two (2) or more neighboring residents alleging serious complaints against the pet owner for noncompliance with Pet Policy, the resident agrees to hearing on said infraction by the Resident Review Board. Compliance with the hearing determination shall commence immediately; in removal determination, removal of the pet from the residence shall be accompanied with 72 hours. Appeals will be handled by the Executive Director.

11.4.8 DAMAGES

Damages caused by the pet, as determined by inspection, shall be repaired/replaced by management at full repair/replacement cost at the time of discovery of the damage. Residents will be billed for full repair costs at the time of repair.

11.4.9 REVOCATION OF PET PERMIT

Revocation of Pet Permit may occur upon the following conditions:

1. Upon the death of a pet
2. Upon permanent removal of the pet from the development due to infractions outlined in the Pet Policy.

11.4.10 NOTICE FOR PET REMOVAL

If the pet owner and the Authority 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 Authority, the Authority may serve notice to remove the pet.

The notice will contain:

- A brief statement of the factual basis for the Authority'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

11.4.11 TERMINATION OF TENANCY

The Authority may initiate procedures for termination of tenancy based on a pet rule violation if:

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- 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 the tenancy under terms of the lease

11.4.12 REMOVAL OF PET

The resident shall be responsible for arranging for burial or other disposal off the premise of a pet in the event of the death of the pet.

11.4.13 ALTERATIONS TO UNIT

Pet owners shall not alter their unit, patio, premises, or common areas to create an enclosure for any animal.

The installation of pet doors is prohibited.

11.4.14 RESPONSIBLE PARTIES

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 Authority and sign a statement that they agree to abide by all of the pet rules.

11.4.15 PETS TEMPORARILY ON THE PREMISES

Pets that are not owned by a resident 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 Authority.

11.4.16 EMERGENCIES

The Authority will take all necessary steps to ensure that pets that become vicious, display symptoms of severe illness, or demonstrate behavior that constitutes an immediate threat to the health or safety of others, are immediately removed from the premises by referring the situation to the appropriate state or local entity authorized to remove such animals.

If it is necessary for the Authority 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

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12.0 TRANSFER POLICY

12.1 INTRODUCTION

The objectives of this transfer policy include the following:

- To address emergency situations
- To address a request for a reasonable accommodation
- To fully utilize available housing resources while avoiding overcrowding by ensuring that each family occupies the appropriate size unit
- To facilitate a relocation when required for modernization or other management purposes
- To facilitate relocation of families with inadequate housing accommodations
- To provide an incentive for families to assist in meeting the Authority's deconcentration goal
- To eliminate vacancy loss and other expense due to unnecessary transfers This chapter describes HUD regulations and Authority policies related to transfers in four parts:

HUD provides the Authority with discretion to consider transfer requests from residents. The only requests that the Authority is required to consider are requests for reasonable accommodation. All other transfer requests are at the discretion of the Authority. To avoid administrative costs and burdens, this policy limits the types of requests that will be considered by the Authority.

12.2 CATEGORIES OF TRANSFER

12.2.1 CATEGORY 1: EMERGENCY TRANSFER

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 Authority.

In the case of a genuine emergency, it may be unlikely that the Authority will have the time or resources to immediately transfer a resident. Due to the immediate need to vacate the unit, placing the resident on a transfer waiting list would not be appropriate. Under such circumstances, if an appropriate unit is not immediately available, the Authority should find alternate accommodations for the resident until the emergency passes, or a permanent solution, i.e., return to the unit or transfer to another unit, is possible.

Emergency transfers are necessary when conditions pose an immediate threat to life, health, or safety of a family or one of its members. Such situations may involve defects of the unit or the

building in which the unit is located, the health condition of a family member, a hate crime, or a law enforcement matter particular to the neighborhood. 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 Authority 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 Authority to adopt an emergency transfer plan for victims of domestic violence, dating violence, sexual assault, or stalking.

If the transfer is necessary because of maintenance conditions, and an appropriate unit is not immediately available, the Authority will provide temporary accommodations to the resident by arranging for temporary lodging at a hotel or similar location. If the conditions that required the transfer cannot be repaired, or the condition cannot be repaired in a reasonable amount of time, the Authority 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 resident.

If the emergency transfer is necessary to protect a victim of domestic violence, dating violence, sexual assault, or stalking, the Authority will follow procedures outlined in Exhibit 16-4.

12.2.2 CATEGORY 2: IMMEDIATE ADMINISTRATIVE TRANSFERS

The types of transfers that may be required by the Authority, include, but are not limited to, transfers to make an accessible unit available for a disabled family or to enable or demolition, disposition, revitalization, or rehabilitation.

Transfers required by the Authority are mandatory for the resident.

When a family is initially given an accessible unit, but does not require the accessible features, the Authority may require the family to agree to move to a non-accessible unit when it becomes available [24 CFR 8.27(b)]. The Authority 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.

The Authority 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 Authority'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.

If, as a result of a change in household composition, the size of a particular family exceeds the maximum number of persons appropriate for the unit assigned to that family set forth in Section 4.6.2 by three or more persons, the Authority may, in its sole discretion, designate that family as severely under-housed. In the event of such a determination by the Authority, the transfer of the family shall be processed as an Immediate Administrative Transfer. Any instance in which a family has been determined to be under-housed, but is not, is the sole discretion of the Authority, designated as severely under-housed, the transfer of the family shall be processed as a Regular Administrative Transfer, in accordance with Section 12.2.3.

12.2.3 CATEGORY 3: REGULAR ADMINISTRATIVE TRANSFERS

The Authority may also transfer a family that was initially placed in a unit in which the family was over-housed to a unit of an appropriate size based on the Authority's occupancy standards, when the Authority determines there is a need for the transfer.

The Authority may elect not to transfer an over-housed family in order to prevent vacancies.

Any health-related transfer request that does not rise to the level of an emergency transfer, as determined by the Authority, will be considered at the sole discretion of the Authority.

12.2.4 CATEGORY 4: INCENTIVE TRANSFERS

Transfer request will be encouraged and approved for families who live in a development where their income category (below or above 30% of area median income, adjusted for family size) predominates and wish to move to a development where their income category does not predominate.

Families approved for incentive transfers will be required to meet the following eligibility requirements:

A. Have been residents for three years;
B. For a minimum of one year, a least one adult family member s enrolled in an economic self-sufficiency program or is working at least thirty-five (35) hours per week, the adult family member is 63 years of age or older or disabled or is the primary care to other with a disability;
C. Adult members who are required to perform community service have been current in these responsibilities since the inception of inception of the requirement or for one year, whichever is less;
D. The family is current in the payment of all charges owed to the Authority and has not paid late rent for at least one year prior to the date of the request;
E. The family passes a current housekeeping inspection and does not have a record of housekeeping problems during the last year;
F. The family has not materially violated the lease over the past two years by disturbing the peaceful enjoyment of their neighbors, by engaging in criminal or drug activity, or by threatening the health or safety of the resident or Authority staff;
G. Participate in a series of classes conducted by the Authority on basic home and yard care.

12.3 PROCESSING TRANSFER

12.3.1 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.

12.3.2 TRANSFER LIST

The Authority 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. Immediate administrative transfers
3. Regular administrative transfers
4. Incentive transfers
5. Other PHA-required 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 Authority 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.

The Authority will strive to process transfers and waiting list admissions at a one to one ratio.

A family that is required to move because of family size will be advised by the Authority that a transfer is necessary and that the family has been placed on the transfer list.

Families that request and are granted an exception to the occupancy standards (for either a larger or smaller size unit) in accordance with the policies in Section 4.6.2 of this policy will only be required to transfer if it is necessary to comply with the approved exception.

An Authority 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 Authority may not take action on the transfer until the conclusion of the grievance process.

12.4 SECURITY DEPOSITS

When a family transfers from one unit to another, the Authority will transfer their security deposit to the new unit. The resident will be billed for any maintenance or others charges due for the "old" unit.

12.5 COSTS OF TRANSFER DUE TO EMERGENCY CONDITIONS OUTSIDE OF THE CONTROL OF THE RESIDENT

The Authority will bear the reasonable costs of temporarily accommodating the resident and of long-term transfers, if any, due to emergency conditions outside of the control of the resident.

The reasonable cost of transfers includes the cost of packing, moving, and unloading.

The Authority will establish a moving allowance based on the typical costs in the community of packing, moving, and unloading. To establish typical costs, the Authority will collect information from companies in the community that provide these services.

The Authority will reimburse the family for eligible out-of-pocket moving expenses up to the Authority's established moving allowance.

Should the Authority determine that the emergency conditions have been caused in whole or in part by the conduct of the resident, the Authority will not bear any costs related to temporary accommodations or long-term transfers.

12.6 HANDLING OF REQUESTS

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 16-4 of this ACOP). The Authority may, on a case-by-case basis, waive this requirement and accept a verbal request in order to expedite the transfer process. If the Authority accepts an individual's statement, the Authority will document acceptance of the statement in the individual's file in accordance with 16.8.4 of this policy. Transfer requests under VAWA will be processed in accordance with the Authority's Emergency Transfer Plan (Exhibit 16-3). In case of a reasonable accommodation transfer, the Authority will encourage the resident to make the request in writing using a reasonable accommodation request form. However, the Authority 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 Authority 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 stalking in accordance with section 16.8.4 of this policy.

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 Authority will respond within ten (10) business days of the submission of the family's request. If the Authority denies the request for transfer, the family will be informed of its grievance rights.

12.7 SPLIT-FAMILY TRANSFERS

Split-family transfers are not permitted. Separation of households will be processed as follows:

1. Resident-initiated separation of households: Families that decide to separate as a result of divorce or unwillingness to continue living together must identify the family member(s) who are willing to establish a new household. Such person(s) may submit an application during open registration periods to be placed on the waiting list in accordance with Chapter 4 herein. Any family members remaining in the unit may be required to transfer to a smaller unit if the unit becomes under-occupied after a portion of the household transfers to a separate unit. When a family cannot agree on which family member(s) shall remain in the unit, the Authority will rely on other forms of documentation (i.e. divorce decree).

2. Authority-initiated separation of households: If the Authority determines that a household has grown, through the addition of children by birth, adoption, or court-awarded custody, beyond the maximum number of family members permitted in any available Authority unit, the Authority may require the separation of the household. Upon notice from the Authority, the family must identify the family member(s) who are willing to establish a new household. Such person(s) may submit an application to be placed on the waiting in accordance with Chapter 4 herein. Any family members remaining in the unit may be required to transfer to a smaller unit if the unit becomes under-occupied after a portion of the household transfers to a separate unit.

12.8 TRANSFER OFFER POLICY

When the transfer is required by the Authority, the refusal of two offers without good cause will result in lease termination.

When the transfer has been requested by the resident, the refusal of two offers 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.

12.9 GOOD CAUSE FOR UNIT REFUSAL

Examples of good cause for refusal of a unit offer include, but are not limited to, the following:

The family demonstrates to the Authority'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 Authority'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, or stalking in accordance with section 16.8.4 of this policy. 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 Authority will require documentation of good cause for unit refusals.

12.10 DECONCENTRATION

The Authority 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 Authority'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.

12.11 REEXAMINATION POLICIES FOR TRANSFERS

The reexamination date will be changed to the first of the month in which the transfer took place.

12.12 REEXAMINATION POLICIES FOR TRANSFERS

If the Authority has no suitable public housing units available to accommodate a transfer request, the Authority may, with the agreement of the resident, convert the resident to a participant in the Housing Choice Voucher Program.

Chapter 13 LEASE TERMINATIONS

13.1 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 Authority 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 other good cause. HUD regulations also specify when termination of the lease is mandatory by the Authority.

When determining Authority policy on terminations of the lease, the Authority must consider state and local landlord-resident laws in the area where the Authority 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.

13.2 RESIDENT CHOOSES TO TERMINATE THE LEASE [24 CFR 966.4(k)(1)(ii) and 24 CFR 966.4(l)(1)]

If a family desires to move and terminate their tenancy with the Authority, they must give at least 30 calendar days advance written notice to the Authority of their intent to vacate. When a family must give less than 30 days' notice due to circumstances beyond their control, the Authority, at its discretion, may waive the 30-day requirement.

The notice of lease termination must be signed by the head of the household, spouse, or cohead.

13.3 TERMINATION BY AUTHORITY – MANDATORY TERMINATION BY THE AUTHORITY

HUD requires mandatory termination of the lease for certain actions or inactions of the family. There are other actions or inactions of the family that constitute *grounds* for lease termination, but the lease termination is not mandatory. The Authority must establish policies for termination of the lease in these cases where termination is optional for the Authority.

For those resident actions or failures to act where HUD requires termination, the Authority has no such option. In those cases, the family's lease must be terminated. This part describes situations in which HUD requires the Authority to terminate the lease.

13.3.1 FAILURE TO PROVIDE CONSENT [24 CFR 960.259(A) AND (B)]

The Authority must terminate the lease if any family member fails to sign and submit any consent form the family member is required to sign for any reexamination.

13.3.2 FAILURE TO DOCUMENT CITIZENSHIP [24 CFF 5.514(C) AND (D) AND 24 CFR 960.259(A)]

The Authority 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 Authority, 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.

13.3.3 FAILURE TO DISCLOSE AND DOCUMENT SOCIAL SECURITY NUMBERS [24 CFR 5.218(C), 24 CFR 960.259(A)(3), NOTICE PIH 2018-24]

The Authority 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 Authority 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 Authority 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.

13.3.4 FAILURE TO ACCEPT THE AUTHORITY'S OFFER OF A LEASE REVISION [24 CFR 966.4(L)(2)(II)(E)]

The Authority must terminate the lease if the family fails to accept the Authority's offer of a lease revision to an existing lease, provided the Authority has done the following:

- The revision is on a form adopted by the Authority in accordance with 24 CFR 966.3 pertaining to requirements for notice to residents and resident organizations and their opportunity to present comments.
- The Authority 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 Authority has specified in the offer a reasonable time limit within that period for acceptance by the family.

13.3.5 METHAMPHETAMINE CONVICTION [24 CFR 966.4(L)(5)(I)(A)]

The Authority must immediately terminate the lease if the Authority determines that any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally assisted housing.

13.3.6 LIFETIME REGISTERED OFFENDERS [NOTICE PIH 2012-28]

Should a Authority 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 Authority must immediately terminate assistance for the household member.

In this situation, the Authority 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 Authority must terminate assistance for the household.

13.3.7 DEATH OF A DEATH A SOLE FAMILY MEMBER [NOTICE PIH 2012-4]

The Authority must immediately terminate the lease following the death of the sole family member.

13.4 TERMINATION BY AUTHORITY – OTHER AUTHORIZED REASONS

The Authority will terminate the lease for serious, repeated violations of lease terms. Such violations include but are not limited to the following:

A. Nonpayment of rent or other charges

B. A history of late rental payments

C. Failure to provide timely and accurate information regarding family composition

D. Failure to allow inspection of the unit

E. Failure to maintain the unit in a safe and sanitary manner

F. Assignment or subletting of the premises

G. Use of the premises for the purposes other than a dwelling unit (other than for Authority approved resident businesses)

H. Destruction of property

I. Acts of destruction, defacement, or removal of any part of the premises or failure to cause guests to refrain from such acts

J. Noncompliance with Noncitizen Rule Requirements

K. Permitting persons not on the lease to reside in the unit more than fourteen (14) days each year without the prior written consent of the Authority

L. Other good causes, including:

1. **Drug Crime On or Off the Premises [24 CFR 966.4(l)(5)(i)(B)]**: The Authority will terminate the lease for drug-related criminal activity engaged in on or off the premises by any resident, member of the resident's household or guest, and any such activity engaged in on the premises by any other person under the resident's control. The Authority will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to the drug-related criminal activity. In making its decision to terminate the lease, the Authority will consider alternatives as described in Section 13.7 and other factors as described in Sections 13.8 and 13.9. Upon consideration of such alternatives and factors, the Authority may, on a case-by-case basis, choose not to terminate the lease.

2. **Illegal Use of a Drug [24 CFR 966.4(l)(5)(i)(B)]:** The Authority will terminate the lease when the Authority determines that a household member is illegally using a drug or the Authority 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 six months. The Authority will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the use of illegal drugs. A record of arrest(s) will not be used as the basis for the termination or proof that the participant engaged in disqualifying criminal activity.

3. **Threat to Other Residents [24 CFR 966.4(l)(5)(ii)(A)]:** The Authority 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 Authority management staff residing on the premises) or by persons residing in the immediate vicinity of the premises. The Authority will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to the criminal activity. In making its decision to terminate the lease, the Authority will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13.8 and 13.9. Upon consideration of such alternatives and factors, the Authority may, on a case-by-case basis, choose not to terminate the lease.

4. **Alcohol Abuse [24 CFR 966.4(l)(5)(vi)(A)]**The Authority will terminate the lease if the Authority 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 six months. The Authority will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the abuse of alcohol. A record 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 the lease, the Authority will consider alternatives as described in Section 13.7 and other factors as described in Sections 13.8 and 13.9. Upon

consideration of such alternatives and factors, the Authority may, on a case-by-case basis, choose not to terminate the lease.

5. **Furnishing False or Misleading Information Concerning Illegal Drug Use or Alcohol Abuse or Rehabilitation [24 CFR 966.4(l)(5)(vi)(B)]:** The Authority will terminate the lease if the Authority 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 Authority will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the use of illegal drugs or the abuse of alcohol, and any records or other documentation (or lack of records or documentation) supporting claims of rehabilitation of illegal drug users or alcohol abusers. In making its decision to terminate the lease, the Authority will consider alternatives as described in Section 13.7 and other factors as described in Sections 13.8 and 13.9. Upon consideration of such alternatives and factors, the Authority may, on a case-by-case basis, choose not to terminate the lease.

13.5 FAMILY ABSENCE FROM UNIT [24 CFR 982.551(I)]

The family must promptly notify the Authority when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 14 calendar days. In such a case, promptly means within ten business days of the start of the extended absence.

If a family is absent from the public housing unit for more than 14 consecutive days, and the family does not adequately verify that they are living in the unit, the Authority 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 Authority will follow state and local landlord-resident law pertaining to abandonment before taking possession of the unit. If necessary, the Authority will secure the unit immediately to prevent vandalism and other criminal activity.

13.6 OVER-INCOME FAMILIES [24 CFR 960.261; FR NOTICE 7/26/18; NOTICE PIH 2019-11]

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 Authority 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 housing authorities 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.

At annual or interim reexamination, if a family's adjusted income exceeds the applicable over-income limit, the Authority 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 Authority 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 Authority's over-income policies.

If two years after the applicable annual or interim reexamination, the family's income continues to exceed the applicable over-income limit, the Authority will charge the family a rent that is the higher of the applicable fair market rent (FMR) or the amount of monthly subsidy for the unit. The Authority will notify the family in writing of their new rent amount. The new rent amount will be effective 30 days after the Authority's written notice to the family.

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 Authority 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 Authority 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 Authority will begin tracking over-income families once these policies have been adopted, but no later than March 24, 2019.

The Authority will not evict or terminate the tenancies of families whose income exceeds the income limit for program eligibility, as described at 24 CFR 960.261.

The Authority will maintain and publish over-income limits at the main office of the Authority. 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.

For families larger than eight persons, the over-income limit will be calculated by multiplying the applicable very-low-income limit by 2.4.

13.7 ALTERNATIVES TO TERMINATION OF TENANCY

13.7.1 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 Authority may consider exclusion of the culpable household member. Such an alternative can be used for any other reason where such a solution appears viable in accordance with Authority policy.

Additionally, under the Violence against Women Reauthorization Act of 2013, the Authority may bifurcate a lease in order to terminate the tenancy of an individual who is a resident or lawful occupant of a unit and engages in criminal activity directly related to domestic violence, dating violence, sexual assault, or stalking.

The Authority will consider requiring the resident 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 Authority request.

13.7.2 REPAYMENT OF FAMILY DEBTS

If a family owes amounts to the Authority, as a condition of continued occupancy, the Authority will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from the Authority of the amount owed. See Chapter 16 for policies on repayment agreements.

13.8 CRITERIA FOR DECIDING TO TERMINATE TENANCY

A housing authority that has grounds to terminate a tenancy is not required to do so, except as explained in section 13.3 of this chapter, and may consider all of the circumstances relevant to a particular case before making a decision.

13.8.1 EVIDENCE [24 CFR 982.553(C)]

The Authority 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.

13.8.2 CONSIDERATION OF CIRCUMSTANCES [24 CFR 966.4(L)(5)(VII)(B)]

The Authority will consider the following facts and circumstances before deciding whether to terminate the lease for any of the HUD required lease provisions or for any other reasons:

- The seriousness of the offending action, especially with respect to how it would affect other residents' safety or property
- The extent of participation or culpability of the leaseholder, or other household members, in the offending action, including whether the culpable member is a minor, a person with disabilities, or (as discussed further in section 13.9) a victim of domestic violence, dating violence, sexual assault, or stalking
- 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 Authority's failure to terminate the tenancy
- The effect of the Authority'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 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 Authority may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The Authority 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

13.8.3 CONSIDERATION OF REHABILITATION [24 CFR 966.4(L)(5)(VII)(D)]

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 Authority will consider whether such household member has successfully completed a supervised drug or alcohol rehabilitation program.

For this purpose, the Authority will require the resident to submit evidence of the household member's successful completion of a supervised drug or alcohol rehabilitation program.

13.8.4 REASONABLE ACCOMMODATION [24 CFR 966.7]

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of lease, the Authority will determine whether the behavior is related to the disability. If so, upon the family's request, the Authority will determine whether alternative measures are appropriate as a reasonable accommodation. The Authority 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.

13.8.5 NONDISCRIMINATION LIMITATION [24 CFR 966.4(L)(5)(VII)(F)]

The Authority's eviction actions must be consistent with fair housing and equal opportunity provisions of 24 CFR 5.105.

13.9 TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

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. For general VAWA requirements and Authority policies pertaining to notification, documentation, and confidentiality, see section 16.8 of this ACOP, where definitions of key VAWA terms are also located.

13.9.1 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 resident on the basis or as a direct result of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking that is engaged in by a member of the household of the resident or any guest or other person under the control of the resident, if the resident or affiliated individual is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking [FR Notice 8/6/13].

VAWA further provides that incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking may not be construed either as serious or repeated violations of the lease by the victim or threatened victim of such violence or as good cause for terminating the tenancy or occupancy rights of the victim of such violence [24 CFR 5.2005(c)(1), FR Notice 8/6/13].

13.9.2 LIMITS ON VAWA PROTECTIONS [24 CFR 5.2005(D) AND (E), FR NOTICE 8/6/13]

While VAWA prohibits a Authority from using domestic violence, dating violence, sexual assault, or stalking as the cause for a termination or eviction action against a public housing resident who is the victim of the abuse, the protections it provides are not absolute. Specifically:

- VAWA does not limit a Authority'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 providing that the Authority does not subject the victim to a more demanding standard than the standard to which it holds other residents.

- VAWA does not limit a Authority's authority to terminate the tenancy of any public housing resident if the Authority can demonstrate an actual and imminent threat to other residents or those employed at or providing service to the property if that resident'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 Authority 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 Authority 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)].

In determining whether a public housing resident who is a victim of domestic violence, dating violence, sexual assault, or stalking is an actual and imminent threat to other residents or those employed at or providing service to a property, the Authority will consider the following, and any other relevant, factors:

Whether the threat is toward an employee or resident other than the victim of domestic violence, dating violence, sexual assault, or stalking

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 residents 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 resident wishes to contest the Authority's determination that he or she is an actual and imminent threat to other residents or employees, the resident may do so as part of the grievance hearing or in a court proceeding.

13.9.3. DOCUMENTATION OF ABUSE [24 CFR 5.2007

When an individual facing termination of tenancy for reasons related to domestic violence, dating violence, sexual assault, or stalking claims protection under VAWA, the Authority will request in writing that the individual provide documentation supporting the claim in accordance with the policies in section 16.8.4 of this ACOP.

The Authority 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 Authority will document the waiver in the individual's file.

13.9.4 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 Authority the explicit authority to bifurcate a lease, or remove a household member from a lease, "in order to evict, remove, or terminate assistance to any individual who is a resident or lawful occupant of the housing and who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual, without evicting, removing, terminating assistance to, or otherwise penalizing a victim of such criminal activity who is also a resident or lawful occupant of the housing" [FR Notice 8/6/13]. Moreover, HUD regulations impose on the Authority the obligation to consider lease bifurcation in any circumstances involving domestic violence, dating violence, or stalking [24 CFR 966.4(e)(9)].

Specific lease language affirming the Authority'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 Authority 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 Authority must follow the same rules when terminating or evicting an individual as it would when terminating or evicting an entire family [FR Notice 3/16/07]. However, perpetrators should be given no more than 30 days' notice of termination in most cases [Notice PIH 2017-08].

The Authority will bifurcate a family's lease and terminate the tenancy of a family member if the Authority 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 Authority will consider all credible evidence, including, but not limited to, a signed certification (form HUD-5382) or other documentation of abuse submitted to the Authority by the victim in accordance with this section and section 16-VII.D. The Authority will also consider the factors in section 13.III.E. Upon such consideration, the Authority may, on a case-by-case basis, choose not to bifurcate the lease and terminate the tenancy of the culpable family member.

If the Authority 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 resident eligible to receive assistance, the Authority must provide any remaining resident a chance to establish eligibility for the unit. If the remaining resident cannot do so, the Authority must provide the resident reasonable time to find new housing or to establish eligibility for another housing program covered by VAWA 2013.

13.10 NOTIFICATION REQUIREMENTS, EVICTION PROCEDURES AND RECORD KEEPING

13.10.1 OVERVIEW

HUD regulations specify the requirements for the notice that must be provided prior to lease termination. This section discusses those requirements and the specific requirements that precede and follow termination for certain criminal activities that are addressed in the regulations. This part also discusses specific requirements pertaining to the actual eviction of families and record keeping.

13.10.2 CONDUCTING CRIMINAL RECORDS CHECKS [24 CFR 5.903(E)(II) AND 24 CFR 960.259]

The Authority will conduct criminal records checks when it has come to the attention of the Authority, 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. To obtain such information, all adult household members must sign consent forms for the release of the criminal conviction and sex offender registration records on an annual basis.

The Authority may not pass along to the resident the costs of a criminal records check.

13.10.3 DISCLOSURE OF CRIMINAL RECORD TO FAMILY [24 CFR 5.903(F), 24 CFR 5.905(D) AND 24 CFR 966.4(L)(5)(IV)]

In all cases where criminal record or sex offender registration information would result in lease enforcement or eviction, the Authority will notify the household in writing of the proposed adverse action and will provide the subject of the record and the resident a copy of such information, and an opportunity to dispute the accuracy and relevance of the information before an eviction or lease enforcement action is taken.

The family will be given ten business days from the date of the Authority notice to dispute the accuracy and relevance of the information. If the family does not contact the Authority to dispute the information within that ten-business day period, the Authority will proceed with the termination action.

Should the resident not exercise their right to dispute prior to any adverse action, the resident still has the right to dispute in the grievance hearing or court trial.

13.10.4 LEASE TERMINATION NOTICE [24 CFR 966.4(L)(3)]

FORM, DELIVERY, AND CONTENT OF THE NOTICE

Notices of lease termination must be in writing. The notice must state the specific grounds for termination, the date the termination will take place, the resident's right to reply to the termination notice, and their right to examine Authority documents directly relevant to the termination or eviction. If the Authority does not make the documents available for examination upon request by the resident, the Authority may not proceed with the eviction [24 CFR 996.4(m)].

When the Authority 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 Authority's grievance procedure. In these cases, the tenancy shall not terminate until the time for the resident to request a grievance hearing has expired, and the grievance procedure has been completed.

When the Authority 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 resident is not entitled to a grievance hearing on the termination. It must specify the judicial eviction procedure to be used by the Authority for eviction of the resident, 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 Authority, or for a drug-related criminal activity on or off the premises.

The Authority will attempt to deliver notices of lease termination directly to the resident or an adult member of the household. If such attempt fails, the notice will be sent certified and regular mail.

Any resident who claims that the cause for termination involves domestic violence, dating violence, sexual assault, or stalking of which the resident or affiliated individual of the resident is the victim will be given the opportunity to provide documentation in accordance with the policies in sections 13.9 and 16.8.4.

TIMING OF THE NOTICE [24 CFR 966.4(L)(3)(I)]

The Authority must give written notice of lease termination of:

- 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, Authority 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

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.

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 Authority finds that a family is in noncompliance with the community service requirement, the resident 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 9.10.

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 9.10 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 the 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 Authority either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Please see Chapter 14 for the Authority's informal hearing procedures.

EVICTION [24 CFR 966.4(l)(4) and 966.4(m)]

Eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The Authority may only evict the resident 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.

When a family does not vacate the unit after receipt of a termination notice, by the deadline given in the notice, the Authority will follow state and local landlord-resident 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 Authority will seek the assistance of the court to remove the family from the premises as per state and local law.

The Authority may not proceed with an eviction action if the Authority 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).

NOTIFICATION TO POST OFFICE [24CFR 966.4(l)(5)(iii)(B)]

When the Authority evicts an individual or family for criminal activity, including drug-related criminal activity, the Authority must notify the local post office serving the dwelling unit that the individual or family is no longer residing in the unit.

RECORD KEEPING

A written record of every termination or eviction will be maintained by the Authority 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
- The 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

13.11 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 16.8.2.

Affirmative marketing means

Covered person means a resident, any member of the resident's household, a guest, or another person under the resident's control.

Dating violence is defined in section 16.8.2.

Domestic violence is defined in section 16.8.2.

Drug means a controlled substance, as defined in section 102 of the Controlled Substances Act [21 USC. 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 resident or other member of the household who has express or implied authority to so consent on behalf of the resident.

Household means the family and Authority-approved live-in aide. The term household also includes foster children or foster adults that have been approved to reside in the unit [HUD-50058, Instruction Booklet, p. 65].

Other person under the resident'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 resident or other member of the household who has express or implied authority to so consent on behalf of the resident. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes, is not *under the resident'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 16.8.2.

Stalking is defined in section 16.8.2.

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.

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Chapter 14 **GRIEVANCES AND APPEALS**

14.1 INFORMAL HEARINGS FOR PUBLIC HOUSING APPLICANTS

14.1.1 OVERVIEW

When the Authority makes a decision that has a negative impact on an applicant's 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 Authority policies necessary to respond to applicant appeals through the informal hearing process.

14.1.2 INFORMAL HEARING PROCESS [24 CFR 960.208(a) and PH Occ GB, p. 58]

Informal hearings are provided for public housing applicants. An applicant is someone who has applied for admission to the public housing program but is not yet a resident 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 residents under the Authority grievance procedures [24 CFR 966.53(a) and PH Occ GB, p. 58].

Informal hearings provide applicants the opportunity to review the reasons for denial of admission and to present evidence to refute the grounds for denial.

The Authority will only offer informal hearings to applicants for the purpose of disputing denials of admission.

NOTICE OF DENIAL [24 CFR 960.208(A)]

The Authority 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 Authority decision and must also state that the applicant may request an informal hearing to dispute the decision. The notice must describe how to obtain an informal hearing.

When denying eligibility for admission, the Authority 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 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

A request for an informal hearing must be made in writing and delivered to the Authority either in person or by first-class mail, by the close of the business day, no later than ten business days from the date of the Authority's notification of denial of admission.

The Authority will schedule and send written notice of the informal hearing within ten business days of the family's request.

CONDUCTING AN INFORMAL HEARING [PH OCC GB, P. 58]

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 Authority.

The person conducting the informal hearing will make a recommendation to the Authority. However, the Authority is responsible for making the final decision as to whether admission should be granted or denied.

INFORMAL HEARING DECISION [PH OCC GB, P. 58]

The Authority will notify the applicant of the Authority's final decision, including a brief statement of the reasons for the final decision.

In rendering a decision, the Authority 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 Authority 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 Authority will evaluate whether the facts presented prove the grounds for denial of admission. If the facts prove that there are grounds for denial, and HUD requires the denial, the Authority will uphold the decision to deny admission.
- If the facts prove the grounds for denial, and the denial is discretionary, the Authority will consider the recommendation of the person conducting the informal hearing in making the final decision whether to deny admission.

The Authority 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 ten business days of the informal hearing, to the applicant and his or her representative, if any.

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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 Authority must consider such accommodations. The Authority 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.

14.2 INFORMAL HEARINGS WITH REGARD TO NONCITIZENS

14.2.1 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. However, 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 based on 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 Authority hearing is pending. However, 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 Authority informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

14.2.2 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 a proration of assistance.
- In the case of a resident, the criteria and procedures for obtaining relief under the provisions for the 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 Authority 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.

14.2.3 UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES APPEAL PROCESS [24 CFR 5.514(E)]

When the Authority receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the Authority 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 Authority with a copy of the written request for appeal and proof of mailing.

The Authority will notify the family in writing of the results of the USCIS secondary verification within ten business days of receiving the results. The family must provide the Authority with a copy of the written request for appeal and proof of mailing within ten 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 Authority, of its decision. When the USCIS notifies the Authority of the decision, the Authority must notify the family of its right to request an informal hearing.

The Authority will send written notice to the family of its right to request an informal hearing within ten business days of receiving notice of the USCIS decision regarding the family's immigration status.

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, an applicant family may request that the Authority provide a hearing. The request for a hearing must be made either within 30 days of receipt of the Authority notice of denial or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

14.2.4 INFORMAL HEARING OFFICER

The Authority 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.

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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 Authority 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.

The family will be allowed to copy any documents related to the hearing at the cost of $.25 per page. The family must request discovery of Authority documents no later than 12:00 p.m. three (3) business days 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 Authority, and to confront and cross-examine all witnesses on whose testimony or information the Authority 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 Authority 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.

HEARING DECISION

The Authority 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.

RETENTION OF DOCUMENTS [24 CFR 5.514(H)]

The Authority must retain for a minimum of 5 years the following documents that may have been submitted to the Authority by the family, or provided to the Authority as part of the USCIS appeal or the Authority 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

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- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision

14.3 GRIEVANCE PROCEDURES FOR PUBLIC HOUSING RESIDENTS

14.3.1 REQUIREMENTS [24 CFR 966.52]

The Authority grievance procedure will be incorporated by reference in the resident lease.

The Authority must provide at least 30 days' notice to residents and resident organizations setting forth proposed changes in the Authority grievance procedure and provide an opportunity to present written comments. Comments submitted must be considered by the Authority before the adoption of any changes to the grievance procedure by the Authority.

Residents and resident organizations will have 30 calendar days from the date they are notified by the Authority of any proposed changes in the Authority grievance procedure, to submit written comments to the Authority.

The Authority must furnish a copy of the grievance procedure to each resident and to resident organizations.

14.3.2 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 resident may have with respect to Authority action or failure to act in accordance with the individual resident's lease or Authority regulations which adversely affect the individual resident's rights, duties, welfare or status

Complainant – any resident whose grievance is presented to the Authority or at the project management office

Due Process Determination – a determination by HUD that law of the jurisdiction requires that the resident must be given the opportunity for a hearing in court which provides the basic elements of due process before eviction from the dwelling unit

Expedited grievance – a procedure established by the Authority for any grievance or termination that involves:

Any criminal activity that threatens the health, safety, or right to peaceful enjoyment or the Authority's public housing premises by other residents or employees of the Authority; 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 resident of the grounds for terminating the tenancy and for eviction

Right of the resident to be represented by counsel

Opportunity for the resident to refute the evidence presented by the Authority including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the resident may have

A decision on the merits

Hearing Officer – an impartial individual selected by the Authority, other than the person who made or approved the decision under review, or a subordinate of that person. The individual does not require legal training.

Resident – the adult person (or persons) (other than a live-in aide):

Who resides in the unit, and who executed the lease with the Authority 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 the household of the resident family residing in the dwelling unit

Resident Organization – includes a resident management corporation

14.3.3 APPLICABILITY [24 CFR 966.51]

Grievances could potentially address most aspects of a Authority's operation. However, there are some situations for which the grievance procedure is not applicable.

The grievance procedure is applicable only to individual resident issues relating to the Authority. It is not applicable to disputes between residents not involving the Authority. 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 Authority.

The Authority may, at its sole discretion, use an expedited grievance process for the categories of criminal activity listed below:

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

These expedited grievance procedures are described in Section 14.3.5 below.

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14.3.4 INFORMAL SETTLEMENT

The Authority will accept requests for an informal settlement of a grievance either orally or in writing, to the Authority office within ten business days of the date of alleged adverse action by the Authority. Within ten business days of receipt of the request, the Authority will arrange a meeting with the resident at a mutually agreeable time and confirm such meeting in writing to the resident.

If a resident fails to attend the scheduled meeting without prior notice, the Authority will reschedule the appointment only if the resident 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 that seriously affects the health, safety, or welfare of the family.

The Authority will prepare a summary of the informal settlement within ten business days; one copy to be given to the resident, and one copy to be retained in the Authority's resident file.

The informal settlement of grievances is not applicable to those grievances for which the expedited grievance procedure applies.

14.3.5 PROCEDURES TO OBTAIN A HEARING

REQUESTS FOR HEARING AND FAILURE TO REQUEST

If the complainant requests an informal settlement conference, any request for a grievance hearing must be received by the Authority within ten business days of the issuance of the summary of the informal settlement.

If the complainant does not request an informal settlement conference, any request for a grievance hearing must be received by the Authority within ten business days of the date of alleged adverse action by the Authority.

If the complainant does not request a hearing, the Authority'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 Authority's action in disposing of the complaint in an appropriate judicial proceeding.

SCHEDULING OF HEARINGS [24 CFR 966.56(A)]

If the complainant has complied with all requirements for requesting a hearing as described above, a hearing must be scheduled by the hearing officer promptly for a time and place reasonably convenient to both the complainant and the Authority. A written notification specifying the time, place, and the procedures governing the hearing must be delivered to the complainant and the appropriate Authority official.

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Within ten business days of receiving a written request for a hearing, the hearing officer will schedule and send written notice of the hearing to both the complainant and the Authority.

The resident 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 that 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 Authority may request documentation of the "good cause" prior to rescheduling the hearing.

14.4.6 EXPEDITED GRIEVANCE PROCEDURE [24 CFR 966.52(A)]

The Authority has established 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 Authority;
- Any drug-related criminal activity on or near such premises; or
- Any criminal activity that resulted in a felony conviction of a household member.

In such expedited grievances, the informal settlement of grievances, as discussed in 14.3.4, is not applicable.

The Authority may adopt special procedures concerning expedited hearings, including provisions for expedited notice or scheduling, or provisions for an expedited decision on the grievance.

14.4.7 SELECTION OF HEARING OFFICER [24 CFR 966.53(e)]

Authority grievance hearings will be conducted by a single hearing officer and not a panel.

The Authority will appoint an individual who was not involved in the decision under appeal or is a subordinate of such person.

14.4.8 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 Authority documents, including records and regulations that are directly relevant to the hearing. The resident must be allowed to copy any such document at the resident's expense. If the Authority does not make the document available for examination upon request by the complainant, the Authority may not rely on such document at the grievance hearing.

  The resident will be allowed to copy any documents related to the hearing at the cost of $.25 per page. The family must request discovery of Authority documents no later than 12:00 p.m. three (3) business days prior to the hearing.

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- The right to be represented by counsel or other person chosen to represent the resident, and to have such person make statements on the resident's behalf.
- Hearings may be attended by the following applicable persons:

  An Authority representative(s) and any witnesses for the Authority

  The resident and any witnesses for the resident

  The resident's counsel or other representative

  Any other person approved by the Authority 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 resident's complaint, to controvert evidence relied on by the Authority or project management, and to confront and cross-examine all witnesses upon whose testimony or information the Authority 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)]

There may be times when a complainant does not appear due to unforeseen circumstances that are out of their control and are no fault of their own.

If the resident does not appear at the scheduled time of the hearing, the hearing officer will wait up to 15 minutes. If the resident appears within 15 minutes of the scheduled time, the hearing will be held. If the resident does not arrive within 15 minutes of the scheduled time, they will be considered to have failed to appear.

If the resident fails to appear and was unable to reschedule the hearing in advance, the resident must contact the Authority within 24 hours of the scheduled hearing date, excluding weekends and holidays. The hearing officer will reschedule the hearing only if the resident 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 that seriously affects the health, safety, or welfare of the family.

GENERAL PROCEDURES [24 CFR 966.56(D), (E)]

At the hearing, the complainant must first make a showing of an entitlement to the relief sought, and thereafter, the Authority must sustain the burden of justifying the Authority action or failure to act against which the complaint is directed [24 CFR 966.56(d)].

The hearing is conducted informally by the hearing officer. The Authority and the resident 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.

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Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

- **Oral evidence**: the testimony of witnesses
- **Documentary evidence**: a writing which is relevant to the case, for example, a letter written to the Authority. Writings include all forms of recorded communication or representation, including letters, emails, words, pictures, sounds, videotapes, or symbols, or combinations thereof
- **Demonstrative evidence**: Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart, or other diagram.
- **Real evidence**: A tangible item relating directly to the case.

Hearsay Evidence is evidence of a statement that was made other than by a witness while testifying at the hearing, and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

If the Authority fails to comply with the discovery requirements (providing the resident with the opportunity to examine Authority documents prior to the grievance hearing), the hearing officer will refuse to admit such evidence.

Other than the failure of the Authority to comply with discovery requirements, the hearing officer has the authority to overrule any objections to evidence.

The complainant or the Authority 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)].

If the complainant would like the Authority to record the proceedings by audiotape, the request must be made to the Authority by 12:00 p.m. three (3) business days prior to the hearing.

The Authority will consider that an audiotape recording of the proceedings is a transcript.

ACCOMMODATIONS OF PERSONS WITH DISABILITIES [24 CFR 966.56(F)]

The Authority 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 resident is visually impaired, any notice to the resident which is required in the grievance process must be in an accessible format.

See Chapter 2 for a thorough discussion of the Authority's responsibilities pertaining to reasonable accommodation.

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LIMITED ENGLISH PROFICIENCY (24 CFR 966.56(G)

The Authority must comply with HUD's LEP Final Rule in providing language services throughout the grievance process.

DECISION OF THE HEARING OFFICER [24 CFR 966.57]

The hearing officer must issue a written decision, stating the reasons for the decision, within a reasonable time after the hearing. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the decision must be sent to the complainant and the Authority. The Authority must retain a copy of the decision in the resident's folder. A log of all hearing officer decisions must also be maintained by the Authority and made available for inspection by a prospective complainant, his/her representative, or the hearing officer [24 CFR 966.57(a)].

In rendering a decision, the hearing officer will consider the following matters:

- **Authority Notice to the Family**: The hearing officer will determine if the reasons for the Authority'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 the Authority policy.
- **Authority Evidence to Support the Authority Decision**: The evidence consists of the facts presented. Evidence is not a conclusion, and it is not an argument. The hearing officer will evaluate the facts to determine if they support the Authority'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 Authority policies. If the grounds for termination are not specified in the regulations or compliance with Authority policies, then the decision of the Authority will be overturned.

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 Authority 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 his/her testimony, and that is 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 Authority's decision.
- **Order:** The hearing report will include a statement of whether the Authority's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the Authority 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 Authority to restore the family's status.

PROCEDURES FOR FURTHER HEARING

The hearing officer may ask the family for additional information 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 Authority will take effect, and another hearing will not be granted.

FINAL DECISION [24 CFR 966.57(B)]

The decision of the hearing officer is binding on the Authority which must take the action, or refrain from taking the action cited in the decision unless the Authority Board of Commissioners determines within a reasonable time, and notifies the complainant that:

- The grievance does not concern Authority action or failure to act in accordance with or involving the complainant's lease on Authority policies which adversely affect the complainant's rights, duties, welfare, or status; or
- The decision of the hearing officer is contrary to federal, state, or local law, HUD regulations or requirements of the annual contributions contract between HUD and the Authority

When the Authority considers the decision of the hearing officer to be invalid due to the reasons stated above, it will present the matter to the Authority Board of Commissioners within ten 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 ten business days of this decision.

A decision by the hearing officer or Board of Commissioners in favor of the Authority or which denies the relief requested by the complainant in whole or in part must not constitute a waiver of any rights, nor affect in any manner whatever, any rights the complainant may have to a subsequent trial or judicial review in court [24 CFR 966.57(c)].

Chapter 15 PROGRAM INTEGRITY

15.1 INTRODUCTION

The Authority is committed to ensuring that funds made available to the Authority are spent in accordance with HUD requirements.

15.2 PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

15.2.1 PREVENTING ERRORS AND PROGRAM ABUSE

HUD created the Enterprise Income Verification (EIV) system to provide HAs with a powerful tool for preventing errors and program abuse. HAs are required to use the EIV system in its entirety in accordance with HUD administrative guidance [24 CFR 5.233]. HAs are further required to:

- Provide applicants and residents with form HUD-52675, "Debts Owed to HAs 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

To ensure that the Authority's program is administered effectively and according to the highest ethical and legal standards, the Authority will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

The Authority 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 Authority 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 Authority will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.

The Authority will require mandatory orientation sessions for all prospective residents either prior to or upon execution of the lease. The Authority 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 Authority will routinely provide resident counseling as part of every reexamination interview in order to clarify any confusion pertaining to program rules and requirements.

Authority staff will be required to review and explain the contents of all HUD- and Authority-required forms prior to requesting family member signatures.

The Authority will place a warning statement about the penalties for fraud (as described in 18 USC 1001 and 1010) on key Authority forms and form letters that request information from a family member.

The Authority will provide each Authority employee with the necessary training on program rules and the organization's standards of conduct and ethics.

At every regular reexamination the Authority staff will explain any changes in HUD regulations or Authority policy that affect residents.

For purposes of this chapter the term *error* refers to an unintentional error or omission. P*rogram 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.

15.2.2 DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, the Authority will use a variety of activities to detect errors and program abuse.

QUALITY CONTROL AND ANALYSIS OF DATA

The Authority will employ a variety of methods to detect errors and program abuse, including:

The Authority 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 Authority.

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 Authority will compare family-reported income and expenditures to detect possible unreported income.

INDEPENDENT AUDITS AND HUD MONITORING

Notice PIH 2015-16 requires all HAs 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 Authority activities and notifies the Authority of errors and potential cases of program abuse. The Authority 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 Authority's error detection and abuse prevention efforts.

INDIVIDUAL REPORTING OF POSSIBLE ERRORS AND PROGRAM ABUSE

The Authority will encourage staff, residents, and the public to report possible program abuse.

15.2.3 INVESTIGATING ERRORS AND PROGRAM ABUSE

WHEN THE AUTHORITY WILL INVESTIGATE

The Authority 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 Authority 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 Authority 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 Authority may investigate possible instances of error or abuse using all available Authority and public records. If necessary, the Authority will require families to sign consent forms for the release of additional information.

ANALYSIS AND FINDINGS

The Authority 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 Authority will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed the Authority, 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 Authority will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

In the case of family-caused errors or program abuse, the Authority 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

The Authority 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 Authority 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).

15.3 CORRECTIVE MEASURES AND PENALTIES

15.3.1 UNDER- OR OVERPAYMENT

An under- or overpayment includes an incorrect resident 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 Authority must promptly correct the resident rent and any utility reimbursement prospectively.

Increases in the resident rent will be implemented on the first of the month following a written 30-day notice.

Any decreases in resident rent will become effective the first of the month following the discovery of the error.

REIMBURSEMENT

Whether the family is required to reimburse the Authority, or the Authority 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.

15.3.2 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 Authority to use incorrect information provided by a third party.

FAMILY REIMBURSEMENT TO AUTHORITY

In the case of family-caused errors or program abuse, the family will be required to repay any amounts of rent underpaid. The Authority 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 Authority will terminate the family's lease in accordance with the policies in Chapter 13.

AUTHORITY REIMBURSEMENT TO FAMILY

The Authority 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 Authority [Title 18, USC. Section 1001].
- Provide incomplete or false information to the Authority [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)].

Any of the following will be considered evidence of family program abuse:

- Offering bribes or illegal gratuities to the Authority Board of Commissioners, employees, contractors, or other Authority 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 Authority 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 Authority 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 Authority may, at its discretion, impose any of the following remedies.

- The Authority may require the family to repay any amounts owed to the program (see 15-II.B., Family Reimbursement to Authority).
- The Authority 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 Authority may deny admission or terminate the family's lease following the policies set forth in Chapter 3 and Chapter 13, respectively.
- The Authority may refer the family for state or federal criminal prosecution, as described in section 15.3.4.

15.3.3 AUTHORITY-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of Authority staff with respect to normal program administration are discussed throughout the ACOP. This section specifically addresses actions of a Authority staff member that are considered errors or program abuse related to the public housing program. Additional standards of conduct may be provided in the Authority personnel policy.

Authority-caused incorrect rental determinations include (1) failing to correctly apply public housing rules regarding family composition, income, assets, and expenses, and (2) errors in calculation.

REPAYMENT TO THE AUTHORITY

The family is not required to repay an underpayment of rent if the error or program abuse is caused by Authority staff.

AUTHORITY REIMBURSEMENT TO FAMILY

The Authority 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

Any of the following will be considered evidence of program abuse by Authority 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 Authority
- Disclosing confidential or proprietary information to outside parties
- Gaining profit as a r15esult of insider knowledge of Authority 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 Authority 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

15.3.4 CRIMINAL PROSECUTION

When the Authority determines that program abuse by a family or Authority staff member has occurred and the amount of underpaid rent meets or exceeds the threshold for prosecution under local or state law, the Authority will refer the matter to the appropriate entity for prosecution. When the amount of underpaid rent meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the public housing program will be referred to the appropriate local, state, or federal entity.

15.3.5 FRAUD AND PROGRAM ABUSE RECOVERIES

Housing Authorities that 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 Authority recovers [Notice PIH 2007-27 (HA)].

If the Authority 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 Authority's grievance process.

Chapter 16 PROGRAM ADMINISTRATION

16.1 SETTING UTILITY ALLOWANCES [24 CFR 965 Subpart E]

16.1.1 OVERVIEW

Housing Authorities must establish allowances for Authority-furnished utilities for all check metered utilities and resident-purchased utilities for all utilities purchased directly by residents from a utility supplier [24 CFR 965.502(a)].

HAs must also establish surcharges for excess consumption of Authority-furnished utilities [24 CFR 965.506].

The Authority 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)].

16.1.2 UTILITY ALLOWANCES

The Authority must establish separate allowances for each utility, and for each category of dwelling units, the Authority determines to be reasonably comparable as to factors affecting utility usage [24 CFR 965.503].

The objective of a Authority 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 Authority does not furnish a range and refrigerator, the family must be granted a utility allowance for the range and refrigerator they provide [24 CFR 965.505].

Costs for telephone, cable/satellite TV, and internet services are not considered utilities [PH Occ GB, p. 138].

Utility allowance amounts will vary by the rates in effect, size, and type of unit, climatic location, and sitting of the unit, type of construction, energy efficiency of the dwelling unit, and other factors related to the physical condition of the unit. Utility allowance amounts will also vary by residential demographic characteristics affecting home energy usage [PH Occ GB, p. 138].

Chapter 14 of the *PH Occupancy Guidebook* provides detailed guidance to the Authority about establishing utility allowances.

AIR-CONDITIONING

“If a Authority 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)]

UTILITY ALLOWANCE REVISIONS [24 CFR 965.507]

The Authority must review at least annually the basis on which utility allowances have been established and must revise the allowances if necessary, to adhere to the standards for establishing utility allowances that are contained in 24 CFR 965.505.

The Authority may 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.

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.

16.1.3 SURCHARGES FOR AUTHORITY-FURNISHED UTILITIES [24 CFR 965.506]

For dwelling units subject to allowances for Authority-furnished utilities where check meters have been installed, the Authority 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 Authority's average utility rate. The basis for calculating the surcharges must be described in the Authority's schedule of allowances. Changes in the amount of surcharges based directly on changes in the Authority’s average utility rate are not subject to the advance notice requirements discussed under 16.1.4.

For dwelling units served by Authority-furnished utilities where check meters have not been installed, the Authority 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 optional functions of Authority-furnished equipment. The surcharge schedule must state the resident-owned equipment (or functions of Authority-furnished equipment) for which surcharges will be made and the amounts of such charges. Surcharges must be based on the cost to the Authority of the utility consumption estimated to be attributable to reasonable usage of such equipment. Below is the surcharge schedule. We don’t have any tenant paid utilities so there is no allowance.

The charges are as follows:

- A/C: $6.00 ea.
- Washer: $15.00
- Dryer: $5.00
- Deep freezer: $6.00
- Court fees: $52 plus $5.00 for each additional family members over 18 yrs. of age
- Lock out: $78.00
- Warrant fee: $38.00 for processing a warrant
- Late fee: $25.00

16.1.5 NOTICE REQUIREMENTS [965.502]

The Authority 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 Authority'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.

16.1.6 REASONABLE ACCOMMODATION [24 CFR 965.508]

On request from a family that includes a disabled or elderly person, the Authority 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 [PH Occ GB, p. 172].

Likewise, residents with disabilities may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability [PH Occ GB, p. 172].

See Chapter 2 for policies regarding the request and approval of reasonable accommodations.

16.2 ESTABLISHING FLAT RENTS

16.2.1 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 immigration status [24 CFR 5.504].

This part discusses how the Authority 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.

16.2.2 FLAT RENTS [24 CFR 960.253(b) and Notice PIH 2017-23]

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 Authority 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, HAs 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 HAs to request an exception flat rent that is lower than either 80 percent of the FMR or SAFMR/unadjusted rent if the Authority can demonstrate that these FMRs do not reflect the market value of a particular property or unit.

To demonstrate the need for an exception flat rent, HAs are required to submit a market analysis methodology that demonstrates the value of the unit. The Authority must use HUD's rent reasonableness methodology to determine flat rents. In determining flat rents, HAs must consider the following:

- Location
- Quality
- Unit size
- Unit type
- Age of the unit
- Amenities at the property and in the immediate neighborhood
- Housing services provided
- Maintenance provided by the Authority

- Utilities provided by the Authority or landlord for (comparable units in the market study)

The Authority must provide a corresponding key explaining the calculations used for determining the valuation for each factor. HUD published a Flat Rent Market Analysis tool on August 22, 2018, which includes a rent adjustment guide, a market rent comparison guide, and a rent adjustment worksheet to aide HAs in requesting exception flat rents.

HAs must receive written HUD approval before implementing exception flat rents. HAs 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 2017-23.

HAs are now required to apply a utility allowance to flat rents as necessary. Flat rents set at 80 percent of the FMR must be reduced by the amount of the unit's utility allowance if any.

REVIEW OF FLAT RENTS

No later than 90 days after the effective date of the new annual FMRs/SAFMRs/unadjusted rent, HAs must implement new flat rents as necessary based changes to the FMR/SAFMR/unadjusted rent or request an exception.

If the FMR/SAFMR/unadjusted rent is lower than the previous year, the Authority will reduce flat rents to 80 percent of the current FMR/SAFMR.

POSTING OF FLAT RENTS

The Authority will publicly post the schedule of flat rents in a conspicuous manner in the applicable Authority or project office.

DOCUMENTATION OF FLAT RENTS [24 CFR 960.253(B)(5)]

The Authority must maintain records that document the method used to determine flat rents, and that shows how the Authority determined flat rents in accordance with this method.

16.3 FAMILY DEBTS TO THE AUTHORITY

16.3.1 OVERVIEW

When an action or inaction of a resident family results in the underpayment of rent or other amounts, the Authority holds the family liable to return any underpayments to the Authority.

The Authority will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments.

When a family refuses to repay monies owed to the Authority, the Authority 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

16.3.2 REPAYMENT POLICY

FAMILY DEBTS TO THE AUTHORITY

Any amount owed to the Authority by a public housing family must be repaid. If the family is unable to repay the debt within 30 days, the Authority 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 Authority will terminate the family's tenancy in accordance with the policies in Chapter 13. The Authority will also pursue other modes of collection.

GENERAL REPAYMENT AGREEMENT GUIDELINES

Down Payment Requirement

Before executing a repayment agreement with a family, the Authority will generally require a down payment of 10 percent of the total amount owed. If the family can provide evidence satisfactory to the Authority that a down payment of 10 percent would impose an undue hardship, the Authority may, in its sole discretion, require a lesser percentage or waive the requirement.

Execution of the Agreement

Any repayment agreement between the Authority and a family must be signed and dated by the Authority and by an adult member of the household.

Due Dates

All payments are due by the close of business on the 5th business day of the month, unless otherwise agreed to in the repayment agreement. If the 5th business day does not fall on a business day, the due date is the close of business on the first business day after the 5^{th} business day.

Late or Missed Payments

If 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 Authority, the Authority will send the family a delinquency notice giving the family ten 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 Authority will terminate the 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 Authority will terminate the tenancy in accordance with the policies in Chapter 13.

No Offer of Repayment Agreement

The Authority generally will not enter into a repayment agreement with a family if there is already a repayment agreement in place with the family, or if there is a negative history with respect to repayment agreements with the family.

Repayment Agreements Involving Improper Payments

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 Authority 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 Authority the monthly payment amount specified in the agreement but must also pay to the Authority 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 a default of the repayment agreement and may result in termination of tenancy
-

16.4. PUBLIC HOUSING ASSESSMENT SYSTEM (PHAS)

16.4.1 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 HAs, 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.

16.4.2 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 Authority's performance is based on a combination of all four indicators.

Indicator 1: Physical condition of the Authority's projects **Maximum Score: 40**

- The objective of this indicator is to determine the level to which a Authority is maintaining its public housing in accordance with the standard of decent, safe, sanitary, and in good repair.
- To determine the physical condition of a Authority's projects, inspections are performed of the following five major areas of each public housing project: site, building exterior, building systems, dwelling units, and common areas. The inspections are performed by an independent inspector arranged by HUD and include a statistically valid sample of the units in each project in the Authority's public housing portfolio.

Indicator 2: Financial condition of the Authority's projects

Maximum Score: 25

- The objective of this indicator is to measure the financial condition of the Authority's public housing projects for the purpose of evaluating whether the Authority has sufficient financial resources and is capable of managing those financial resources effectively to support the provision of housing that is decent, safe, sanitary, and in good repair.
- A Authority's financial condition is determined by measuring each public housing project's performance in each of the following sub-indicators: quick ratio, months expendable net assets ratio, and debt service coverage ratio.

Indicator 3: Management operations of the Authority's projects

Maximum Score: 25

- The objective of this indicator is to measure certain key management operations and responsibilities of a Authority's projects for the purpose of assessing the Authority's management operations capabilities.
- Each project's management operations are assessed based on the following sub-indicators: occupancy, tenant accounts receivable, and accounts payable.
- An on-site management review may be conducted as a diagnostic and feedback tool for problem performance areas and 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 Authority to obligate capital funds and to occupy units.
- The Authority's score for this indicator is measured at the Authority level and is based on the following sub-indicators: timeliness of fund obligation and occupancy rate.

16.4.3 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 HAS indicators, and the subindicators under each indicator. The Authority's indicator scores are based on a weighted average of the Authority's public housing projects' scores. PHAS scores translate into a designation for each Authority as high performing, standard, substandard, or troubled.

A high performer is a Authority 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 Authority 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 Authority 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 Authority 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 Authority 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].
- HAs that are standard performers may be required to submit and operate under a corrective action plan to eliminate deficiencies in the Authority's performance [24 CFR 902.73(a)(1)].
- HAs that are substandard performers will be required to submit and operate under a corrective action plan to eliminate deficiencies in the Authority's performance [24 CFR 902.73(a)(2)].
- HAs 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 Authority performance [24 CFR 902.75].
- HAs 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].

HAs 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)].

16.5 RECORD KEEPING

16.5.1 OVERVIEW

The Authority 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 Authority 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 2013 confidentiality requirements.

16.5.2 RECORD RETENTION

Notice PIH 2014-20 requires the Authority 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 Authority must keep confidential records of all emergency transfer requested under the Authority's Emergency Transfer Plan, and the outcomes of such requests, and retain the records for a period of three years, or for a period of time as specified in program regulations [24 CFR 5.2002(e)(12)].

The Authority will keep the last three years of the Form HUD-50058 and supporting documentation and for at least three years after the end of participation, all documents related to a family's eligibility, tenancy, and termination.

In addition, the Authority will keep the following records for at least three years:

- An application from each ineligible family and notice that the applicant is not eligible
- Lead-based paint records as required by 24 CFR 35, Subpart B
- Documentation supporting the establishment of flat rents
- Documentation supporting the establishment of utility allowances and surcharges
- Documentation related to HAS
- Accounts and other records supporting Authority 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
- Confidential records of all emergency transfers related to VAWA requested under the Authority's Emergency Transfer Plan and the outcomes of such requests
- Other records as determined by the Authority or as required by HUD

If a hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 14-II.A.

16.6 RECORDS MANAGEMENT

All applicant and participant information will be kept in a secure location, and access will be limited to authorized Authority staff.

Authority 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.

16.6.1 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 Authority may release the information collected.

16.6.2 UPFRONT INCOME VERIFICATION (UIV) RECORDS

HAs 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*.

Prior to utilizing HUD's EIV system, the Authority will adopt and implement EIV security procedures required by HUD.

16.6.3 CRIMINAL RECORDS

The Authority may only disclose the criminal conviction records which the Authority receives from a law enforcement agency to officers or employees of the Authority, or to authorized representatives of the Authority who have a job-related need to have access to the information [24 CFR 5.903(e)].

The Authority must establish and implement a system of records management that ensures that any criminal record received by the Authority 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 Authority action without the institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

The Authority must establish and implement a system of records management that ensures that any sex offender registration information received by the Authority 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 Authority action without the 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 Authority other than under 24 CFR 5.905.

16.6.4 MEDICAL/DISABILITY RECORDS

HAs are not permitted to inquire about the nature or extent of a person's disability. The Authority may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the Authority receives a verification document that provides such information, the Authority should not place this information in the tenant file. The Authority should destroy the document.

16.6.5 DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING RECORDS

For requirements and Authority policies related to management of documentation obtained from victims of domestic violence, dating violence, sexual assault, or stalking, see section 16-VII.E.

16.6 REPORTING REQUIREMENTS FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL [24 CFR 35.1130(e); Notice PIH 2017-13]

The Authority has certain responsibilities relative to children with elevated blood lead levels that are living in public housing.

The Authority will provide the public health department written notice of the name and address of any child identified as having an elevated blood lead level.

The Authority will provide written notice of each known case of a child with an EBLL to the HUD field office, and to HUD's Office of Lead Hazard Control (OLHCHH), within five business days of receiving the information.

16.7 PART VII: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, AND CONFIDENTIALITY

16.7.1 OVERVIEW

The Violence Against Women Reauthorization Act of 2013 (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault, and stalking who are applying for or receiving assistance under the public housing program. If your state or local laws provide greater protection for such victims, those apply in conjunction with VAWA.

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and Authority policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and Authority policies are located in Chapter 3, "Eligibility" (sections 3.2.2 and 3.10); Chapter 5, "Occupancy Standards and Unit Offers" (section 5-3); Chapter 8, "Leasing and Inspections" (section 8.2.2); Chapter 12, "Transfer Policy" (sections 12.2.1, 12.2.6, and 12.8); and Chapter 13, "Lease Terminations" (sections 13.9 and 13.10.4).

16.7.2 DEFINITIONS [24 CFR 5.2003, FR Notice 8/6/13]

As used in VAWA:

- The term *affiliated individual* means, with respect to a person:
  - A spouse, parent, brother or sister, or child of that individual, or an individual to whom that person stands in the position or place of a parent; or
  - Any individual, tenant or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.
- The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - The length of the relationship
  - The type of relationship
  - The frequency of interaction between the persons involved in the relationship
- The term *domestic violence* includes felony or misdemeanor crimes 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 *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 his or her safety or the safety of others, or suffer substantial emotional distress.

16.7.3 NOTIFICATION [24 CFR 5.2005(a)]

NOTIFICATION TO PUBLIC

The Authority 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.

The Authority will post the following information regarding VAWA in its offices and on its website. It will also make the information readily available to anyone who requests it.

A notice of occupancy rights under VAWA to public housing program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (Form HUD-5380, see Exhibit 16-1)

A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation (see Exhibit 16-2)

A copy of the Authority'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)]

Housing authorities are required to inform public housing applicants and tenants of their rights under VAWA, including their right to confidentiality and the limits thereof, no later than when they are denied assistance, when they are admitted to the program, or when they are notified of an eviction or termination of housing benefits.

The VAWA information provided to applicants and participants will consist of the

notices in Exhibit 16-1 and 16-2.

The Authority will provide all applicants with information about VAWA at the time they request an application for housing assistance. The Authority will also include such information in all notices of denial of assistance (see section 3.10).

The Authority will provide all tenants with information about VAWA at the time of admission (see section 8-I.B) and at annual reexamination. The Authority will also include such information in all lease termination notices (see section 13.10.4).

The Authority is not limited to providing VAWA information at the times specified in the above policy. If the Authority decides to provide VAWA information to a tenant following an incident of domestic violence, Notice PIH 2006-42 cautions against sending the information by mail, since the abuser may be monitoring the mail. The notice recommends that in such cases, the Authority makes alternative delivery arrangements that will not put the victim at risk.

Whenever the Authority 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 Authority may decide not to send mail regarding VAWA protections to the victim's

unit if the Authority believes the perpetrator may have access to the victim's mail unless requested by the victim.

When discussing VAWA with the victim, the Authority 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.

16.8.4 DOCUMENTATION [24 CFR 5.2007]

A Authority presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, sexual assault, or stalking, or criminal activity related to any of these forms of abuse may—but is not required to—request that the individual making a 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 Authority may extend this time period at its discretion. [24 CFR 5.2007(a)]

The individual may satisfy the Authority'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 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 Authority 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 2005 final rule].

Any request for documentation of domestic violence, dating violence, sexual assault, or stalking 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 Authority may, in its discretion, extend the deadline for ten business days. In determining whether to extend the deadline, the Authority 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 Authority will be in writing.

Once the victim provides documentation, the Authority will acknowledge receipt of the documentation within ten business days.

CONFLICTING DOCUMENTATION [24 CFR 5.2007(E)]

In cases where the Authority 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 Authority may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3). The Authority may also request third-party documentation when submitted documentation contains information that conflicts with existing information already available to the Authority. The Authority 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 Authority. If the Authority does not receive third-party documentation, and the Authority will deny or terminate assistance; as a result, the Authority must hold separate hearings for the tenants [Notice PIH 2017-08].

If presented with conflicting certification documents from members of the same household, the Authority 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 Authority 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 Authority does not receive third-party documentation within the required timeframe (and any extensions), the Authority 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 Authority will hold separate hearings for the applicants or tenants.

DISCRETION TO REQUIRE NO FORMAL DOCUMENTATION [24 CFR 5.2007(D)]

The Authority 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.

If the Authority accepts an individual's statement or other corroborating evidence (as determined by the victim) of domestic violence, dating violence, sexual assault, or stalking, the Authority 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 Authority 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 Authority may allow, the Authority may deny relief for protection under VAWA.

16.8.5 CONFIDENTIALITY [24 CFR 5.2007(b)(4)]

All information provided to the Authority regarding domestic violence, dating violence, sexual assault, or stalking, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, must be retained in confidence. This means that the Authority (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.

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the Authority 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

[Insert Name of Housing Provider]

Notice of Occupancy Rights under the Violence Against Women Act[2]

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.[3] The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees that public housing is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking and that you wish to use your rights under VAWA."

Protections for Applicants

If you otherwise qualify for assistance under public housing, you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Protections for Tenants

If you are receiving assistance under public housing, you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights under public housing solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

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[2] Despite the name of this law, VAWA protection is available regardless of sex, gender identity, or sexual orientation.

[3] 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 Authority may divide (bifurcate) your lease 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 Authority chooses to remove the abuser or perpetrator, the Authority may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, the Authority must allow the tenant who is or has been a victim and other household members to remain in the unit for 30 days, to establish eligibility under the program or another HUD housing program covered by VAWA, or, find alternative housing.

In removing the abuser or perpetrator from the household, the Authority must follow Federal, State, and local eviction procedures. In order to divide a lease, the Authority may, but is not required to, ask you for documentation or certification of the incidences of domestic violence, dating violence, sexual assault, or stalking.

Moving to Another Unit

Upon your request, the Authority may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, the Authority 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 Authority may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA. The criteria are:

1. **You are a victim of domestic violence, dating violence, sexual assault, or stalking.** If your Authority does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation, as described in the documentation section below.

2. **You expressly request the emergency transfer.** Your Authority 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 will suffer violence in the very near future.

   OR

   You are a victim of sexual assault, and the assault occurred on the premises during the 90-calendar-day period before you request a transfer. If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day

period before you expressly request the transfer.

The Authority 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 Authority's emergency transfer plan provides further information on emergency transfers, and the Authority 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 Authority 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 a request from the Authority must be in writing, and the Authority 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 Authority may, but does not have to extend the deadline for the submission of documentation upon your request.

You can provide one of the following to the Authority as documentation. It is your choice which of the following to submit if HP asks you to provide documentation that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

- A complete HUD-approved certification form given to you by the Authority 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 Authority has agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, the Authority does not have to provide you with the protections contained in this notice.

If the Authority 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 Authority has the right to request that you provide third-party documentation within thirty 30 calendar days to resolve the conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, the Authority does not have to provide you with the protections contained in this notice.

Confidentiality

The Authority 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 Authority must not allow any individual administering assistance or other services on behalf of the Authority (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 Authority must not enter your information into any shared database or disclose your information to any other entity or individual. The Authority, however, may disclose the information provided if:

- You give written permission to the Authority to release the information on a time-limited basis.
- The Authority 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 Authority to release the information.

VAWA does not limit the Authority's duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

Reasons a Tenant Eligible for Occupancy Rights under VAWA May Be Evicted, or Assistance May Be Terminated

You can be evicted, and your assistance can be terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking committed against you. However, the Authority 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 Authority can demonstrate that not evicting you or terminating your assistance would present a real physical danger that:

1. Would occur within an immediate time frame, and
2. Could result in death or serious bodily harm to other tenants or those who work on the property.

If the Authority can demonstrate the above, the Authority should only terminate your assistance or evict you if there are no other actions that could be taken to reduce or eliminate the threat.

Other Laws

VAWA does not replace any Federal, State, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

Non-Compliance with The Requirements of This Notice

You may report your Authority for violations of these rights and seek additional assistance, if needed, by contacting or filing a complaint with **[insert contact information for any intermediary, if applicable]** or **[insert HUD field office]**.

For Additional Information

You may view a copy of HUD's final VAWA rule at: **https://www.gpo.gov/fdsys/pkg/FR-2016-11-16/pdf/2016-25888.pdf**.

Additionally, the Authority must make a copy of HUD's VAWA regulations available to you if you ask to see them.

For questions regarding VAWA, please contact **[insert name of the program or rental assistance contact information able to answer questions on VAWA].**

For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY). You may also contact **[Insert contact information for relevant local organizations]**.

For tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at https://www.victimsofcrime.org/our-programs/stalking-resource-center.

For help regarding sexual assault, you may contact **[Insert contact information for relevant organizations]**

Victims of stalking seeking help may contact **[Insert contact information for relevant organizations]**.

Attachment: Certification form HUD-5382 **[form approved for this program to be included]**

EXHIBIT 16-2: CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING AND ALTERNATE DOCUMENTATION, FORM HUD-5382

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.

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, briefly describe the incident(s):
_____
_____
_____

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature _____Signed on (Date)
_____

Public Reporting Burden: The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form unless it displays a currently valid Office of Management and Budget control number.

EXHIBIT 16-3: EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

Attachment: Certification form HUD-5382

[Insert name of covered housing provider]

Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

Public Housing Program

Emergency Transfers

The Authority 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),[4] The Authority 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. [5] The ability of the Authority 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 Authority 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

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[4] 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.

[5]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.

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 Authority's management office and submit a written request for a transfer to **any Authority office**. The Authority 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 Authority'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 Authority 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 Authority 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 the 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 Authority'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 Authority cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. The Authority 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 Authority 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 Authority has no safe and available units for which a tenant who needs an emergency transfer is eligible, the Authority 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 Authority 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 Authority will attempt to assist you in moving to a safe unit quickly. The Authority 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 Authority will refer you to organizations that may be able to assist you further.

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 Authority (such as state housing programs)

Emergency transfers will not take priority over waiting list admissions for these types of assistance. At your request, the Authority will refer you to organizations that may be able to assist you further.

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

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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. The 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 will 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)

_____

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Chapter 17 GLOSSARY

A. ACRONYMS USED IN PUBLIC HOUSING

ACC	Annual contributions contract
ACOP	Admissions and continued occupancy policy
ADA	Americans with Disabilities Act of 1990
AIDS	Acquired immune deficiency syndrome
AMI	Area median income
AMP	Asset management project
BR	Bedroom
CDBG	Community Development Block Grant (Program)
CFP	Capital fund program
CFR	Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as "the regulations")
COCC	Central office cost center
CPI	Consumer price index (published monthly by the Department of Labor as an inflation indicator)
EID	Earned income disallowance
EIV	Enterprise Income Verification
FDIC	Federal Deposit Insurance Corporation
FHA	Federal Housing Administration (HUD Office of Housing)
FHEO	Fair Housing and Equal Opportunity (HUD Office of)
FICA	Federal Insurance Contributions Act (established Social Security taxes)
FMR	Fair market rent
FR	Federal Register
FSS	Family Self-Sufficiency (Program)
FY	Fiscal year
FYE	Fiscal year end
GAO	Government Accountability Office

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HCV	Housing choice voucher
HERA	Housing and Economic Recovery Act of 2008
HOPE VI	Revitalization of Severely Distressed Public Housing Program
HUD	Department of Housing and Urban Development
HUDCLIPS	HUD Client Information and Policy System
IMS	Inventory Management System
IPA	Independent public accountant
IRA	Individual retirement account
IRS	Internal Revenue Service
JTPA	Job Training Partnership Act
LBP	Lead-based paint
LEP	Limited English proficiency
LIHTC	Low-income housing tax credit
MTW	Moving to Work
NOFA	Notice of funding availability
OGC	HUD's Office of General Counsel
OIG	HUD's Office of Inspector General
OMB	Office of Management and Budget
PASS	Plan to Achieve Self-Support
PHA	Public housing agency
PHAS	Public Housing Assessment System
PIC	PIH Information Center
PIH	(HUD Office of) Public and Indian Housing
QC	Quality control
QHWRA	Quality Housing and Work Responsibility Act of 1998 (also known as the Public Housing Reform Act)

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RAD	Rental Assistance Demonstration Program
REAC	(HUD) Real Estate Assessment Center
RFP	Request for proposals
RIGI	Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level)
ROSS	Resident Opportunity and Supportive Services
SSA	Social Security Administration
SSI	Supplemental security income
SWICA	State wage information collection agency
TANF	Temporary assistance for needy families
TR	Tenant rent
TTP	Total tenant payment
UA	Utility allowance
UFAS	Uniform Federal Accessibility Standards
UIV	Upfront income verification
UPCS	Uniform Physical Condition Standards
URP	Utility reimbursement payment
VAWA	Violence Against Women Reauthorization Act of 2013
VCA	Voluntary Compliance Agreement

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B. GLOSSARY OF PUBLIC HOUSING TERMS

Accessible. The facility or portion of the facility can be approached, entered, and used by persons with disabilities.

Adjusted income. Annual income, less allowable HUD deductions and allowances.

Affiliated individual. With respect to an individual, a spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in loco parentis (in the position or place of a parent), or any individual, tenant, or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.

Affirmative Marketing. The concept of affirmative marketing is to conduct both broad and targeted outreach to contact those least likely to apply for available housing units

Annual contributions contract (ACC). The written contract between HUD and a PHA under which HUD agrees to provide funding for a program under the 1937 Act, and the PHA agrees to comply with HUD requirements for the program.

Annual income. The anticipated total income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.

Applicant (applicant family). A family that has applied for admission to a program but is not yet a participant in the program.

As-paid states. States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

Assets. (See *net family assets.*)

Auxiliary aids. Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving federal financial assistance.

Bifurcate. With respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.

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 his or her 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.

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Cohead. An individual in the household who is equally responsible for the lease with the head of household. A family may have a cohead or spouse but not both. A cohead never qualifies as a dependent. The cohead must have legal capacity to enter into a lease.

Confirmatory review. An on-site review performed by HUD to verify the management performance of a PHA.

Consent form. Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

Covered families. Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which federal, state, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

Dating violence. Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

Dependent. A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

Dependent child. In the context of the student eligibility restrictions, a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the definition of *dependent* as specified above.

Disability assistance expenses. Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member, and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

Disabled family. A family whose head, cohead, spouse, or sole member is a person with disabilities; two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

Disabled person. See *person with disabilities.*

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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 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.

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 self-sufficiency program. Any program designed to encourage, assist, train, or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see 24 CFR 5.603(c).

Effective date. The "effective date" of an examination or reexamination refers to: (i) in the case of an examination for admission, the date of initial occupancy and (ii) in the case of reexamination of an existing tenant, the date the redetermined rent becomes effective.

Elderly family. A family whose head, cohead, spouse, or sole member is a person who is at least 62 years of age; two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

Elderly person. An individual who is at least 62 years of age.

Eligible family (Family). A family that is income eligible and meets the other requirements of the 1937 Act and Part 5 of 24 CFR.

Employer identification number (EIN). The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.

Evidence of citizenship or eligible status. The documents which must be submitted as evidence of citizenship or eligible immigration status. (See 24 CFR 5.508(b).)

Extremely low-income family. A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area as determined by HUD, whichever number is higher, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30 percent of median income if HUD finds

such variations are necessary due to unusually high or low family incomes. (See 24 CFR 5.603.)

Facility. All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock, or other real or personal property or interest in the property.

Fair Housing Act. Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

Fair market rent (FMR). The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe, and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the *Federal Register* in accordance with 24 CFR Part 888.

Family. Includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, and can be further defined in PHA policy.

- A family with or without children (the temporary absence of a child from the home due to placement in foster care is not considered in determining family composition and family size)
- An elderly family or a near-elderly family
- A displaced family
- The remaining member of a tenant family
- A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

Family self-sufficiency program (FSS program). The program established by a PHA in accordance with 24 CFR part 984 to promote self-sufficiency of assisted families, including the coordination of supportive services (42 U.S.C. 1437u).

Federal agency. A department of the executive branch of the federal government.

Flat rent. 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 applicable Fair Market Rent (FMR), and adjusted by the amount of the utility allowance, if any

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.

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Handicap. Any condition or characteristic that renders a person an individual with handicaps. (See *person with disabilities*.)

Head of household. The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

Household. A household includes additional people other than the family who, with the PHA's permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.

Housing agency (AUTHORITY). See *public housing agency.*

HUD. The U.S. Department of Housing and Urban Development.

Imputed asset. An asset disposed of for less than fair market value during the two years preceding examination or reexamination.

Imputed asset income. The PHA-established passbook rate multiplied by the total cash value of assets. The calculation is used when net family assets exceed $5,000.

Imputed welfare income. An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction, but is included in the family's annual income and therefore reflected in the family's rental contribution.

Income. Income from all sources of each member of the household, as determined in accordance with criteria established by HUD.

Income-based rent. A tenant rent that is based on the family's income and the PHA's rent policies for determination of such rents.

Income information means information relating to an individual's income, including:

- All employment income information known to current or previous employers or other income sources

- All information about wages, as defined in the state's unemployment compensation law, including any social security number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, employer identification number of an employer reporting wages under a state unemployment compensation law

- Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received

- Unearned IRS income and self-employment wages and retirement income

- Wage, social security, and supplemental security income data obtained from the Social Security Administration.

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.

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Lease. A written agreement between the PHA and a tenant family for the leasing a public housing unit. The lease establishes the legal relationship between the PHA and the tenant family.

Live-in aide. A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

- Is determined to be essential to the care and well-being of the persons;
- Is not obligated for the support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services.

Local preference. A preference used by the PHA to select among applicant families.

Low-income family. A family whose income does not exceed 80 percent of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80 percent for areas with unusually high or low incomes.

Medical expenses. Medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance (a deduction for elderly or disabled families only). These allowances are given when calculating adjusted income for medical expenses in excess of 3 percent of annual income.

Minimum rent. An amount established by the PHA of zero to $50.

Minor. A member of the family household other than the family head or spouse, who is under 18 years of age.

Mixed family. *A* family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

Monthly adjusted income. One twelfth of adjusted income.

Monthly income. One twelfth of annual income.

National. *A* person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

Near-elderly family. A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

Net family assets. (1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD

homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

- In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under §5.609.

- In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

Noncitizen. *A* person who is neither a citizen nor national of the United States.

PHA Plan. The annual plan and the 5-year plan as adopted by the PHA and approved by HUD.

Participant (participant family). A family that has been admitted to the PHA program and is currently assisted in the program.

Person with disabilities. *For the purposes of program eligibility*. A person who has a disability as defined under the Social Security Act or Developmental Disabilities Care Act, or a person who has a physical or mental impairment expected to be of long and indefinite duration and whose ability to live independently is substantially impeded by that impairment but could be improved by more suitable housing conditions. This includes persons with AIDS or conditions arising from AIDS but excludes persons whose disability is based solely on drug or alcohol dependence. *For the purposes of reasonable accommodation.* A person with a physical or mental impairment that substantially limits one or more major life activities, a person regarded as having such an impairment, or a person with a record of such an impairment.

Premises. The building or complex in which the dwelling unit is located, including common areas and grounds.

Previously unemployed. With regard to the earned income disallowance, a person who has earned, in the 12 months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

Public assistance. Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by federal, state, or local governments.

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Public housing agency (PHA). Any state, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

Qualified family. A family residing in public housing:

- Whose annual income increases as a result of employment of a family member who was unemployed for one or more years previous to employment;

- Whose annual income increases as a result of increased earnings by a family member during participation in any economic self-sufficiency or other job training program; or

- Whose annual income increases, as a result of new employment or increased earnings of a family member, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the PHA in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance, provided that the total amount over a six-month period is at least $500.

Reasonable accommodation. A change, exception, or adjustment to a rule, policy, practice, or service to allow a person with disabilities to fully access the PHA's programs or services.

Recertification. Sometimes called *reexamination.* The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.

Remaining member of the tenant family. The person left in assisted housing who may or may not normally qualify for assistance on their own circumstances (i.e., an elderly spouse dies, leaving widow age 47 who is not disabled).

Residency preference. A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area (See *residency preference area*).

Residency preference area. The specified area where families must reside to qualify for a residency preference.

Responsible entity. For the public housing program, the PHA administering the program under an ACC with HUD. ***Secretary.*** The Secretary of Housing and Urban Development.

Section 8. Section 8 of the United States Housing Act of 1937; refers to the housing choice voucher program.

Security deposit. A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the PHA upon termination of the lease.

Sexual assault. Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent (42 U.S.C. 13925(a))

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Sexual orientation. Homosexuality, heterosexuality or bisexuality.

Single person. A person living alone or intending to live alone.

Social security number (SSN). The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person's earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

Specified welfare benefit reduction. Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

Spouse. The marriage partner of the head of household.

Stalking. To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

State wage information collection agency (SWICA). The state agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the state, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

Tenant. The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

Tenant rent. The amount payable monthly by the family as rent to the PHA.

Total tenant payment (TTP). The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

Utilities. Water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection, and sewage services. Telephone service is not included.

Utility allowance. If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

Utility reimbursement. The amount, if any, by which the utility allowance for the unit, if applicable, exceeds the total tenant payment (TTP) for the family occupying the unit.

Veteran. A person who has served in the active military or naval service of the United States at any time and who shall have been discharged or released therefrom under conditions other than dishonorable.

Violence Against Women Reauthorization Act (VAWA) of 2013. Prohibits denying admission to, denying assistance under, or evicting from a public housing unit an otherwise qualified applicant or tenant on the basis that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

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, 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.

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Chapter 18 ACROYMNS

ACC	Annual Contributions Contract
CFR	Code of Federal Regulations
FSS	Family Self-Sufficiency
HCDA	Housing and Community Development Act
HQS	Housing Quality Standards
HUD	Department of Housing and Urban Development
NAHA	(Cranston-Gonzales) National Affordable Housing Act
NOFA	Notice of Funding Availability
OMB	Office of Management and Budget
PHA	Public Housing Agency
QHWR	Quality Housing and Work Responsibility Act of 1988
SSA	Social Security Administration

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TTP	Total Tenant Payment
USCIS	United States Citizenship and Immigration Services